



City of Boulder Finance

August 25, 2021

Issue Letter: Emerging Trends in Restaurant Service

City of Boulder staff is providing this letter to assist eating places and food service establishments in understanding the taxation of emerging trends in the industry. Please do not hesitate to contact the Sales Tax and Business Licensing Division with any questions.

Sustainability and Living Wage Surcharges

Many restaurants have begun adding surcharges to meals to cover a variety of expenses ranging from increased wages, increased use of compostable and renewables, and increased operating costs related to the COVID-19 pandemic. The Boulder revenue code views any surcharges added to the price of a meal as the cost of a meal and therefore subject to the city's 3.86% sales tax and 0.15% food service tax.

Restaurants should ensure that their point-of-sale systems are correctly assessing tax on these surcharges.

City staff encourages restaurants that have been charging these types of fees or surcharges to perform a self-review and contact sales tax staff at salestax@bouldercolorado.gov if a discrepancy is found.

Third-Party Delivery Services

The COVID-19 Pandemic resulted in a significant increase in the use of Third-Party Delivery (TPD) Services by Boulder restaurants. TPD services use a variety of business models, and while some collect and remit tax to the City of Boulder, others do not. Restaurants should exercise diligence in reviewing terms of contracts to ensure sales are being reported correctly. Staff offers the following advice regarding TPD services:

- If the TPD is determined to be the retailer of the goods, the restaurant or other supplier is responsible for verifying that the TPD is a licensed retailer with the City of Boulder by requesting a copy of the TPD's City of Boulder business license. Once verified, the restaurant or similar supplier can properly exempt the sale to the TPD as a wholesale sale. The sales tax is then required to be collected and remitted by the TPD to the City of Boulder.
- Below is a list of the major TPD vendors currently licensed with the City of Boulder and the date that the business began remitting sales tax directly to the city (if applicable)
 - Doordash (July 2020)
 - Grubhub (October 2019)
 - Hungry Buffs (July 2016)
 - Instacart (April 2016)
 - Nosh Boulder (November 2020)
 - Uber Eats (Recently licensed – check your account statement)



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- Restaurants should review their TPD account statements regarding tax collections by TPD services.
 - If the tax is part of the total that is remitted back to the restaurant, it is the restaurant's responsibility to remit that tax to the City of Boulder.
 - However, if the tax is retained by the TPD, restaurants should deduct the sales through TPDs on Line 3B: "Sales to other licensed dealers for purpose of taxable resale."
- If a restaurant has found that it has incorrectly reported sales through TPD services, please contact sales tax staff at salestax@bouldercolorado.gov for instructions for amending returns.

Thank you for your attention to these matters. Please do not hesitate to contact us if you have any additional questions.

Boulder Sales Tax and Business Licensing
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