

# Town of Lovettsville

## MEALS TAX RETURN

Report and payment due on or before the **Twentieth** Day of the Month following the Month during which the tax was collected. Checks or money orders should be made payable to the Town of Lovettsville. Please call Town Office at 822-5788 with any questions.

Business Name: \_\_\_\_\_

Business Location: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Month Ending	
Total Meal Receipts	
Meals Tax (3% gross receipts)	
Previous Balance	
Total Meals Tax Due	
10% Late Penalty	
10% Interest	
<b>Total Amount Due</b>	

*Please make a copy of this report for your records and mail the return and payment to:*  
Town of Lovettsville  
Attn: Treasurer  
P.O. Box 209  
Lovettsville, VA 20180

*If tax is paid after the due date, a penalty of 10% of the tax and interest at the rate of 10% per annum will be computed upon the tax and penalty from the date such were due and payable.*

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## **Meals Tax**

### **§ 1. Definitions.**

The following words and phrases, when used in this Article, shall have, for the purpose of this Article, the following respective meanings except where the context clearly indicates a different meaning:

CATER - The furnishing of food or beverages, or both, on the premises of another, for compensation.

COLLECTOR - The Town Treasurer of Lovettsville or designee.

TREASURER - The Treasurer and any duly designated deputies, assistants, inspectors or other employees.

FOOD - All food, beverages or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time or place of service.

FOOD ESTABLISHMENT - Any place in or from which food or food products are prepared, packaged, sold or distributed in the town, including but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, café, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shop, caterer's kitchen or premises, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, lounge, or other similar establishment, public or private, and shall include private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

MEAL - shall mean any prepared food or drink offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

Town - The Town of Lovettsville.

### **§ 2. Imposition of tax.**

There is hereby imposed and levied by the town on each person a tax at the rate of three (3) percent on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not and whether consumed on the premises or not. There shall be no tax if the total amount paid is fifty cents (\$0.50) or less; on larger amounts a fractional cent of tax due shall be rounded to the next higher cent.

**§ 3. Collection of tax by seller.**

Every person receiving any payment for a meal with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this Article from the person on whom the same is levied or from the person paying for such food at the time such food is made; provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Visually Handicapped and located on the property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes.

**§ 4. Exemptions; limits on application.**

- (a) The tax imposed under this Article shall not be levied on the following items when served exclusively for off-premises consumption:
  - (1) Factory prepackaged candy, gum, nuts and other items of essentially the same nature.
  - (2) Factory-prepackaged donuts, ice cream, crackers, nabs, chips, cookies and items of essentially the same nature;
  - (3) Food sold in bulk. For the purposes of this provision, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on premises consumption (e.g. a whole cake, a gallon of ice cream); provided however, that a bulk sale shall not be deemed to include any meal or meals catered or delivered by a food establishment for off-premises consumption.
  - (4) Alcoholic and non-alcoholic beverages sold in factory sealed containers.
  - (5) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts, issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

- (6) Any food or food product purchased for human consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C. §2012, as amended except for hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied hereunder, the following items whether or not purchased for immediate consumption are excluded from the said definition of food in the federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages. This subsection shall not affect provisions set forth in subparagraphs (c) (3), (4) and (5) hereinbelow.
- (b) A grocery store, supermarket or convenience store shall not be subject to the tax except sales from a delicatessen or other area designated for the sale of prepared foods and beverages.
- (c) The tax imposed hereunder shall not be levied on the following purchases of food and beverages:
  - (1) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.
  - (2) Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.
  - (3) Food and beverages for use or consumption and which are paid for directly by the Commonwealth, any political subdivision of the Commonwealth or the United States.
  - (4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof.
  - (5) Food and beverages furnished by a public or private non-profit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the Commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.
  - (6) Food and beverages sold on an occasional basis by non-profit educational, charitable or benevolent organization church, or religious body as a fundraising activity, the gross proceeds of

which are to be used by such organization exclusively for non-profit educational, charitable, benevolent or religious purposes.

- (7) Food and beverages sold through vending machines.

**§ 5. Gratuities and service charges.**

If a purchaser provides a gratuity for an employee of a seller, and the amount of the gratuity is wholly in the discretion of the purchaser, the gratuity is not subject to the tax imposed by this Article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided in the latter case, the full amount of the gratuity is turned over to the employee by the seller.

An amount or percent, whether designated as a gratuity, tip or service charge, that is added to the price of the food and beverages by the seller, and required to be paid by the purchaser, shall be deemed a part of the selling price of the food and beverages and shall be subject to the tax imposed by this Article, but only to the extent that such gratuity, tip or service charge exceeds 20% of the sales price.

**§ 6. Payment or absorption of tax by seller.**

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of the tax imposed under this Article will be paid or absorbed by the seller.

**§ 7. Reporting of taxes collected; remittance; preservation of records.**

It shall be the duty of every person required by this Article to collect the taxes imposed by this Article to make a report thereof setting forth such information as the Treasurer may prescribe and require, including all purchases taxable under this Article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this Article. Such reports shall be made and the taxes required to be collected by section 3 shall be remitted to the Treasurer within ten (10) days of the conclusion of each calendar quarter. All records related to the calculation and imposition of the tax shall be kept and preserved for a period of five (5) years. The Treasurer or his/her duly authorized agents shall be entitled to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this Article, and to make copies of all or any parts thereof.

**§ 8. Procedure upon cessation of business.**

Whenever any person required to collect and pay to the town a tax imposed by this Article shall cease to operate, go out of business or otherwise dispose of his business, any tax then payable to the town shall become immediately due and payable, and such person shall immediately make a report and pay the tax due to the town.

**§ 9. Penalty and interest upon failure to report or remit tax.**

If any person whose duty it is to do so shall fail or refuse to make the report or remit the tax required by this Article within the time and in the amount required, there shall be added to the tax by the Treasurer a penalty in the amount of ten percent (10%) of the tax, and interest thereon at the rate of ten percent (10%) per annum, which shall be computed upon the tax and penalty from the date such were due and payable.

**§ 10. Violations and penalties.**

- (a) Any person willfully failing or refusing to file a report or make payment as required under this Article shall, upon conviction thereof, be guilty of a class I misdemeanor except that any person failing to file such a return shall be guilty of a class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is \$1,000.00 or less. Any person violating or failing to comply with any other provision of this Article shall be guilty of a class I misdemeanor.
- (b) Except as provided in subsection (a) above, any corporate or partnership officer, as defined in Virginia Code §58-1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this Article, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a class I misdemeanor.
- (c) Each violation of or failure to comply with this Article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax as provided in this Article.

**§ 11. Regulations for administration and enforcement.**

The Treasurer may issue regulations for the administration and enforcement of this Article.