

DINWIDDIE

EST. 1752 *County* VIRGINIA

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GUIDELINES FOR COUNTY OF DINWIDDIE TAX ON PREPARED FOOD AND BEVERAGES

The Code of Virginia §58.1-3833 grants counties the authority to impose excise taxes on prepared food and beverages (meals). Unlike Virginia cities and towns, state statutes limit the tax rate that counties may assess for the meals tax. Counties follow the meals tax guidelines established in the Code of Virginia §58.1-5833. There is a 6% tax rate cap placed on counties.

Dinwiddie County Board of Supervisors adopted the meals tax ordinances on October 7, 1992 with the intent that the proceeds from the county's meals tax were to be earmarked to fund capital improvements for county schools. The tax became effective on January 1, 1993 at 4%. Since that time the Dinwiddie County meals tax has not increased. **The current rate is 4% of the gross sale price.**

The meals tax is a tax that is collected in trust for the County by the food seller from the customer, in addition to the state sales tax, which is also a trust tax. The seller is responsible for reporting and remitting the collected tax to the locality the month after the collection. In addition, the seller is responsible for retaining records for 5 years and may be subject to periodic compliance review.

WHAT IS THE PREPARED FOOD AND BEVERAGE TAX?

The prepared food and beverage tax is a tax levied on meals, beverages and prepared food sold by a food establishment for immediate consumption, either on- or off-premises. A food establishment is not limited to, but is any of the following from which food is prepared or sold for immediate consumption:

Restaurants	Diners	Cafeterias	Delicatessen	Food Truck
Coffee Shop	Café	Push Cart	Ice Cream Shop	Snack Bar
Bakeries	Caterers	Doughnut Shops	Movie Theaters	Gas Stations
Convenience Stores	Tavern	Grocery Stores	Hotel	Motel
Bed & Breakfast Inn	Grill	Private Club	Bowling Alley	Public Club
Concession Stand	Fast-food or Drive-in Restaurants	Street Carts		Salad Bar

Some vendors are presumed sellers of food for immediate consumption and may not impose the reduced sales tax rate on sales of eligible foods. These include caterers, concession

stands, entertainment facilities (theme parks, sports arenas, stadiums), fair and carnival vendors, gift shops, hamburger and hot dog stands, honor snack vendors, ice cream stands and trucks, mobile food vendors, movie theaters, newsstands, and vending machine vendors [P.D.05-7]. These sellers are also required to collect and remit the meals tax on the food sold to the purchaser. Vending machine vendors are specifically exempt from meals tax collection.

WHO COLLECTS THE PREPARED FOOD AND BEVERAGE TAX?

All of the businesses listed above that sell prepared food for immediate consumption are required to collect the county's 4% meals tax from the purchaser at the time of the sale. The seller adds the tax to the gross total of the meal in addition to the state sales tax and collects it from the customer. The meals tax is collected in trust by the seller for the county. Failure to report and remit the collected meals tax constitutes embezzlement under state statutes.

TAXABLE ITEMS

The following are examples of taxable items and not limited to these:

- All food and beverages prepared for immediate consumption on- or off-premises
- Alcoholic beverages sold for immediate consumption
- All non-factory sealed beverages, fountain drinks, hot or iced coffee, hot chocolate, tea, milkshakes, floats, Slurpees, Icees
- Individual pastries
- Ice cream cups and cones, sundaes, popsicles sold individually for immediate consumption
- Individual servings from a salad bar or deli counter
- Prepackaged, single serving salads (Chef, Cobb, etc.)
- Prepared pizza or pizza slices
- Individual frozen or cold food items reheated in a convenience store microwave for immediate consumption such as sandwiches, burritos, pizza

EXEMPTIONS

Some food items are not taxable and some purchasers are exempt from the tax on prepared food and beverages. Sellers will need to be able to document exempt purchasers and retain those records (see note on records retention):

- Factory prepackaged food and factory-sealed beverages, alcoholic and non-alcoholic, sold for off-premises consumption.
- Food and beverages sold in grocery stores and convenience stores that are not prepared food or beverages for immediate consumption.
- Food sold in bulk or by the pound (containers of potato salad, whole cakes or pies, ice cream.)
- Prepackaged or bagged salads that need additional at-home preparation
- Frozen seafood, sold by the pound in grocery stores that provide employee operated steam cooking at no charge to the customer and the sale is for off-premise consumption
- Food sold for resale (resellers must provide seller of prepared food a copy of their state resale certificate – Virginia ST-10)
- Vending machine sales

- Restaurant meals to employees as part of their compensation when the employee is not charged for the meal
- The first \$100,000 of annual fundraising gross receipts for churches, religious bodies or non-profit organizations
- Gratuities
- Meals served in hospitals, medical clinics, convalescent homes, nursing homes or other extended care facilities to patients or residents
- Meals served in day cares, public or private schools and colleges served to students and employees
- Meals paid for by an agency or political subdivision of the Commonwealth of Virginia, or the United States Government (the seller should be paid by check or credit card drawn on the account of the government entity.)

COUPONS

“Entertainment coupons or store coupons, such as two-for-one meal purchases or coupons that offer a percentage or a certain dollar amount off a meal are taxed based on the amount actually paid by the customer. Manufacturer coupons possess a redemption factor and the food establishment is compensated for the coupon acceptance by the manufacturer. In these cases, the meals tax is applied to the whole, standard, non-discounted price that would have been paid

MONTHLY REMITTANCE

The seller is required to report and remit all collected meals tax to the Commissioner of the Revenue office by the 20th of the month after the month of collection. The Commissioner of the Revenue will provide necessary reporting forms. Blank forms are also available online at: <http://www.dinwiddieva.us/DocumentCenter/View/3446/Meals-Tax-Remittance-2015?bidId>

Sellers are allowed to take a 3% discount on the collected tax as a commission for timely filed and remitted meals tax collections. No discount is allowed for reporting and remittances that are not timely filed and will be subject to late filing penalties.

RECORDS RETENTION

The seller may be subject to compliance review and must retain five years of records of the following:

- Gross receipts for all food and beverages, records of food and beverage purchases, records of spoilage, waste and any other purchases to support the food and beverage operation.
- Amounts charged each customer of the business.
- Date of each sale, deposit records, cash register tapes, voids, daily worksheets.
- Amount of tax collected from each sale
- Exempt sales

BUSINESS CLOSURE

If a business required to collect meals tax should close, the seller must IMMEDIATELY report and remit the collected meals tax and complete a business closure form available from the Commissioner of the Revenue office.