



TAX ISSUES FOR THE HOSPITALITY INDUSTRY

June 2023 Tax Webinar



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Thanks for joining us!

We will begin at 9:00 am (CST)

➤ **Please check your audio settings. See below for resources in case you experience audio or other technical difficulties:**

- Contact WebEx Support <https://help.webex.com/contact/>
- Link to Technical Service Resource Guide <https://www.cisco.com/c/en/us/support/web/tac/technical-services-resource-guide.html>
- Try leaving and then re-entering the event

View a recording of today's presentation!

[tn.gov/revenue](https://www.tn.gov/revenue) > Taxpayer Education > Tax Webinars

<https://www.tn.gov/revenue/taxpayer-education/tax-webinars.html>

The webinar recording will be posted in the "Webinar Video Library" the day after the event.

➤ **Please submit specific account-related questions or any questions that do not get addressed in this webinar to us directly!**

- www.tn.gov/Revenue
- Revenue.support@tn.gov
- 615.253.0600 (M-F 8-4:30 CST)



Overview

Tennessee hospitality industry businesses, such as food/alcohol service, lodging and recreation companies, have unique tax situations

- TAXABLE/NON-TAXABLE TRANSACTIONS
- WHICH TAX TYPES ARE APPLICABLE
- PAYING USE TAX
- PROPER USE OF THE RESALE CERTIFICATE
- MARKETPLACE FACILITATORS AND DELIVERY NETWORK/PROPERTY MANAGEMENT COMPANIES

Resources – www.tn.gov/revenue

The image shows a screenshot of the TN Department of Revenue website. At the top left is the TN logo and the text "Department of Revenue". To the right is a search bar labeled "Search Revenue" and a "Go to TN.gov" link. Below the header is a navigation menu with items like "How Do I...?", "E-filing Information", "Taxes", "Tax Resources", "Title a...", "Motor Carrier", and "Revenue News". A dropdown menu for "Tax Resources" is open, showing options: "Tax Guidance", "Tax Compliance Information", "Forms", and "Tax Collections & Reporting". A mouse cursor points to "Tax Guidance".

Overlaid on the screenshot are several callout boxes with mouse cursors pointing to specific areas:

- TAX MANUALS**: Points to the "Tax Guidance" option in the dropdown menu.
- HELP ARTICLES**: Points to a "Questions? Revenue Help" graphic.
- WEBINAR VIDEO ARCHIVE**: Points to a "Tax Webinars" graphic.
- Taxpayer Education & Outreach**: Points to a graphic showing a laptop with the TN logo.
- HOT TOPICS News & Publications**: Points to a graphic with the text "HOT TOPICS News & Publications".

Other visible elements include a "New Business Webinar July 12" banner and a "File & Pay" button.

Food Service Transactions

WHEN TO CHARGE SALES TAX TO CUSTOMERS

- Meals Furnished to the Public
- Delivery Charges
- Employee Meals
- Mandatory Tips
- Catering, Delivery Charges, and Other Charges
- Sales of Merchandise
- Alcoholic Beverage Sales

See [Sales Tax Manual pgs. 224-227](#)



Food Service Transactions

WHEN NOT TO CHARGE SALES TAX TO CUSTOMERS

- Gift Certificates
- Discounts and Coupons Offered by a Restaurant
- Free Meals and Drinks to the Public when a Purchase is Required
- Disposable Supplies
- Nontaxable Tips
- Catering with Separately Stated Charges for Bartenders, Servers, etc.

See [Sales Tax Manual](#) pgs. 227-228



Resale Certificate

See [Resale Certificate Webinar](#)

WHEN TO USE:

- ONLY for purchases intended for resale
 - Including disposable supplies that accompany the transfer of food/beverages

WHEN NOT TO USE:

- For purchases of items used by the restaurant
 - Including disposable items used such as aluminum foil, cleaning items, etc.

If a resale certificate is used to purchase items intended for resale but are subsequently used/consumed in the conduct of business, the cost of such items should be reported on line 2 of the Sales Tax return as Use Tax

Use Tax

USE TAX MUST BE PAID BY THE BUSINESS IN THE FOLLOWING CIRCUMSTANCES:

- **Free Meals and Drinks to the Public** - if a free meal or drink is provided to a customer and no additional purchase is required, the restaurant must pay use tax on the cost of the ingredients/items withdrawn from inventory.
- **Discounted meals for employees** – use tax is due to cover the cost of the meal.
- **Merchandise** – if a business withdraws such items from its inventory for promotional purposes or for employee gifts, use tax should be accrued and remitted on the cost of such items.
- **When equipment/items are purchased from out of state vendors and imported for use** (line 3 of sales tax return.)

Marketplace Facilitator/Delivery Services

- **DELIVERY NETWORK COMPANY** - maintains an internet website/mobile application used to facilitate delivery services for the sale of local products.
 - May be considered a marketplace facilitator for tax purposes

SALES TAX – The Marketplace facilitator is liable for collecting sales tax on the sales price of the tangible personal property or services.

BUSINESS TAX – The seller (restaurant) should consider sales made through a marketplace facilitator in calculating gross sales.

Marketplace facilitators should include only the commissions or third-party fees and sales of their own goods or services in their gross receipts for business tax purposes.

See [Sales Tax Manual](#) pgs. 108-117

See [Business Tax Manual](#) pg. 21-22



Alcohol Service

In addition to encountering many of the same issues as food service businesses, such as when to use resale certificate and when use tax is due, establishments serving alcohol have specific tax issues.

[Alcohol Tax Manual](#)

[Liquor By The Drink Webinar](#)

AUDIT NOTES:

- Be careful about “heavy” pours, mind the price schedule price per ounce.
- Keep stock locked up!
- Inventory records should be carefully maintained.
- Both sales tax and LBD should be charged for alcoholic beverages.
 - This includes sales of alcoholic beverages sold through **locked** in-room units (i.e. mini-bar)

Lodging



- **SALES TAX** – imposed on charges for any rooms, lodgings, or accommodations furnished to persons by any hotel, inn, camp, cabin, motel, or any place in which rooms, lodgings, or accommodations are furnished for consideration to the same person for less than 90 continuous days.
- **OCCUPANCY TAX** - imposed by local governments on the privilege of occupancy in any hotel or similar place that provides accommodations for transients. This tax has historically been collected by local governments, but beginning in 2021, short-term rental unit marketplaces that offer residential dwellings for rent for less than 30 continuous days must remit the occupancy tax to the Department.
- **BUSINESS TAX** - short-term rental (180 consecutive days or less for business tax purposes) of vacation lodging, including a person's home, is subject to business tax.

Lodging – Tax Reminders

- Must pay sales tax on items used.
- May use resale certificate on items intended for sale.
- Must pay use tax on items purchased out of state.
- Charge sales tax on the price of accommodation rental, fees (smoking, pet, etc) and other items on bill (mini-bar, snacks, firewood, etc)
 - Mini-bar alcoholic beverages are also subject to Liquor-by-the-Drink tax
- The furnishing of a meeting/banquet room by an entity not in the business of furnishing rooms for overnight lodging is not subject to sales tax.

Third-Party Management



Depending on the tax type and other factors, collecting and/or reporting of taxes may be handled differently when sales are made through third-parties.

NEW: [Taxation for Short-Term Rental Units Manual](#)

COMING SOON! 9/26/23 Tax Webinar: Taxation of Short-Term Rental Units

Third-Party, cont'd

SALES TAX

- A marketplace facilitator is liable for collecting sales tax for rentals booked through the marketplace.
- The owner is liable for collecting sales tax for rentals booked directly through the owner.
- A vacation lodging service/management company **or** the property owner may be responsible for sales tax.

BUSINESS TAX

- The property owner should consider sales made through a marketplace facilitator in calculating gross sales.
- The marketplace facilitator/property management company should include only the commissions or third-party fees and sales of their own goods or services in their gross receipts for business tax purposes.

OCCUPANCY TAX

- A marketplace facilitator is liable for collecting occupancy tax for rentals booked through the marketplace. It is remitted on their sales tax return.
- The owner is liable for collecting occupancy tax for rentals booked directly through the owner. The owner should remit occupancy tax to the local jurisdiction.
- A vacation lodging service/management company **or** the property owner may be responsible for collecting occupancy tax and remitting to the local jurisdiction.

Recreation

See [Sales Tax Manual](#) pgs. 175-185

- Sales tax applies to the sale of amusements furnished in this state. Amusement activities subject to sales tax include:
 - membership sports and recreational clubs
 - admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities
 - entering or engaging in any kind or recreational activity
 - using tangible personal property for amusement, sports, entertainment, or recreational activities.
- Business tax applies to gross receipts received from amusements.

Admission Charges Subject to Sales Tax

EXAMPLES:

- Admissions to concerts, movies, plays, sports events, and other entertainment activities
 - Professional sports including seat licenses, skyboxes, and luxury suites
- Admissions to museums, boat shows, and similar venues
- Pit passes
- Admission to private land to hunt, unless exempted by statute
- Admission to art galleries, botanical, and zoological gardens
- Admission to walking or vehicle tours conducted for amusement, such as ghost tours, celebrity bus tours, cave tours, facility tours, city tours, sight-seeing tours, boat tours, etc.
- Admission to hayride events
- Admission to agritourism activities involving amusement, entertainment, or recreational activity (e.g., corn maze)

Recreational Activity Fees Subject to Sales Tax

EXAMPLES:

- Golf
- Tennis, racquetball, or handball courts
- Skiing
- Rafting tours
- Camping ground use
- Horse-back riding
- Riding in a horse-drawn carriage
- Riding in an aerial tram
- Charges for mobile video gaming truck
- Charges for indoor rock climbing
- Charges for indoor skydiving, go cart riding, miniature golf, and the like

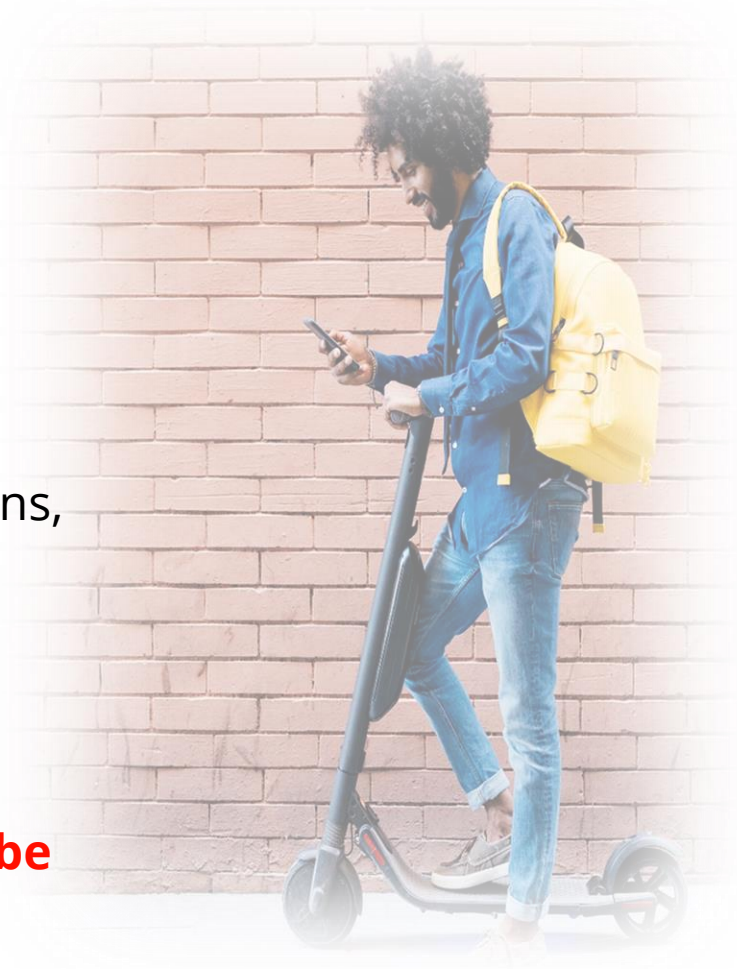


Charges for Use of TPP for Recreation Subject to Sales Tax

EXAMPLES:

- Golf carts
- Bowling shoes
- Roller or ice skates
- Sports and athletic equipment
- Entertainment equipment such as televisions, stereo equipment, and gaming consoles
- Electric scooters
- Bicycles

TPP that is rented to a customer and removed from the business property may be purchased using a resale certificate.



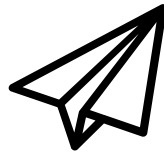
CONTACT US!



**Please submit
specific
account-
related
questions, or
any questions
directly to us!**



www.tn.gov/Revenue



Revenue.Support@tn.gov



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UPCOMING!

- **Next Webinar: 7/25/23 – Legislative Updates**
- **New Business Workshop: 7/12/23**

TO REGISTER: www.tn.gov/revenue





**PLEASE TAKE A MOMENT
TO COMPLETE A BRIEF
SURVEY UPON EXITING!**

IMPORTANT: In order to receive CPE credit for attending, you must answer yes to question 4 of the post-event survey.