

City of Kearney

Restaurant and Drinking Place Occupation Tax

FAQ's

The Restaurant Occupation Tax is intended to apply to the gross receipts of every restaurant and drinking place doing business within the City of Kearney. The City intends to follow the guidance and practice of the State under the Nebraska Revenue Act of 1967 in determining which sales to impose the occupation tax on.

FAQ's:

- 1) Q: Whom does the Restaurant Occupation Tax apply to?
A: The occupation tax is imposed upon each and every person operating a drinking place or restaurant business or providing the services within the City for any period of time during a calendar month. Examples of businesses subject to the tax include, but are not limited to: cafes, grills, bistros, delicatessens, coffee shops, bakeries, lunch counters, sandwich stands, temporary stands, grocery stores, convenience stores, supermarkets, arenas, push carts, lunch wagons, ice cream trucks, or other mobile facilities from which food ready for consumption is sold, bars, taverns, night clubs, and dance halls.

- 2) Q: What is the Restaurant Occupation Tax rate?
A: The rate is one percent (1%) of all gross receipts for each calendar month derived from the drinking places and restaurant businesses subject to this tax. Such occupation tax shall be imposed on the gross receipts resulting from the sales of food within the corporate limits of the City which are subject to the sales and use tax imposed by Article 22 of Chapter 3 of the Kearney City Code.

- 3) Q: What are the items being taxed?
A: Food which shall include all edible refreshment or nourishment, whether solid, semisolid, non-alcoholic liquid, alcoholic liquid (as of January 1, 2023), or otherwise. Gratuities or tips are also subject to the occupation tax when charged by the seller as a mandatory item on the invoice or receipt.

- 4) Q: Where do I send my monthly payment and remittance worksheet?
A: Payments and remittance worksheets should be sent to the City Treasurer at:

City Treasurer
City of Kearney
P.O. Box 1180
Kearney, NE 68848-1180

Or payments can be made online at www.cityofkearney.org

- 5) Q: When is the Restaurant Occupation Tax due?
 A: On or before the 25th day of January, April, July, and October the occupation taxes collected from the preceding three months shall be paid to the City of Kearney.
- 6) Q: Whom do I contact if I have a question regarding Restaurant Occupation Tax?
 A: City Finance Office at 308-233-3213.
- 7) Q: Where do I send a written request for additional information?
 A: City of Kearney
 Finance Department
 P.O. Box 1180
 Kearney, Nebraska 68848-1180
- 8) Q: How do I calculate sales tax?
 A: Contact the Nebraska Department of Revenue at (402) 471-5729 or visit their website at http://www.revenue.ne.gov/info/occupation_tax.html

Example – Meal-only Restaurant Bill

A customer purchases a meal at a restaurant in a city with a 1% occupation tax on restaurants. The calculation of the invoice is shown below:

Meal	\$50.00
Add: occupation tax	<u>.50 (a)</u>
Subtotal	\$50.50
Add: 7% sales tax (State 5.5% and City 1.5%)	<u>3.53 (b)</u>
Total cost to customer	\$54.03

Calculation of amount remitted to City of Kearney:

1% food and beverage occupation tax	\$.50 (a)
Less: collection fee of 2%	<u>.01</u>

Amount remitted to the City of Kearney: \$.49

Amount remitted to the State of Nebraska: \$3.53 (b)

The retailer is required to calculate the occupation tax on the meal charge and then use this "subtotal" to calculate the state and local sales tax. In this example, the business is not allowed to add the tax rates together and charge 8% (one flat rate). The receipt must separately identify the sales tax from the occupation tax.

- 9) Q: Is there a late remittance fee?
A: Interest is charged at a rate of one percent (1%) per month, or fraction thereof from the date when due. Based upon information as may be reasonably available, of the amount of occupation taxes due for the period or periods for which the taxpayer is delinquent, the Finance Director may compute and assess in addition thereto a penalty equal to ten percent (10%).
- 10) Q: What are the office hours?
A: The City Finance department is open 7:30 - 5:00 on Monday through Thursday or 7:30 – 12:00 on Friday.
- 11) Q: Who is exempt from the occupation tax?
A: Any place offering food or beverages owned or operated by a civic, charitable, educational, religious, governmental, or political organization exempt from income taxes under the United States Internal Revenue Code. Included are not for profit hospitals, veterans groups, private clubs and others not subject to income tax. Daycare centers and nursing homes are also exempt from paying the occupation tax.
- 12) Q: My business is not located within the City of Kearney. Do I have to pay the Restaurant Occupation Tax?
A: Any qualified sale made within the Kearney City limits is subject to the occupation tax.
- 13) Q: Are employee meals taxable?
A: Amounts charged to employees for prepared food are taxable even if they are discounted. If prepared food is provided to employees without charge, the occupation tax is not due on the cost of the prepared food.
- 14) Q: Are gift certificates taxable?
A: The sale of the gift certificate is not taxable. When the certificate is used to purchase taxable prepared food or alcoholic beverages, the sale is taxable.
- 15) Q: Are fountain drinks taxable?
A: Yes
- 16) Q: Our business only sells wholesale, does the occupation tax apply to our sales?
A: No
- 17) Q: We are a catering business, what is taxable?
A: Individuals or businesses providing catered foods or beverages must collect occupation tax on receipts from preparation, delivery and serving of such food and beverages. The occupation tax applies whether the food is served by the seller or merely provided to the purchaser for consumption as long as the catered event occurs within the City of Kearney.

- 18) Q: Does the occupation tax apply to prepared foods and non-alcohol/alcohol in private clubs?
A: Yes
- 19) Q: Are bottles of pop purchased in the bottled state subject to the tax?
A: If these are purchased at a business (such as a convenience store) and not opened onsite to be consumed with a snack or meal, no food and beverage tax is charged. If it is served with a meal or snack to be eaten on the premises, then it is subject to the tax. Drinks from a soda fountain are always charged the tax if the establishment is considered to be a restaurant.
- 20) Q: What is subject to the tax in a grocery store?
A: Subject to tax: fried chicken, rotisserie chicken and other heated foods; food bars (except where the sales price depends on the weight of the food); items ordered on a menu that is prepared and eaten on the premises or taken out. Not subject to tax: deli meats, cheese, and salads that were repackaged for sale in deli; bakery items; snack foods that are pre-packaged such as chips; items that are sold by weight (salad bar).
- 21) Q: Is an ice cream parlor subject to the tax?
A: Yes, except when the ice cream is sold by the store in containers (quarts, etc).
- 22) Q: Does the occupation tax apply to alcohol sales?
A: Yes (as of January 1, 2023)
- 23) Q: Are cover charges subject to the occupation tax?
A: No
- 24) Q: Are universities and colleges subject to the occupation tax?
A: To the extent, the meals are sold as part of an overall package, they are not taxable. However, if a guest purchases a meal and there is a separate charge, that meal is taxable.
- 25) Q: Are public/private schools subject to the occupation tax?
A: To the extent, the meals and food products, including soft drinks and candy sold are otherwise exempt sales under the Nebraska Revenue Act of 1967, they are not taxable.
- 26) Q: Are there exemptions for the City of Kearney Restaurant and Drinking Place Occupation Tax?
A: The occupation tax shall be imposed on the gross receipts resulting from the sales of food within the corporate limits of the City of Kearney which are subject to the sales and use tax imposed by the State of Nebraska Revenue Act of 1967.
- 27) Q: When is the Restaurant Occupation Tax effective?
A: **February 1, 2015, 4:00 A.M.**

28) Q: When will the occupation tax end?

A: **January 31, 2042, 12:00 P.M.**

29) Q: Are vending machine sales taxable?

A: The City is not imposing occupation tax on vending machines sales.

30) Q: What will the proceeds of this tax be used for?

A: The proceeds of this tax will be used for the purpose of constructing a youth baseball/softball complex (completed) and an indoor sports complex (under construction).