

NOTICE TO ALL RESTAURANTS, BARS, OR SIMILAR ESTABLISHMENTS OFFERING COMPLIMENTARY ALCOHOLIC BEVERAGES

This notice does not apply to Class A liquor stores.

Sales Tax--Please be advised that a complimentary alcoholic beverage provided by a restaurant, bar, or similar type of establishment to a patron is not subject to sales tax provided that the patron has purchased and paid consideration for a meal or an additional alcoholic beverage in conjunction with receiving that complimentary alcoholic beverage. In this case, the complimentary alcoholic beverage is considered to be a discounted item and is part of the overall purchase of the meal or additional alcoholic beverage.

Use Tax--If a patron receives a complimentary alcoholic beverage and does not make a purchase of a meal or additional alcoholic beverage, a use tax is due on the cost of the alcohol to the Person offering the complimentary alcoholic beverage.

No consideration meals and/or alcoholic beverage--If a patron orders a meal and/or alcoholic beverage and, due to certain circumstances, receives the entire meal and/or alcoholic beverage free of charge, then no sales tax is due because there is no consideration paid for such meal and/or alcoholic beverage. In addition, the purchase price of the complimentary meal and/or alcoholic beverage to the patron is not subject to use tax because the patron ordered a meal and/or alcoholic beverage with the intention of paying for them.

If a patron receives the free meal in exchange for a coupon, then the requirements of Regulation SU 07-140 apply and sales tax or use tax may be imposed on the sale of the meal.

Records Requirement--As currently required in Regulation SU 13-91, each retailer is required to keep adequate and complete records showing the gross receipts from the sales of tangible personal property or services, including both taxable and nontaxable items and any services necessary to complete a sale. Therefore, all restaurants, bars, or other similar types of establishments must keep written or electronic records documenting complimentary alcoholic beverages by type of beverage, date of service, and whether a meal or additional alcoholic beverage was purchased with the complimentary alcoholic beverage.

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David Sullivan
Tax Administrator