



25 Sigourney Street
Hartford CT 06106-5032

SPECIAL NOTICE

Exempt Sales of Food and Beverages at Schools and Care Facilities

Purpose: This Special Notice describes the exemption in Conn. Gen. Stat. §12-412(9) for sales of food products and meals at schools and at various care facilities in light of 2000 legislative changes to the exemption, and the interpretation of the scope of the exemption by the Department of Revenue Services (DRS).

Effective Date: Effective October 1, 2000.

Statutory Authority: Conn. Gen. Stat. §12-412(9).

Description of the Exemption: Conn. Gen. Stat. §12-412(9) consists of two parts, each of which exempts from sales and use taxes certain food and beverages.

Part I: The school exemption exempts sales of food products, meals, candy, confectionery, and beverages, except alcoholic beverages:

- In a student cafeteria, dining-hall, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;
- To members of the institutions or organizations, including all sales of these items to the members at the institutions or organizations using prepaid meal plan cards or arrangements. (See *The School Exemption* at right for a discussion of approved locations for these sales.)

Part II: The care facility exemption exempts sales of food products, meals, candy, confectionery and beverages:

- To patients, residents, or care recipients in hospitals, residential care homes, assisted living facilities, senior centers, day care centers, convalescent homes, nursing homes, and rest homes.

The School Exemption: The school exemption applies to the sale and purchase of every type of food, candy, confectionery, and beverage, except alcoholic beverages, regardless of how the food and beverages are served or sold, or by whom they are sold. It includes meals, snacks, and vending machine items.

To be exempt under Conn. Gen. Stat. §12-412(9), the food and beverages must be sold in a student cafeteria, dining-hall, dormitory, fraternity, or sorority. DRS interprets this part of the exemption to encompass some additional places on the grounds or campus of a school where food and beverages are commonly sold, including:

- Food courts;
- Classroom buildings;
- Restaurants open to the public;
- Office buildings; and
- Stores, including bookstores.

However, food and beverage sales are not exempt at the following places (except when purchased with prepaid meal plan cards or arrangements; see below):

- Outdoor vendors other than vending machines;
- Sporting or athletic events; or
- When delivered from locations off the grounds or campus of a school, such as pizza deliveries.

A school where exempt sales may be made includes any preschool, elementary, or secondary school, post-secondary school, college, or university. (Day care centers are included in the care facilities part of the exemption.) Schools also include trade schools, business schools, and technical schools, regardless of whether the schools offer traditional degrees or diplomas.

Members of schools where exempt sales may be made include students, faculty, staff, officers, regents, directors, and all other employees or volunteers at the schools, as long as the individuals

have cards identifying them as such. Students include full-time, part-time, auditing, and nonmatriculating students, but do not include alumni. Faculty members include full-time, part-time, adjunct, or contracting teachers, teacher's helpers, student teachers, tutors, and classroom monitors. Other employees may include, but are not limited to office personnel, maintenance and janitorial staff, and groundskeepers, but do not include workers temporarily at schools, such as construction personnel. Members do not include family or guests of members.

Prepaid meal plan cards or arrangements include cards, vouchers, or other arrangements with retailers that permit school members, upon presentation of a card or other evidence, to receive food or beverages by virtue of their status as members, without payment of cash at the time of purchase. Prepaid meal plan cards or arrangements generally are accepted at locations on school grounds or campuses, but sometimes are accepted at off-grounds establishments. For prepaid meal plan cards or arrangements only, purchases with these cards are exempt regardless of who the retailer is or where the purchases are made.

Vending machines. DRS considers all purchases of food, meals, candy, confectionery, and beverages from vending machines located on school grounds or campuses to be exempt.

Other Exemptions Related to the School Exemption: There are two other sales and use tax exemptions that overlap the school exemption to some extent.

Conn. Gen. Stat. §12-412(26) exempts sales of items for \$20 dollars or less each by any Connecticut eleemosynary organization formed to sponsor and support youth activities, and by any accredited elementary or secondary school for purposes of the school or organized activities of the students enrolled in the school. This exemption is not limited to food items, or to the persons who may purchase the items, but is limited to sales at or in connection with pre-college level schools. Thus, for example, under this exemption a high school could have a door-to-door candy sale to the public, or sell food items at a sporting event, neither of which activities would be exempt under the school exemption in Conn. Gen. Stat. §12-412(9). See **Policy Statement 2002(3)**, *Sales and Use Tax Exemptions for Sales by*

Eleemosynary Organizations and Elementary and Secondary Schools, for more details.

Conn. Gen. Stat. §12-412(27) exempts (A) sales of any items for 50¢ or less from vending machines, or (B) sales of food products, as defined in Conn. Gen. Stat. §12-412(13), sold through coin-operated vending machines. The first part of this exemption includes all items sold from vending machines, not just food and beverages as long as they cost 50¢ or less. The second part of this exemption is narrower than the school exemption in Conn. Gen. Stat. §12-412(9) because it applies to food products as defined in Conn. Gen. Stat. §12-412(9) sold in vending machines located on school grounds or campuses. Under Conn. Gen. Stat. §12-412(9), food products do not include candy, confectionery, and carbonated beverages. See **Policy Statement 2001(5)**, *Sales and Use Tax Exemption for Food Sold Through Coin-Operated Vending Machines*, for more details.

Retailers' Responsibilities for School Exemption: Retailers that make sales of food or beverages at approved locations to members of schools and retailers that accept prepaid meal plan cards or arrangements must keep accurate records of the exempt sales.

In general, to substantiate exempt sales, retailers must require school members to show identification indicating that they are members, or to show prepaid meal plan cards or vouchers, and keep accurate records of all member identification numbers or meal plan card or voucher numbers. Retailers must keep register receipts or other documentation satisfactory to substantiate exempt sales based on the status of each individual customer, and must accurately separate gross receipts from nonexempt sales of alcoholic beverages from other sales of food and beverages. Retailers that are unable or choose not to individually verify and record their customers' status as school members or meal plan holders must collect and remit sales and use taxes on all their sales.

The Care Facilities Exemption: The care facilities exemption applies to the sale and purchase of every type of food, candy, confectionery, and beverage, regardless of how the food and beverages are served or sold, or by whom they are sold. It includes meals, snacks, vending machine items, and alcoholic beverages. In this respect the care facilities exemption is broader than the school exemption.

To be exempt under the statute, the food and beverages must be sold **to patients, residents, or care recipients** in care facilities. The exemption does *not* apply to sales of food and beverages to employees or staff members of care facilities, nor does it apply to sales to family members or visitors of patients, residents, or care recipients. (In this respect the care facilities exemption is more restricted than the school exemption.) The exemption also does not apply to management contracts between food service vendors and care facilities.

Sales of exempt food and beverages to patients, residents, or care recipients must take place **in hospitals, residential care homes, assisted living facilities, senior centers, day care centers, convalescent homes, nursing homes, and rest homes**. The facilities may be nonprofit or for-profit. Sales that take place off the grounds of the facilities are not exempt, even if the purchasers are patients, residents, or care recipients. Furthermore, sales that take place in areas of care facilities that are not open or are not intended to be generally accessible to patients, residents, or care recipients are not exempt.

Examples of places where exempt sales of food and beverages to patients, residents, or care recipients may occur include:

- Patients' rooms;
- Patient cafeterias and dining rooms;
- Patient common areas and visitors' areas;
- Cafeterias and dining rooms on facility grounds that are open to the public, including patients; **and**
- Outdoor areas on facility grounds that are available to patients.

However, food and beverage sales are not exempt at the following places on facility grounds:

- Employee lounges and employee areas;
- Other areas within care facilities that generally are not accessible to patients; or
- When delivered from locations off the grounds of care facilities, such as pizza deliveries.

Vending machines. Sales of food and beverages from vending machines are exempt under the care facilities exemption only from vending machines that are located in areas that generally are accessible to patients, residents, and care recipients. All food and beverage sales from vending machines in these locations are exempt, even if some persons using the machines are not patients, residents, or care recipients. On the other hand, sales from vending

machines located in employee lounges and employee areas are not exempt under this exemption, even if patients, residents, and care recipients occasionally use these machines.

Other Exemptions Related to the Care Facilities Exemption: There are several sales and use tax exemptions that overlap the care facilities exemption to some extent.

Conn. Gen. Stat. §12-412(5) exempts *all sales and purchases* by nonprofit hospitals, nonprofit nursing homes, nonprofit rest homes, and nonprofit residential care homes. All sales of food and beverages by any of these health care entities are exempt, regardless of who purchases the food and beverages, or where the sales are made. However, this exemption is limited to sales and purchases by the nonprofit care facilities named above. It does not extend to sales by for-profit health care entities, vending machine retailers, or to sales by senior centers or day care centers. *See Informational Publication 2002(11), Nonprofit Hospitals, Nonprofit Nursing Homes, Nonprofit Rest Homes, and Nonprofit Residential Care Homes*, for more details.

Conn. Gen. Stat. §12-412(27) exempts (A) sales of any items for 50¢ or less from vending machines, or (B) sales of food products, as defined in Conn. Gen. Stat. §12-412(13), sold through coin-operated vending machines. The first part of this exemption includes *all* items sold from vending machines, not just food and beverages, as long as they cost 50¢ or less. The second part of this exemption is broader than the care facilities exemption in Conn. Gen. Stat. §12-412(9) in that it exempts many food items sold in vending machines, regardless of where they are located in the facilities or who purchases the items. However, it is narrower than the care facilities exemption in that it does not include candy, confectionery, and carbonated beverages. *See Policy Statement 2001(5)* for more details.

Conn. Gen. Stat. §12-412(56) exempts sales of items costing \$100 or less per item by gift shops located in nonprofit or for-profit nursing homes, rest homes, residential care homes, convalescent homes, or adult day care centers provided the profits benefit the patients or residents. This exemption is broader than the care facilities exemption in Conn. Gen. Stat. §12-412(9) in that food and beverages sold in the gift shops are exempt no matter who the customers are. However, dining rooms, cafeterias, and vending

machines are not gift shops for purposes of this exemption.

Retailers' Responsibilities for Care Facilities

Exemption: Retailers that make sales of food or beverages at approved locations to patients, residents, or care recipients in care facilities must keep accurate records of exempt sales.

In general, to substantiate exempt sales, retailers must require patients, residents, or care recipients to show identification, or must obtain the identification from the care facilities in which they operate. Retailers must keep register receipts or other documentation satisfactory to substantiate exempt sales based on the status of each individual customer, and must accurately separate gross receipts from nonexempt sales from other sales of food and beverages. Retailers that are unable or choose not to individually verify and record their customers' status as patients, residents, or care recipients must collect and remit sales and use taxes on all their sales.

Effect on Other Documents: None affected.

Effect of This Document: A Special Notice is a document that announces a new policy or practice in response to changes in State or federal laws or regulations or to judicial decisions. A Special Notice indicates an informal interpretation of Connecticut tax law by DRS and may be referred to for general guidance by taxpayers or tax practitioners.

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Sales and Use Taxes
Food and Beverages
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For Further Information: Please call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (in-state), or
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit inquiries 24 hours a day by calling 860-297-4911.

Forms and Publications: Forms and publications are available all day, seven days a week:

- **Internet:** Preview and download forms and publications from the DRS Web site: **www.drs.state.ct.us**
 - **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu.
 - **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (in-state) and select **Option 2** from a touch-tone phone.
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Paperless Filing Methods (fast, easy, free, and confidential):

- **For business returns:** Use *Fast-File* to electronically file sales and use taxes, business use tax, room occupancy tax, or withholding tax returns over the internet or telephone. Visit the DRS Web site at: **www.drs.state.ct.us** and click on *Business Taxes Fast File Program*.
 - **For resident income tax returns:** Use *WebFile* to file personal income tax returns over the Internet. Visit the DRS Web site at: **www.drs.state.ct.us** and click on *Income Tax Web Filing*.
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