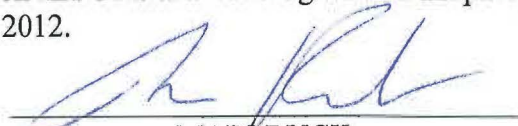


**CONVENTION AND TOURISM TAX REGULATIONS  
OF THE CITY OF KANSAS CITY, MISSOURI**

As made and adopted by the Commissioner of Revenue of the City of Kansas City, Missouri pursuant to Chapter 68, Article IX, Section 68-568 of the Code of Ordinances of the City of Kansas City, Missouri on November 1, 2012, to become effective upon approval by the City Council and applied prospectively. These regulations replace and supersede the Convention and Tourism Tax Regulations adopted by the Commissioner of Revenue on October 1, 2012.



MARI RUCK,  
COMMISSIONER OF REVENUE

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**§1.551-1. Imposition of tax, in general.**

- (A) Chapter 68, Article IX, Section 68-551 of the Code of Ordinances, City of Kansas City, Missouri, imposes the convention and tourism tax as follows:
- (1) A tax of 7 ½ percent of the amount of sales or charges for all sleeping rooms paid by the transient guests of hotels, motels and tourist courts situated within the city, and doing business within the city (excluding sales tax); and
  - (2) A tax of 2 percent of the gross receipts derived from the retail sales of food by every person operating a food establishment.
- (B) Pursuant to Section 68-551(b) of the Code of Ordinances the city treasurer shall collect and deposit the convention and tourism tax in a separate fund known as the convention and tourism tax fund. The city council shall appropriate from the convention and tourism tax fund as provided in RSMo Sections 92.325—92.340 and in Chapter 68, Article IX of the Code of Ordinances.

**§1.551-2. Room Tax.**

- (A) A 7 ½ percent convention and tourism tax applies to all sales or charges (excluding sales tax) for sleeping rooms or similar accommodations paid by the transient guests of hotels, motels and tourist courts or similar lodging establishments situated within the city and doing business within the city.
- (1) A *transient guest*, as defined in Section 68-555 of the Code of Ordinances, means a person who occupies a room in a hotel, motel or tourist court for 31 days or less during any calendar quarter.
- (B) The tax applies to all sales or charges paid by the transient guests for the sleeping room and its furnishings and for the services accompanying the use of the room, and includes all items and services that are connected with or incidental to the use or rental of the sleeping room, unless otherwise exempted herein.
- (C) In general, and as further provided in these regulations, the amount of taxable sales or charges for sleeping rooms does not include amounts paid by the guest for any goods, services or commodities other than those connected with or incidental to the rental of the rooms, if the price for such other goods, services or commodities is separately stated and reasonable in relation to the service actually rendered and the property furnished in conjunction with that service.
- (1) If a lump-sum charge for a sleeping room also includes charges for other goods or services that are not separately stated, the entire lump sum charge is considered to be the charge for the room and subject to the tax.

- (2) Any separately stated charges for goods or services other than rental of sleeping rooms must be reasonable in relation to the service actually rendered and the property furnished in conjunction with that service.
- (3) The tax does not apply to charges for rooms that are not sleeping rooms, such as the charges for the rental of meeting rooms to hold conferences, seminars or business meetings, provided that such charges are separately stated and are reasonable.

The tax also does not apply to charges for a room that is ordinarily used as a sleeping room but that is temporarily converted to use for an altogether different function after the beds are removed, for example, to serve as a meeting room or to host an after-hours social gathering for a group meeting at the lodging establishment, provided that such charges are separately stated and are reasonable.

- (4) The tax does not apply to sleeping accommodations, consisting of one bedroom or more, that rent for less than twenty dollars per day or less than eighty-five dollars per week.
  - (a) If the accommodations are rented based on a period of less than a full day, the rate charged will be multiplied by a factor to determine whether the daily rental rate is less than twenty dollars.
  - (b) The numerator of the factor shall be 24 and the denominator shall be the time period, stated in hours, for which the accommodations were rented.
- (5) A hotel, motel, tourist court or other lodging establishment subject to the tax on sleeping rooms that maintains a separate eating area for guests and their invitees, or the general public, or that provides room service food and beverages, is considered to be operating a retail food establishment for purposes of the convention and tourism tax with respect to the eating area and room service operations, and a lodging establishment with respect to its sleeping room operations. Accordingly, separately stated charges for food or beverages provided by an eating facility at a lodging establishment, or for room service food and beverages, are not subject to the tax on sleeping rooms. However, charges for such meals and beverages are subject to the tax imposed on retail sales by food establishments. However, if the hotel, motel or tourist court includes the charges for lodging and food and beverages in a lump sum charge, the 7 ½ percent tax for sleeping rooms will apply to the total charges.

(D) The tax applies to the total amount charged for the rental of a room and its furnishings and for the services accompanying the rental of the room. The

following are examples of services and accommodations, the charges (if any) for which are considered to be part of the charges paid for the sleeping room. The amounts charged for these services are considered part of the charge for the room, whether the charges are included in a lump-sum charge for the room, or are separately stated on the bill or receipt given to the guest. No deduction may be made from receipts for these items in determining the amount subject to this tax. Examples of charges deemed to be for sleeping rooms include:

- (1) Soap, shampoo and other grooming or personal hygiene aids.
- (2) Food and drinks provided free of charge to the guest.
- (3) Use and upkeep of a room's furnishing and fixtures (e.g., beds, tables, chairs, air conditioners).
- (4) Utilities (light, heat, water and basic telephone, but excluding separate per call charges for local or interstate telephone usage).
- (5) Doormen and bellhops.
- (6) Maid services.
- (7) Secretary or desk services.
- (8) Switchboard operators.
- (9) Mail or newspaper service.
- (10) Internet hookup services, if provided free of charge to the guest.
- (11) Charges for in-room equipment such as cribs, cots, roll-away beds, and refrigerators.
- (12) Use of on-site athletic facilities or other recreational facilities if provided free of charge to the guest.
- (13) Example of Rule. A hotel rents a room to a guest for a night and provides a complimentary breakfast. The tax applies to the total amount paid by the guest for the rental of the room and the services accompanying the rental of the room, such as towels, bed linens, soap and shampoo, furniture and furnishings, utilities, and other services associated with the rental of the room. The complimentary breakfast provided to the guest is also considered part of the charges for the sleeping room.

(E) Charges for the following items and services are not part of the charge for the room, provided the charges for such items or services are separately stated on the bill or receipt that is given to the guest and are reasonable in relation to the charge for the service actually rendered and the property furnished in conjunction with the service:

- (1) In room pay-for-view television, movies or programs.
- (2) Fax or copy services.
- (3) Room service:
  - (a) Food and drinks are not subject to the 7.5% room tax, but are subject to the 2% tax on retail food sales.
  - (b) A separate "cover" charge for room service or a mandatory tip or gratuity added in addition to charges for specific items ordered is not subject to the tax on sleeping rooms but is subject to the 2% tax on retail food sales.
  - (c) Tips voluntarily given by the guest to the room service delivery person are not subject to the tax.
- (4) Laundry and dry cleaning for personal apparel.
- (5) Complimentary or discounted entertainment, such as sporting or theater tickets.
- (6) Transportation charges (e.g., shuttle to airport).
- (7) Parking or garage services and valet services.
- (8) Sales taxes billed to the guest.
- (9) Internet connection charges, if billed to the guest.
- (10) Messenger or delivery services.

(F) The tax applies to the following charges or services as indicated:

- (1) Charges to guests for the actual cost of telephone calls and Internet connections are not taxable if the charge is separately stated on the guest's bill. However, charges to guests by a hotel or other lodging establishment for access charges (charges for making telephone or Internet service available to guests) are taxable. For example, if a hotel charges 75 cents per local call, it is an access charge and is considered

part of the charge for the room and is taxable – the phone company does not charge that amount for local calls, but the hotel charges this fee for access to the telephone service.

- (2) Charges for food and drinks from an in-room courtesy bar are not considered part of the charge for the use of a sleeping room.
- (3) Separate charges for the use of recreational facilities are not taxable as part of the charges for use of the sleeping room. For example, separately stated charges for the use of tennis courts, golf courses, or to purchase a pass to use a nearby athletic facility are not part of the charges for the rental of the sleeping room.
- (4) Receipts from gift shop sales are not subject to the convention and tourism tax on sleeping rooms. However, sales of food by such shops may be subject to the tax on a food establishment, depending upon the facts and circumstances, as provided in these regulations.
- (5) Sales of food, candy and beverages to guests through vending machines located on the property of a lodging establishment are not subject to the tax on sleeping rooms.
- (6) Tips voluntarily left by the guest are not subject to the tax. However, when a tip or service charge is added to the bill by the hotel, motel or tourist court, that amount is taxable, even if the amount is separately stated or distributed directly to employees.

(G) The tax shall be applied as follows:

- (1) The fees charged to guests for early departure or for “no shows” are taxable, since the charge is made for the use of the sleeping room, even though the guest did not show up or left early. Cancellation charges are not taxable.
- (2) Because the ordinance applies to sales or charges “paid by the transient guests,” when guests use a coupon or award program benefit for discounted or free lodging, the tax applies only to the amount actually paid by the guest.
- (3) Sales of gift certificates are not subject to the tax, but when a gift certificate is redeemed the tax applies to the total due and the gift certificate is considered as a form of payment similar to cash.
- (4) No tax is due if a hotel or other lodging establishment grants a guest the use of a sleeping room free of charge, since there were no charges for the room. For example, if a hotel provides a complimentary room

for a couple's wedding night, and a free breakfast, there is no tax due because the hotel did not charge for the room or the breakfast.

- (5) Tax applies to charges for the permanent or long-term reservation of a room regardless of whether the rooms are actually used. For example, an airline reserves rooms at a hotel under a long-term contract. In exchange for room availability, the airline agrees to pay for all rooms on a guaranteed basis, whether or not it uses the rooms. The entire charge for the rooms is taxable, regardless of whether the rooms are actually used.
- (6) In determining the amount subject to this tax, the amount paid by the transient guest to the hotel, motel or tourist court is not reduced for fees or charges paid by the hotel, motel or tourist court to a reservation or travel agent. Cross reference: RSMo §67.662.

(a) Example:

A guest obtains a reservation for a room at \$95 per night through a reservation agent. The guest pays the \$95 per night charge to the hotel upon check-out. The hotel remits a \$15 per night booking charge to the reservation agent. The tax applies to the entire \$95 paid by the guest for the room.

- (7) The tax does not apply to sales or charges for the rental of a sleeping room to a permanent guest, as defined in Section 68-555 of the Code of Ordinances and in these regulations. Businesses do not qualify as permanent guests. A permanent room is not considered synonymous with a permanent guest. To qualify as a permanent guest an individual must both:
  - (a) Contract in advance for a room for a period of more than 31 consecutive days.
  - (b) Remain a guest for more than 31 consecutive days.
- (8) Examples of qualifying as permanent guest include:

(a) Example:

A hotel rents a suite to a guest for 45 days under a written agreement and the guest stays for 45 consecutive days. The tax does not apply.



(b) Example:

A guest registers at a hotel for an indefinite period of time and stays for six weeks. Although the guest actually stayed longer than 31 days, the room tax applies because the guest did not contract in advance for the use of the room for more than 31 days.

(9) *Qualifying Package Deals.* Notwithstanding the above provisions, the person responsible for the tax may make a reasonable allocation of charges for rooms and other goods and services in the event of a qualifying package deal or special promotion to the extent provided herein.

(a) A qualifying package deal or special promotion is one in which the guest is charged a lump sum, agreed upon in advance, in which no specific rental rate is charged for sleeping rooms, and the guest receives special services or goods in addition to occupancy of sleeping rooms as part of the single price package or promotion. Examples of such special goods or services are access to recreational facilities such as golf or tennis, tickets to sporting or theatre events or other local attractions, transportation or tours, or meals.

(b) For purposes of computing the amount subject to room tax for a qualifying promotion, the person responsible for the tax may deduct any amounts it actually pays to an unrelated third party for the various components of the package, as well as any pass-through of applicable taxes and other fees. Thus, for example, if a hotel contracts with other businesses to provide meals and tickets to an attraction as part of a package, the amount subject to the room tax will not include the amounts paid by the hotel for meals and tickets. The balance of the charge is deemed to relate to the rental of sleeping rooms and the tax is due on that amount.

(c) If a qualifying promotion includes special services or goods that a lodging establishment provides itself, such as meals, the lodging establishment may make a reasonable allocation of the charge for the room and of the charges for the other items, and determine the room tax based on that allocation, provided the allocation is either shown on the guest bill or readily identified in the accounting records of the lodging establishment.

(d) In all instances, the amounts allocated to services or goods other than sleeping rooms provided in qualifying promotions must be reasonable in relation to the goods or services actually provided, as

well as to the charges allocated to sleeping rooms subject to this tax.

- (e) No tax is due if a hotel or other lodging establishment that also operates a casino or gambling establishment grants a guest the use of a sleeping room free of charge, because there are no charges for the room. This is the case even if the guest's free stay is conditioned on spending a certain amount in the gambling facilities located at the lodging establishment.

**§1.551-3. Food establishment tax.**

(A) A convention and tourism tax of 2 percent is imposed on the gross receipts (excluding sales tax) derived from the retail sales of food by every person operating a food establishment.

(B) For purposes of this tax, a *food establishment*, as defined in Section 68-555 of the Code of Ordinances, means any café, cafeteria, lunchroom or restaurant which sells food at retail.

(1) A *café* is:

(a) A restaurant, often with an enclosed or outdoor section extending onto the sidewalk, or

(b) A restaurant, usually small and unpretentious.

(2) A *cafeteria* is a restaurant in which patrons wait on themselves, carrying their food to tables from counters where it is displayed and served.

(a) An employee cafeteria where food and drinks are not regularly served to the public is not a food establishment subject to the tax.

(3) A *lunchroom* is a small restaurant specializing in food ready to serve or quickly prepared.

(4) A *restaurant* is an establishment where refreshments or meals may be procured by the public. Restaurants include caterers, carryout and home delivery restaurants, mobile restaurants, lunch trucks and food trucks.

(5) For purposes of this tax, a business shall not be considered a food establishment if the only items sold are some or all of those listed below.

(a) Baked goods. For purposes of this regulation, the term ‘baked goods’ includes breads, cookies, cakes, pies, pastries, donuts and pretzels.

(b) Popcorn.

(c) Candy.

(d) Ice cream, ice milk, frozen yogurt, gelato, snow cones, and Italian ices.

(e) Beverages.

(f) Nonconsumable items

(g) Examples:

(1) Wilma’s is a donut shop that makes donuts from scratch every day. The donuts are sold from a retail counter. Wilma’s also sells coffee, soft drinks and milk. Wilma’s is not considered a food establishment for purposes of the convention and tourism tax because the only items sold are listed in section 1.551-3(B)(5) of these regulations

(2) Millie’s is a popcorn shop, selling plain and flavored popcorn in a variety of sizes, including individual-sized bags and small and large tins. Millie’s also sells soft drinks, candy, and small toys. Millie’s is not subject to the convention and tourism tax because all the items sold are listed in section 1.551-3(B)(5) of these regulations.

(C) *Gross receipts subject to the tax.* *Gross receipts* means the gross receipts from the retail sales of food prepared on the premises and delivered to the purchaser (excluding sales tax).

(1) The tax applies to all amounts charged by the food establishment for food subject to this tax, and includes all items and services that are connected with or incidental to the provision of the food, unless otherwise exempted herein.

(a) Other Charges. In general, and as further provided in these regulations, the amount of taxable gross receipts for food does not

include amounts paid by the customer for goods, services or commodities other than food, such, as for example, entertainment, if the price for such other goods, services or commodities is separately stated.

- (b) If a lump-sum charge for the sale of food also includes charges for other goods and services that are not separately stated, the entire lump sum charge is considered to be the charge for food and is subject to the tax.
- (c) Any separately stated charges for goods and services other than food must be reasonable in relation to the service actually rendered and the property furnished in conjunction with that service.

(2) Preparation on premises. The food must be prepared by employees, owners, partners, members, or contractors on the premises of the establishment from which the food is sold.

(a) Preparation of food includes but is not limited to:

(I) Heating of the food.

(II) Mixing or stirring of the food.

(III) Assembling two or more food ingredients.

(i) Food ingredients include but are not limited to:

- Spices, herbs, and seasonings.
- Flavorings and coatings.
- Water and other potable liquids.
- Dressings and sauces.
- Packaged mixes.
- Frostings, glazes, and toppings.

(ii) Assembly of food ingredients does not include placing two or more pre-packaged items together to form a meal (such as a “box lunch”) unless the items assembled also include eating utensils and/or napkins or wipes.

(IV) Repackaging of the food into serving-sized portions.

(b) Preparation of food does not include:

(I) Stacking of individual items for display.

(II) Slicing of food items, in the absence of any other food preparation steps.

(III) Heating of the food by the customer.

(IV) Assembly of the food by the customer.

(c) Prepared on the premises means thoroughly prepared and ready for immediate consumption at the time of purchase. Foods that will require thawing or additional baking at home before they can be consumed are not subject to the tax.

(d) Example:

Mini Mart, a Kansas City convenience store, sells canned goods, candy, potato chips and beverages from self service shelves and refrigerator cases. Mini Mart also stocks frozen burritos and sandwiches prepared by food wholesaler Mega Foods and delivered by truck to Mini Mart. Mini Mart has several microwave ovens in the store in which customers may heat sandwiches and burritos.

Mini Mart is not preparing food on the premises and is not subject to the tax.

(e) If prepackaged foods and drinks are regularly purchased by customers at a food establishment in conjunction with items that are prepared on the premises and delivered to the purchaser then those prepackaged foods and drinks will be subject to the convention and tourism tax.

(3) Delivered to the purchaser. To be subject to the tax, the food must be delivered to the purchaser. Food delivered to the purchaser includes food served at a buffet or salad bar. The delivery need not take place at the food establishment but may be made to the purchaser's home, workplace or to the location of a catered event.

(a) Example:

Romano's is a pizza restaurant. Customers may be served by waitresses in the restaurant's dining room, order pizzas to be picked up at Romano's carryout counter, or order pizzas for home delivery. Pizzas sold by each of the three types of delivery to the customer would be subject to the tax.

(D) *Point of sale.* For purposes of the convention and tourism tax on food establishments, the statute governing local sales taxes, Section 32.087.12 RSMo, as that section now reads or as it may be amended hereafter, shall determine if a retail sale of food subject to the tax occurred within Kansas City, Missouri. Under Section 32.087.12 RSMo, a retail sale of tangible personal property is deemed to be consummated at the place of business of the retail establishment unless the product is delivered by the retailer or its agent to a location outside the State of Missouri.

(1) Example:

Pizza Express operates a pizza delivery restaurant in Kansas City, Missouri. Customers order pizza by telephone. The pizza is prepared on the premises of Pizza Express and delivered to the customer's home by a Pizza Express driver. Some orders are delivered to Kansas customers living near the state line. The sales are deemed to take place at the restaurant's place of business in Kansas City, Missouri and are subject to the tax, except for orders delivered to Kansas customers.

(2) Place of business: Caterers.

The place of business for a caterer is the location where the initial order is taken and the food is prepared, regardless of the place of delivery or consumption. Catering businesses located inside Kansas City, Missouri must collect and remit the tax even if the food is delivered to a location outside the city, except that food delivered to a location outside the State of Missouri will not be subject to the tax.

(a) Example:

Executive Catering has its office and kitchen in Kansas City, Missouri. It specializes in catering corporate lunches and board meetings. Orders are taken at the Kansas City, Missouri office. Customers may order box lunches as well as fully-cooked meals from Executive's menu. The kitchen prepares all box lunches and meals and delivers the food to corporate offices in Kansas City, Missouri and the surrounding suburbs. All of Executive Catering's orders are subject to the tax, except for orders delivered to Kansas.

(3) Place of business: Lunch trucks, food trucks, mobile restaurants.

The place of business for lunch trucks, food trucks and other mobile restaurants shall be determined by the rule in the case of *Mobil-Teria Catering v. Spradling*. The place of business, and where the sale is consummated, is the location where the trucks are parked to sell food, the foods are displayed, the orders are taken, and payments are made.

(a) Example:

Lunch-Mobile has its office and garage in Kansas City, Missouri. Truck A leaves the garage Monday through Friday and follows a suburban route, parking outside a manufacturing plant in Claycomo, Missouri and a hospital in North Kansas City during lunch and break times throughout the day and evening shifts. Truck B leaves the garage Monday through Friday and parks in the government district of downtown Kansas City, Missouri during the lunch hour. Both trucks sell pre-prepared cold sandwiches as well as hamburgers, hot dogs, burritos and French fries heated or cooked on board. Customers order and pay for the food at the sites where the trucks are parked. Truck A has its place of business at the parking sites outside of Kansas City and its sales are not subject to the tax. Truck B has its place of business at the parking site in the government district of Kansas City and its sales are subject to the tax.

(E) *Mixed operations.* A café, cafeteria, lunchroom or restaurant subject to the tax may be located within another establishment, including, but not limited to, an arena or stadium, shopping mall, concert hall, museum, airport, bus or train station, truck stop, bowling alley, theater, cinema or other entertainment facility, grocery, discount or convenience store, and whether operated independently or under the same ownership as the larger establishment.

(1) *Food establishment operated independently.* A café, cafeteria, lunchroom or restaurant operated by a concessionaire and located within a business that is not a food establishment is a food establishment subject to the tax.

(a) Example:

MegArena is a sports arena. Within the arena are multiple concession stands selling hamburgers, French fries, hotdogs, burritos and pizza. MegArena does not operate any of the concession stands, instead leasing out the right to operate these retail locations. Those leased areas that meet the requirements of these regulations are food establishments for purposes of the convention and tourism tax, and the vendors that lease the space are responsible for collection and payment of the tax.

(2) *Food establishment operated as unit of larger business.* A café, cafeteria, lunchroom or restaurant which is operated as a department, section, or unit of a larger business or facility is subject to the tax. Only the food establishment and its operations from the retail sale of food prepared on the premises and delivered to the purchaser are subject to the tax.

(a) Example:

Thrift Club is a national discount chain that operates a retail store in Kansas City. The store sells clothing, house wares, sporting goods and electronics. Within the store, Thrift Club operates a grill serving hot dogs, hamburgers, pizza and soft drinks to customers on stools at a lunch counter. The grill is a food establishment whose gross receipts are subject to the convention and tourism tax

(3) *Food stamp standard for determining gross receipts.* In mixed operations where a café, cafeteria, lunchroom or restaurant is part of a grocery store or other establishment where customers may purchase certain items with food stamps, the sales of any items for which food stamps may be redeemed pursuant to the provisions of the Supplemental Nutrition Assistance Program shall not be included in gross receipts subject to the tax. As used herein, "Supplemental Nutrition Assistance Program" (formerly known as the Federal Food Stamp Program) refers to the program authorized by 7 U.S.C. Section 2011 *et seq.*, as that section now reads or as it may be amended hereafter.

(a) Example:

A grocery store operates a Chinese cafeteria within the store. The cafeteria prepares a variety of popular Chinese entrees displayed on a steam table. Customers order in a cafeteria line and a store employee serves the entrees over rice or noodles from the steam table. Patrons of the cafeteria may eat in a small dining area in the store, or take the food home to eat. Because they are hot foods, the items purchased from the Chinese cafeteria are not eligible to be redeemed with food stamps under federal guidelines. The store also has a deli department which prepares cold sandwiches, pasta salads and potato salads for customers to take home. Customers select the deli items from a self-service refrigerator case. Because they are cold foods that will not be eaten in the store, the sandwiches, pasta and potato salads are eligible for purchase with food stamps under federal guidelines.

The gross receipts from the Chinese cafeteria will be subject to the tax because the cafeteria is a food establishment and the hot entrees may not be purchased with food stamps. The gross receipts from the deli will not be subject to the tax because the items sold are eligible for purchase with food stamps, and also, because the deli department under the facts in this example is not a café, cafeteria, lunchroom or restaurant.



- (F) The tax applies to gross receipts of the food establishment for food subject to this tax, and includes all items and services that are connected with or incidental to the provision of the food, unless otherwise exempted herein.
- (G) In determining the amount charged and subject to the convention and tourism tax:
- (1) When a customer uses a coupon for a discount or free meal (e.g., “buy one, get one free”), the tax applies only to the amount actually paid by the customer. The value of the coupon, whether a store coupon issued and redeemed by the food establishment or a third party coupon, is not included in gross receipts subject to the tax.
  - (2) Sales of gift certificates are not subject to the tax, but when a gift certificate is redeemed the tax applies to the total due and the gift certificate is considered a form of payment, similar to cash.
  - (3) No tax is due if a food establishment grants a customer a meal or food free of charge, because there were no charges for the food. For example, if a restaurant provides a complimentary meal to the winner of a promotional contest there is no tax due because the food establishment did not charge for the meal.
    - (a) Free meals and drinks are those that the food establishment gives away with no stipulations (no purchase necessary), such as free appetizers or a free birthday drink or dessert. Free meals and drinks do not include special offers such as 2 for 1, free child meal with the purchase of an adult meal, or coupon meals. In such cases tax applies to the total amount paid by the customer.
  - (4) Employee meals. The tax applies to the amount the employee pays for the meal. For example, an employee gets a discount of 15 percent on his meals. The charge for a meal before tax is \$10.00; the 15 percent discount is \$1.50. The tax applies to \$8.50 gross receipts.
  - (5) Cover charges and minimum charges that allow the customer to receive food or drink are taxable whether they are separately stated on the bill or collected as an admission fee.
  - (6) Coat checking charges are not taxable.
  - (7) Charges for customer parking are not taxable.
  - (8) Corkage fees for opening and serving drinks are taxable.
  - (9) Charges to deliver are not taxable if separately stated on the bill.

- (10) Tips voluntarily paid by the customer are not taxable. However, when a tip or service charge is added to the bill by the food establishment, such mandatory tip or service charge is taxable.
- (11) Sales of prepackaged food or drinks through vending machines are not subject to this tax.
- (12) The convention and tourism tax on food sales also applies to businesses subject to the convention and tourism tax on sleeping rooms.

(a) A hotel, motel, tourist court or other lodging establishment subject to the tax on sleeping rooms that maintains a separate eating area for guests and their invitees, or the general public, or that provides room service food and beverages, generally will be considered to be operating a retail food establishment for purposes of this tax with respect to the place of eating and room service operations, and operating a lodging establishment with respect to its sleeping room operations. Accordingly, separately stated charges for food or beverages provided by a lodging establishment are not subject to the tax on sleeping rooms, but are subject to the tax imposed on retail sales by food establishments. However, if a lodging establishment includes charges for both lodging and food and beverages in a lump sum charge, the room tax will apply to the total charges and the tax on food will not apply.

(b) A lodging establishment that operates a food establishment and separately states the charges for such operations is subject to tax as follows:

(1) On-premises eating places. The 2% tax applies to food sales by a hotel, motel or tourist court that operates or provides a restaurant or other eating place on its premises, or that it provides for the use of guests.

(2) Room service. The 2% tax applies to sales of food and beverages delivered to guest rooms. The 2% tax on food also applies to service charges, mandatory tips and gratuities or similar charges that relate to the serving of food and beverages in guest rooms.

(3) The 2% tax applies to sales of food and beverages provided by lodging establishments when the food and beverages are not provided within a guest room, such as when they are provided in meeting or banquet rooms. The tax also

applies to service charges, mandatory tips and gratuities and delivery or similar charges that relate to the serving of food and beverages in meeting or banquet rooms.

(4) The tax does not apply to complimentary meals provided by the lodging establishment to guests, such as free breakfasts or drinks.

(5) Charges for pre-packaged snacks and drinks provided to guests at in-room courtesy and honor bars or refrigerators are not subject to the tax on food establishments.

(H) The entire charge for prepared food and drinks by a caterer is taxable, including charges for food, preparation and service, even if the items are separately stated on the bill.

(1) Caterer means a person engaged in the business of serving meals, food, or drinks on the premises of the customer, or on premises supplied by the customer, but does not include employees hired by the customer by the hour or day.

(2) This tax does not apply to fees charged by a caterer for tableware, tablecloths, tables, chairs or other items used in connection with serving meals.

(3) Caterers Planning, Designing and Coordinating Events. The tax does not apply to charges by a caterer for event planning, design, coordination, and/or supervision.

(4) The tax does not apply to separately stated charges by a caterer for the use of property unrelated to the serving or furnishing of food or beverages, such as decorative props related solely to optional entertainment, special lighting for guest speakers, sound or video systems, dance floors, or stages.

(5) The tax does not apply to separately stated charges for services unrelated to the furnishing and serving of meals, food, or drinks, such as optional entertainment or any staff who do not directly participate in the preparation, furnishing, or serving of meals, food, or drinks, such as, for example, coat-check clerks, parking attendants, or security guards.

(6) Tips, Gratuities, or Service Charges. An optional tip or gratuity given to the caterer is not subject to tax. For this purpose, a gratuity is optional only if it is voluntarily added by the customer. A mandatory tip, gratuity, or service charge is included in taxable gross receipts,

even if it is separately stated or distributed directly to employees of the caterer. A tip, gratuity, or service charge negotiated in advance of an event between the caterer and the customer is mandatory even though the amount or percentage is negotiated.

**§1.555. Meaning of terms; severability of provisions.**

(A) All words and terms used in these Regulations shall have the same meaning as defined in Sec. 68-555 of the Code of Ordinances.

(B) The sections, paragraphs, sentences, clauses, and phrases of these Regulations are intended to be severable, and if any phrase, clause, sentence, paragraph or section of these Regulations shall be declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of these Regulations.

**§1.561. Collection of tax.**

(A) Any person subject to the convention and tourism tax shall collect the tax from the transient guests and patrons of the food establishment, and each such transient guest and patron of the food establishment shall pay the amount of the tax due to the person required to collect the tax.

(B) The city shall allow the person required to remit the tax to deduct and retain an amount equal to two percent of the tax collected for the timely remittance of the tax.

**§1.562. Statement of tax; responsibility for collection.**

(A) It shall be a violation of Chapter 68, Article IX of the Code of Ordinances for any person to advertise or hold out or state to the public or to any customer directly or indirectly that the convention and tourism tax or any part thereof required to be collected by him, will be assumed or absorbed by the person.

(B) The convention and tourism tax must be separately stated or combined with state sales tax on any bill, invoice or other document that is used by such person to collect for items or services from such transient guests and patrons of food establishments, and must be added to the total taxable amount.

(C) Every person receiving payment for services subject to the convention and tourism tax shall be responsible for the collection of the convention and tourism tax, and his inability to collect any or all of the applicable amount does not relieve him of the obligation to pay the tax to the city.

(D) Any person violating any of the provisions of Sec. 68-562 of the Code of Ordinances shall be guilty of an ordinance violation.

**§1.566. Filing of returns.**

(A) Every person receiving payment subject to the convention and tourism tax shall make a return to the commissioner showing taxable sales and the amount of tax levied for a specified period of time and shall remit to the commissioner, with the return, the taxes levied.

(B) The frequency of filing and remitting the convention and tourism tax shall be determined by the applicable provisions contained in RSMo 144.080 and 144.081 governing the state sales tax. When the state has determined that state sales tax is to be reported and remitted on a quarter-monthly, monthly, quarterly or annual basis, the same schedule shall apply to the convention and tourism tax. Persons are required to notify the commissioner of the filing frequency on the application for the permit required by Section 68-556 of the Code of Ordinances. Upon the approval of the application, tax forms will be mailed within 20 days. If the state changes a remittance schedule for a person, the commissioner is to be notified, in writing, of the change within ten days after official notification from the state.

**§1.567. Extension of time for payment.**

(A) The commissioner may, before any delinquency and for good cause shown, extend the time of payment of the taxes imposed under Section 68-551 of the Code of Ordinances for a period not to exceed 60 days. The granting of an extension of time for payment shall not prevent the accrual of interest. After the granting of an extension of time to pay, interest shall accrue from the original due date of the return.

(B) After delinquency, extensions of time to pay shall not be granted except for exceptional mitigating circumstances for the cause of the delinquency and demonstrated proof of financial ability to repay the delinquency. If the remitter of the tax meets such criteria, the commissioner, in his or her discretion, may permit the tax remitter to enter into a payment agreement, in a form prescribed by the commissioner, to pay the tax, along with interest and penalties, in installments for a period not to exceed six months. Failure to make any installment payment due under the agreement shall cause the entire balance due to become payable immediately, and subject to recovery and collection as provided in the ordinance. Entering into a payment agreement shall not entitle the tax remitter to a tax clearance letter from the commissioner until all taxes, interest and penalties due under the agreement are fully paid.