

Sales Tax Treatment of Restaurant Meals Purchased with Certain Third-Party Discount Certificates and Coupons

This memorandum is intended to answer questions that have been raised about the computation of sales tax on sales of restaurant meals when certain third-party discount certificates or coupons are applied to the price of a meal.

General

Section 1105(d) of the Tax Law imposes sales tax on the receipts, including any cover, minimum, entertainment, or other charge, from sales of beer, wine, or other alcoholic beverages and food or drink of any nature sold in or by restaurants, taverns, or other establishments, or by caterers. Therefore, in general, the total charges by such establishments for the sale of food and drink are subject to sales tax. However, if an establishment accepts a discount certificate or coupon for which it is not reimbursed, sales tax is computed on the discounted price of the food and drink.

Discount certificates and coupons

Certain businesses sell restaurant discount certificates or discount coupons that a customer may redeem at a participating establishment to receive a discount on the price of one or more meals. The sellers of the certificates are not related to the participating establishments. Customers may purchase discount certificates in varying denominations that are redeemable at a particular restaurant (for example, the customer may pay \$10 to purchase a \$25 discount certificate), or may pay a certain amount to purchase a book of discount coupons redeemable at many different restaurants. Once purchased, the certificate or coupon can be redeemed by the customer at the restaurant under the restrictions or conditions listed on the certificate or coupon. For example, the conditions listed may require the customer to spend a minimum dollar amount at the restaurant in order to use the certificate. Another condition may be that a meal of equal or greater value must also be purchased, with the value of the certificate or coupon applied against the purchase price of the qualifying (lower-priced) meal. The restaurant is not reimbursed by the seller of the certificate for the amount of the certificate or coupon, or any portion thereof.

When computing the sales tax on restaurant meals where the customer purchasing one or more meals presents a discount certificate or coupon for which the restaurant will not be reimbursed, the restaurant must deduct the value of the certificate or coupon from the bill and then calculate the sales tax on the remaining amount. Sales tax is due only on the discounted amount billed to the customer.

Example: A customer purchases a meal at a restaurant for \$55. The customer presents the restaurant with a discount certificate that states that the restaurant will reduce the bill by \$25 if the customer makes a purchase of at least \$50. The restaurant is not reimbursed for the amount of the discount. The combined State and local sales tax rate in the county where the restaurant is located is 8%. Sales tax on the meal is computed as follows:

<i>Customer's meal</i>	<i>\$55</i>
<i>Less discount certificate amount</i>	<i>- \$25</i>
<i>Amount subject to tax</i>	<i>\$30</i>
<i>Tax rate - 8%</i>	<i><u>x .08</u></i>
<i>Sales tax due</i>	<i>\$2.40</i>

Example: Two customers have dinner at a restaurant. The customers present the restaurant with a discount coupon that states that the restaurant will deduct the price of the lowest priced meal, up to a maximum value of \$20. The price of one meal is \$22, and the second meal costs \$19. The restaurant is not reimbursed for the amount of the discount. The combined State and local sales tax rate in the county where the restaurant is located is 8%. Sales tax on the meals is computed as follows:

<i>Meal 1</i>	<i>\$22</i>
<i>Meal 2</i>	<i><u>+ \$19</u></i>
<i>Amount due before discount</i>	<i>\$41</i>
<i>Less discount coupon amount</i>	<i>- \$19</i>
<i>Amount subject to tax</i>	<i>\$22</i>
<i>Tax rate - 8%</i>	<i><u>x .08</u></i>
<i>Sales tax due</i>	<i>\$1.76</i>

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.