

Sec. 12-426-29. Exemption of food products for human consumption; Tax-ability of meals sold by eating establishments or caterers

(a) General Statement.

Section 12-412 (13) of the Connecticut General Statutes exempts the sale of food products for human consumption from sales tax. The purpose of this regulation is to clarify what is covered by that exemption.

(b) Food Products for Human Consumption.

For purposes of this regulation, “food products for human consumption” mean all products normally consumed by human beings for nutritive value or taste satisfaction, except that the following types of products are not food products and are subject to tax:

- (1) alcoholic beverages and mixes therefor (excluding wines made for use in cooking).
- (2) candy and confectionery, including candied fruit, candy coated popcorn, chewing gum, breath mints and carob, yogurt or chocolate covered nuts, but not including baking chocolate and similar items made for use in cooking or baking.
- (3) carbonated beverages, including carbonated water.
- (4) pet food.
- (5) tobacco products, including chewing tobacco.
- (6) items which are combinations of food products and non-food products, unless it is established that fifty percent or more of the sales price is attributable to the value of the food products.
- (7) meals sold by eating establishments or caterers.

(c) Meals Sold by Eating Establishments or Caterers.

Meals sold by eating establishments or caterers are subject to sales tax. The measure of the tax is the gross receipts from the sale of meals.

(1) Meals. For purposes of this regulation, “meals” mean food products for human consumption sold in such form and such portions that they are ready for immediate consumption and are of a type normally consumed on or near the location of the seller.

“Meals” include items described in the preceding sentence which are sold on a take-out basis.

“Meals” do not include bulk sales of food products unless meant for consumption on or near the location of the seller. Examples of such bulk sales include the sale of ice cream in one-half gallon containers, whole pies, cold sliced meat sold by the pound and cold salads sold by the pound. Examples of sales which are not bulk sales include the sale of whole pizza pies and buckets of fried chicken.

(2) Eating Establishment. For purposes of this regulation, “eating establishment” means a place where meals are sold and includes a cafeteria; catering hall; coffee and donut shop; fast food restaurant, including one selling items such as fish and chips, fried chicken pieces, hamburgers, etc.; ice cream shop; luncheonette; mobile food truck or cart, including one selling items such as coffee, ice cream, pastry, sandwiches, etc.; pizzeria; refreshment stand, including one located at a place such as an amusement park, bowling alley, stadium, theatre, etc.; restaurant; sandwich shop; snack bar; and a vending machine.

(3) Caterer. For purposes of this regulation, “caterer” means a person who is engaged in the business of preparing meals and either serving such meals on premises designated by his customer, or delivering, but not serving, such meals to premises designated by his

customer. Such a person is a caterer, even if he does not provide the food products which will constitute the meals.

(4) Gross receipts from the sale of meals. For purposes of this regulation, "gross receipts from the sale of meals" include all of the following:

(A) the listed selling price of the meal.

(B) a separately stated service charge, added in lieu of a gratuity, unless both of the following conditions are met:

(i) the service charge does not inure to the benefit of the seller (the use of such service charge by the seller to reduce his expenses, including his payroll expense, is a benefit to the seller.).

(ii) the service charge is remitted, in its entirety, to the service personnel who provided the meal service.

(C) charges for the services of bartenders, busboys, waiters or other personnel.

(D) charges for the use of dishes, glassware or other items used in preparing or serving meals.

(d) **Non-Taxable Sales of Meals.**

The following types of sales are not subject to tax:

(1) Sales of meals made at a school or college to students or staff thereof.

(2) Sales of meals to patients at a hospital, home for the aged, convalescent home, nursing home or rest home.

(3) Sales of meals made to a charitable or religious organization which holds a sales tax exemption or to an agency of the United States, the State of Connecticut, or a Connecticut municipality, provided all the following conditions are met:

(A) the seller directly charges the organization or governmental agency for the meals.

(B) the organization or governmental agency directly pays (by check on its own account) the seller.

(C) the organization or governmental agency is not reimbursed, directly or indirectly, for its payment for the meals by those who consumed the meals.

(4) Sales of meals made by a nonprofit organization to an elderly, disabled or other homebound person if the meal is delivered to the home of such person.

(5) Occasional sales of meals by a nonprofit organization as described in section 12-426-17 of the Regulations of Connecticut State Agencies (Sales Tax Regulation No. 17).

(e) **Employee Meals.**

No tax is due from an employer who serves meals on his premises to his employees, provided no separate charge or deduction is made therefor by such employer.

(f) **Items Purchased for Resale.**

An eating establishment or caterer which furnishes, with meals, paper napkins, paper plates, plastic tableware, straws and similar non-reusable items may purchase such items without payment of sales tax. Such an eating establishment or caterer must furnish the supplier of such items with a resale certificate.

(Effective December 26, 1985)