

Prepared Foods

About this Guide

The information in this *Guide* explains how Retail Sales Tax (RST) applies to prepared foods. Please note that this *Guide* replaces the previous version dated March 1998.

Prepared Foods

Definition

For RST purposes, prepared foods include the following items **sold by eating establishments** for consumption on or off the premises:

- meals, hot foods, sandwiches, salads and fruit
- prepackaged individual portions of snack cakes and pastries
- hand-scooped or machine-dispensed ice cream (machine-dispensed ice cream is a tax-exempt food product when dispensed in quantities of 1/2 litre or more)
- sundaes and milk shakes
- non-alcoholic beverages, such as coffee, tea, milk and juice.

Note:

Soft drinks are not taxable when sold **with** prepared foods as part of one transaction for a total charge of \$4.00 or less, excluding the federal Goods and Services Tax (GST). When soft drinks are sold with prepared foods as part of one transaction and the total charge is more than \$4.00 (excluding GST), RST applies to the full amount of the transaction.

Soft drinks are **taxable** when sold **alone**. *RST Guide 500 - Food Products* outlines items that qualify for exemption as food products and *RST Guide 501 - Snack Foods, Beverages and Candies* provides information on items that are taxable as snack foods, beverages and candies.

Eating Establishments

Definition

For RST purposes, eating establishments include:

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| • caterers | • pizzerias |
| • cocktail lounges, taverns and bars | • private or social clubs and Legion halls |
| • coffee shops, lunch counters and snack bars | • restaurants, including drive-ins |
| • convenience or grocery stores that provide areas where prepared food products are sold (see below) | • snack bars at places such as fairs, exhibitions, sporting events, cinemas and theatres |
| • convention centres | • take-out stores and home-delivery outlets |
| • dining rooms and cafeterias | • trains |
| • doughnut and muffin shops | • vending machines and coffee wagons |
| • hotels, motels and lodging houses | • similar places or establishments where prepared foods are provided. |

Eating Establishments (continued)

Some establishments that sell tax-exempt foods, such as grocery stores and convenience stores, may also provide areas where taxable prepared foods are sold. For example, some stores have an area where they sell sandwiches, salads and hot foods, such as soup and barbecued chicken. This area only is considered an eating establishment and RST applies to food sold in this area if the total charge is more than \$4.00. However, RST does not apply to the tax-exempt food products available elsewhere in the store.

Bakeries **that sell beverages** are considered to be operating an eating establishment. The sale of five or fewer pastries, with or without beverages, is considered the sale of prepared foods and is taxable if the total charge is more than \$4.00. However, customers who buy **more than five pastries**, with or without beverages, are not required to pay RST on the baked goods. When sold in such quantities, the baked goods qualify for exemption as food products.

RST Application

Prepared foods sold by eating establishments are taxable at the rate of 8% when the total charge in any one transaction is more than \$4.00. RST is calculated on the total sale **excluding** GST. Since the federal government allows vendors the option of using GST-included pricing when billing customers, RST does not apply unless the GST-included price for prepared foods is more than \$4.28 (\$4.00 + 7% GST).

Please note that, for the balance of this Guide, references to the \$4.00 amount will exclude GST.

A vendor cannot average the total charge among the number of people in a group to avoid collecting RST. RST applies to the full amount of the group's bill when it is more than \$4.00.

When prepared foods are delivered to customers, RST applies to the total amount, **including any amount charged for delivery**, if the total is more than \$4.00.

An eating establishment may issue discount coupons or enter into a co-promotion with other vendors. In these instances, the eating establishment must charge RST if, after deducting the value of the coupon, the net amount to be paid by the customer is more than \$4.00. When the coupon offers two meals for the price of one, RST is to be collected if the net price to be paid is more than \$4.00. Please refer to ***RST Guide 511 - Discount Coupons*** for details.

The RST charged on prepared foods must be shown separately on the customer's bill unless every item on the menu is more than \$4.00. In these cases, RST-included pricing may be used as an alternative.

Vendors who sell prepared foods from vending machines must post a sign notifying customers that the prices either include the applicable 8% RST, or state the amount of RST-included in each price. Please refer to ***RST Guide 208 - Tax-Included Pricing*** for further information.

Charges for prepared foods must be shown separately from those for alcoholic beverages. As outlined in ***RST Guide 208 - Tax-Included Pricing*** and ***RST Guide 302 - Alcoholic Beverages***, RST-included pricing may be used for alcoholic beverages.

Gratuities

Vendors of prepared foods may add a mandatory service or gratuity charge to their bill in lieu of a gratuity that is normally paid at the discretion of the customer. RST is not payable on these service charges provided they fall within percentages normally accepted by the industry, but should not exceed 20%. These charges must be shown separately on the customer's bill.

Meals Served On Airplanes And Ships

RST does not apply to prepared foods that are served on an aircraft while *in flight*.

Owners of cruise vessels are required to collect RST on prepared foods sold for more than \$4.00. If the cost of prepared foods is included in the cruise fee, the cruise line is considered the purchaser and is required to pay RST for prepared foods costing more than \$4.00 that are provided to passengers.

Some cruise vessels have docking rights outside Ontario and may be liable for tax to another jurisdiction for any meals or prepared foods served during the cruise. In these instances, RST does not apply to prepared foods served during the cruise, **provided the cruise line retains proof** that another jurisdiction requires payment of tax and that the tax has been paid to that jurisdiction.

Meals To Employees

Employers are exempt from paying RST on meals provided **free or without specific charge** to their employees, in eating establishments operated by or on behalf of the employer. This exemption does not extend to meals that are purchased by the employer from an outside restaurant for employees' consumption. Where meals are **sold** to employees, RST is payable if the total charge is more than \$4.00. The RST is to be charged at the time of sale, when tickets are sold, or when payroll deductions for the meals are made.

When an employer subsidizes employee meals served in eating establishments operated by or on behalf of the employer, the RST is payable by the employees only if the price paid by employees is more than \$4.00. Neither the employer nor the employees pay RST on the subsidy.

Free Meals

Eating establishments are responsible for paying the applicable RST on meals provided free to someone **other** than their employees. An eating establishment has the option of either using actual costs of the free meals or using 60% of the normal selling price to determine if the value of the meal is more than \$4.00. These two options **cannot** both be applied. Only one option is to be selected by an eating establishment and used in respect of all free meals for the fiscal year. This applies to all eating establishments whether they are open to the general public, (i.e., restaurants and pubs) or are operated by an employer for the benefit of employees and/or clients (i.e., financial institutions, stores and factories) in respect of meals that are provided free to someone **other** than their employees.

Example:

If eating establishment "A" purchases prepared foods from eating establishment "B" and "A" provides the meals free of charge to its employees, or to others, or consumes the meals themselves, "A" must pay the applicable RST at the time of purchase as the meals were not prepared by "A".

Meals do not include alcoholic beverages. Effective April 1, 1997, an eating establishment must pay RST at the rate of 12% on **all** alcoholic beverages taken from inventory for own use or given away free of charge. RST is payable on either the actual cost or 50% of the normal selling price. The option chosen must also be used consistently for the fiscal year.

The RST payable on free meals and alcoholic beverages is to be reported on Line 3, Tax Payable for Own Use, of the RST return. Instructions on how to complete your RST return are included with your return card.

Exemptions

Prepared foods served **without specific charge** to the following people are tax-exempt:

- foreign diplomats and similar dignitaries in possession of an identity card issued by the federal government, and also diplomatic missions and foreign embassies (effective March 1, 2000). See **RST Guide 803 - Foreign States, Representatives and Officials** for further information.
- infants attending day care centres without cafeterias
- inmates of correctional institutions
- patients in hospitals (however, any charges more than \$4.00 for extra or special meals are taxable)
- people who are needy or poor in missions and other shelters
- residents of nursing homes and homes for the aged.

Status Indians

Status Indians who are in possession of a Certificate of Indian Status identification card authorized by the Department of Indian Affairs and Northern Development (Canada) are not required to pay RST on prepared food **provided** the eating establishment delivers the prepared foods to a reserve address or serves the prepared foods on a reserve.

However, status Indians are required to pay RST on purchases of take-out meals and all prepared foods costing more than \$4.00, when these prepared foods are consumed on the premises, picked up by the status Indian for consumption on or off the reserve, or are delivered to an address off the reserve.

University Meal Plans

A “meal plan” means “an arrangement whereby a student enrolled at an educational institution is entitled to acquire at least 40 meals consisting of prepared food products over a period of not less than four weeks at a total non-refundable cost to the student of not less than \$120”. In addition, the student must pay a “single comprehensive price” or must deposit funds in an account with the educational institution. The price of meals purchased by the student is to be deducted from this account. No RST applies to the charge made for the meal plan if the eating establishment is operated by or on behalf of the educational institution and if the eating establishment is located on the premises of the educational institution.

Snack foods are not considered prepared foods. Students are required to pay RST on the purchase of snack food items, as well as on any other taxable goods.

Special Programs

RST does not apply to prepared foods sold for a nominal charge to senior citizens, people who are underprivileged, or people who, because of age or an infirmity, require support through drop-in centres and programs such as Meals on Wheels.

For Further Information

The information contained in this publication is only a guideline. For further information, please contact the nearest Ontario Ministry of Finance Tax Office listed in the blue pages of your telephone directory, call our TAX FAX service at 1-877-4-TAX-FAX (1-877-482-9329), or visit our Web site at www.trd.fin.gov.on.ca.

*Ce guide est disponible en français sous le nom « Aliments préparés, n° 300F ».
Vous pouvez obtenir un exemplaire en appelant le 1-800-668-5821.*