



These FAQs are being provided as a courtesy to the restaurant community as guidance to many of the questions that have been received. The Treasurer's office assumes no legal liability or responsibility for the accuracy, completeness, or usefulness of any information in these FAQs. The restaurant occupation tax, adopted by the City of Lincoln, was intended to apply to the gross receipts of every drinking place and restaurant doing business within the City of Lincoln. At the request and convenience of the restaurant community, the City has drafted the ordinance to apply to only those gross receipts that are subject to sales taxes within the City. 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 Restaurant 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.
- 2) Q: What is the Restaurant Occupation Tax rate?  
A: The rate is two percent (2%) of all gross receipts for each calendar month derived from the drinking places and restaurant businesses subject to this tax. Such 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 Section 3.16.010 of the Lincoln Municipal Code.
- 3) Q: What are the items being taxed?  
A: Food which shall include all edible refreshment or nourishment, whether solid, semi-solid, liquid, or otherwise. Gratuities or tips are also subject to tax when charged by the seller as a mandatory item on the invoice or receipt. Please refer to Lincoln Municipal Code Chapter 3.30 found at: <http://lincoln.ne.gov/city/attorn/lmc/ti03/ch330.pdf>
- 4) Q: Where do I send my monthly payment and remittance worksheet?  
A: Payments and remittance worksheets can be submitted online or sent to the City Treasurer at:  
City Treasurer  
City of Lincoln  
555 South 10<sup>th</sup> St  
Lincoln, NE 68508-2830

- 5) Q: When is the Restaurant Occupation Tax due?  
 A: Quarterly Payee: On or before the 25<sup>th</sup> day of April, July, October, and January of each year the occupation taxes due from the preceding quarter shall be paid to the City of Lincoln  
Monthly Payee: On or before the 25<sup>th</sup> day of each and every month the occupation taxes due from the preceding month shall be paid to the City of Lincoln.  
 Please note that Lincoln Municipal Code does NOT make any allowance for late filing when the due date falls on a Saturday, Sunday or holiday. Interest will still be assessed on payments received after the due date under these circumstances.
- 6) Q: Whom do I contact if I have a question regarding Restaurant Occupation Tax?  
 A: City Finance office at 441-7457.
- 7) Q: Where do I send a written request for additional information?  
 A: City Finance Department  
 555 South 10<sup>th</sup> Street  
 Lincoln, Nebraska 68508-3996
- 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](http://www.revenue.ne.gov/info/occupation_tax.html)

**Example 1 – Meal-only Restaurant Bill**

A customer purchases a meal at a restaurant in a city with a 2% occupation tax on restaurants. The calculation of the invoice is shown below:

Meal	\$ 50.00
Occupation Tax (2%)	+ <u>1.00</u> (remit to City)
Subtotal	\$ 51.00
7% Sales Tax (State 5.5% and City 1.5%)	+ <u>3.57</u> (remit to Nebraska Department of Revenue)
<b>Total</b>	<b>\$ 54.57</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 9% (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. Any such interest due may be compounded quarterly. Based upon information as may be reasonably available, of the amount of 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 8:00 – 4:30, M-F.
- 11) Q: Are nursing homes 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 tenant invites a guest to the nursing home and takes them to dinner at the home, there is a separate charge, and that meal is taxable.
- 12) Q: My business is not located within the City of Lincoln. Do I have to pay the occupation tax?  
A: Any qualified sale made within the Lincoln City limits is subject to the 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 tax is not due on the cost of the prepared food.
- 14) Q: We are a golf course, what is taxable?  
A: Concession sales of prepared food, meals, gratuities, alcoholic, and non-alcoholic beverages.
- 15) 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.
- 16) Q: Are fountain drinks taxable?  
A: Yes
- 17) Q: Our business only sells wholesale, does the occupation tax apply to our sales?  
A: No
- 18) 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 Lincoln.
- 19) Q: Does the occupation tax apply to prepared foods and alcohol in private clubs?  
A: Yes
- 20) Q: Does the occupation tax apply to off sale liquor?  
A: No
- 21) 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.

22) Q: Are cover charges subject to the occupation tax?

A: No

23) Q: When is the restaurant occupation tax effective?

A: January 1, 2011, 4:00 A.M.

24) 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.

25) Q: Are there exemptions for the City of Lincoln Restaurant & Bar Occupation Tax?

A: Occupation tax shall be imposed on the gross receipts resulting from the sales of food within the corporate limits of the City of Lincoln which are subject to the sales and use tax imposed by the State of Nebraska Revenue Act of 1967.

26) Q: Are vending machine sales taxable?

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

27) Q: When using the Online Payment System, when will the payment post to my bank account?

A: Payments will be processed on the first working day after the 25<sup>th</sup> of each month. The funds will be removed from your account on the next working day. Please see the examples below:\*

**EXAMPLE 1**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
24	25	26	27	28	29	30
	Tax Due	Payments processed by City Treasurer	Funds removed from your account.			

**EXAMPLE 2**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
20	21	22	23	24	25	26
					Tax Due	

27	28 Payments processed by City Treasurer	29 Funds removed from your account.	30	31		
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**EXAMPLE 3**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
20	21	22	23	24	25 Tax Due	26
27	28 HOLIDAY Non- Working Day	29 Payments processed by City Treasurer	30 Funds removed from your account.	31		

\*Please note: Interest will not be charged on the account as long as the online payment process is completed by midnight on the 25<sup>th</sup> of each month.