



WHAT IS A STORE?

A store is an establishment that is not primarily engaged in the business of selling meals. However, if it is primarily engaged in the business of selling meals, it is considered a restaurant.



WHAT IS A MEAL

A meal is any food, beverage, or combination of the two *prepared for human consumption* and provided by a restaurant.

Prepared meals include: snacks, sandwiches, food platters, poultry, fish or meat items, or other food combinations, which are sold by a restaurant whose principal business is the preparation or sale of such items in a manner available for immediate consumption, whether on or off the premises, and without further significant preparation.

A meal includes food or beverages sold on a "take out" or "to go" basis, whether or not they are packaged or wrapped, and whether or not they are taken from the premises.

Key phrases used to help determine if something is a meal are:

- **"prepared for human consumption"**
- **"available for immediate consumption without further significant preparation"**
- ***And most importantly:***
- **"provided by a restaurant"**



WHAT IS NOT A MEAL?

There are items that a restaurant can sell that would not be taxable because they are considered **food** and not meals. For example: food (not meals) sold by a restaurant for off the premises consumption, or food sold by weight, liquid or dry measure, count, or in unopened original containers or packages, including, but not limited to: meat, bread, milk, specialty foods, cream and ice cream (not including hand packed ice cream). This is provided that such foods are commonly sold in similar manner in a retail food store which is not a restaurant.

Other examples would be: uncooked chicken; uncooked hamburger; potato, chicken, or tuna salad sold by weight for off the premises consumption, pizza sauce, uncooked pizza dough etc.

Also, beverages sold in unopened original containers or packages for off the premises consumption when sold as a unit having a capacity of at least twenty-six fluid ounces. All of the foregoing are not considered meals because they are not prepared by the restaurant and cannot be consumed without further significant preparation, or, in the alternative, are items commonly sold by a store that is not a restaurant.

WHAT IS A RESTAURANT

A restaurant is any eating or drinking establishment that is *primarily engaged in the selling of meals*.

TYPES OF RESTAURANTS



- Café
- Lunch counter
- Private or social club
- Cocktail lounge and bar
- Hotel or motel dining room
- Catering business
- Tavern
- Diner
- Snack bar, including a theatre snack bar
- Dining room
- Coffee shop
- Vending machine which sells food items with a sales price of \$3.50 or more
- Ice cream or other food product stand
- Canteen truck or wagon
- Street wagon or cart
- Salad bar; or any other establishment primarily engaged in the business of selling meals, whether stationary or mobile, temporary or permanent.

STORE WITH RESTAURANT



Stores can also have restaurant sections where they sell meals. If they do, they must collect the sales tax on meals for all meals sold. The store would also have to collect sales tax for all taxable store sales of tangible personal property. Examples of stores that can have restaurant sections are certain bakeries, delicatessens, grocery stores, markets, coffee shops and supermarkets.

WHAT IS A BAKERY?



A bakery in most instances is a **store** if it only sells baked goods and has no seating or other facilities to eat the baked goods. A bakery **does not have to collect sales tax on meals** for any of its sales of baked goods. If it sells other items normally sold in a store such as candles, balloons, decorations, napkins, trinkets etc., it would have to register for sales tax and collect that tax on any applicable items.

BAKERY WITH A RESTAURANT



Even though a bakery is a store, it can have a separate restaurant section. If the bakery sells only baked goods to go in the bakery section, meaning no juices, coffees, or other items, all the baked goods sold from that part of the store are not taxable. All sales from the restaurant section, including the sales of baked goods in the restaurant, are taxable. If taxable beverages, such as coffee or tea, are sold in the bakery section of the store, then all of the baked goods it sells are taxable. One exception is baked goods sold to go, in units of six or more.

BAKERY AS A RESTAURANT



When a bakery sells food items commonly sold by restaurants via snack bars, coffee shops, and lunch counters, and there is no separation between the bakery and the restaurant sections, all sales of baked goods for on the premises consumption are taxable and all sales of baked goods for off the premises consumption are taxable **except the sale of baked goods to go, in units of six or more.**

SUMMARY



Bakery is just a bakery
(no beverages, no meals, no seating)

TAX

Bakery with beverages
(meals or no meals available, seating or no seating)



TAX

Combination Bakery/Restaurant

(No tax if only baked goods; Tax if drinks, meals, or seating)

