

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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Donations to Meal Providers

Prepared meals served for consumption are generally subject to the retail sales or use tax. RCW 82.08.0293(3) and RCW 82.12.0293(3) provides an exemption for such meals:

1. When furnished under a state administered nutrition program for the aged as provided for in the Older American Act (Public Law 95-478 Title III) and RCW 74.38.040(6); or
2. Which are provided to senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW. Meals served under such programs as well as the food products used in preparing such meals are tax exempt whether or not charges are made for such meals.

Operators of social service programs, other than those listed above, sometimes provide and serve free meals to senior citizens, indigents, and others. Some of those served contribute voluntary donations to these programs. When the meals are free of charge and that any money received is strictly a voluntary donation to support the program rather than being a required payment, retail sales tax is not required to be collected from the meal consumer.

Providers of such free meals need not pay retail sales tax upon their purchases of food products to prepare such meals. Neither is use tax due on the value of such meals given away by these non-retailer providers. (WAC 458-20 -244).

Conversely, if the meal provider posts signs, prints tickets, or suggests so-called donation amounts expected to be paid by meal consumers, then retail sales do occur and retail sales tax must be collected. A sign posted such as "Donation \$5.00" creates a taxable transaction, whereas a sign such as "Donations accepted to support this program" will not be deemed to create a taxable situation.

There are programs, other than those listed above, that contract with commercial food preparers who purchase and prepare food that will be given to senior citizens, indigents, and others without charge. In such cases, the payment to the commercial food preparers is subject to retail sales tax regardless of any bona fide donations which may be received by the program. However, where food is purchased by the

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program and prepared by another person under contract with the program, the program owes no retail sales or use tax.

This excise tax advisory deals only with food (meals) assistance programs and has no application to similar programs involving other products, goods, or services.
