

FOOD AND BEVERAGE REVENUE				
Revenue Description	Taxable Yes or No	Tax Type	Additional Comments	Authority
1. Restaurant Food Sales	Yes	Sales	Collect sales tax on sales of prepared food (food sold ready for immediate consumption, food heated, or food sold with eating utensils), candy, individual ice cream sundries, and bakery items sold with plates or utensils.	Tex. Tax Code §§151.005(6) and 151.314; 34 Tex. Admin. Code §3.293
2. Alcoholic beverage sales (liquor, wine, beer, ale, and malt liquor)	Yes	Mixed Beverage	Sales of alcoholic beverages (liquor, beer, wine, ale, and malt liquor) by the holder of a mixed beverage or private club permit are subject to the mixed beverage taxes. Mixed beverage taxes include a 6.7% mixed beverage gross receipts tax imposed on the total amount received by a permittee from the sale or service of alcoholic beverages and a 8.25% mixed beverage sales tax imposed on each alcoholic beverage sold or served by the permittee. Ice and nonalcoholic beverages sold, prepared, or served for the purpose of being mixed with an alcoholic beverage and consumed on the premises of the permittee are also subject to the mixed beverage taxes.	Tex. Tax Code §§151.308(a)(6)-(7), 183.021, and 183.041; 34 Tex. Admin. Code §§3.289, 3.1001, and 3.1002
		Sales	Sales of beer, wine, ale, and malt liquor are subject to sales tax when sold by the holder of a wine and beer or beer retailer's on-premises permit.	
3. Nonalcoholic beverage sales (carbonated and noncarbonated soft drinks, fruit juices, vegetable juices, and mixers)	Yes	Sales	Collect sales tax on sales of soft drinks and mixers. Juice that is more than 50% fruit or vegetable juice by volume is not taxable.	Tex. Tax Code §§151.005(6), 151.314(c) and (c-1), 183.021, and 183.041; 34 Tex. Admin. Code §§ 3.293, 3.1001, and 3.1002
		Mixed Beverage	The sale of nonalcoholic beverages by a mixed beverage or private club permittee for the purpose of being mixed with an alcoholic beverage and consumed on the premises of the permittee are subject to the mixed beverage taxes.	
4. Gratuities:				
a. Voluntary:				
(i). Disbursed to qualified employees	No		Voluntary gratuities are not subject to tax.	Tex. Tax Code §151.007(c)(7); 34 Tex. Admin. Code §§3.337, 3.1001, and 3.1002
(ii). Portion retained by restaurant or disbursed to nonqualified employees	No		Voluntary gratuities are not subject to tax.	

b. Mandatory:				
(i). Disbursed to qualified employees	No*		Reasonable mandatory gratuities (20% of charge or less) disbursed to qualified employees (e.g., wait staff, busboys, bartenders, wine stewards, but not janitorial personnel, chefs, cashiers, dishwashers, or owners) are exempt. <i>*If a mandatory gratuity exceeds 20% of the charge, the entire gratuity is taxable regardless of how it is disbursed.</i>	Tex. Tax Code §151.007(c)(7); 34 Tex. Admin. Code §§3.337, 3.1001, and 3.1002
(ii). Portion retained by restaurant or disbursed to nonqualified employees	Yes	Sales or Mixed Beverage	Mandatory gratuities retained by the restaurant or distributed to nonqualified employees (e.g., owners, chefs, cashiers, dishwashers, and janitorial personnel) are taxable. The type of tax depends on what the gratuity is based on (service of food or alcoholic beverages) and type of permit issued by the Texas Alcoholic Beverage Commission (TABC).	
5. Room service food and beverage	Yes	Sales or Mixed Beverage	Collect sales tax on sales of prepared food (food sold ready for immediate consumption, food heated, or food served with eating utensils), candy, individual ice cream sundries, and bakery items sold with plates or utensils provided. Sales of alcoholic beverages are subject to sales tax or mixed beverage taxes based on the type of permit issued by the TABC.	Tex. Tax Code §§151.005(6), 151.314, 183.021, and 183.041; 34 Tex. Admin. Code §§3.293, 3.1001, and 3.1002
6. Room service separately stated delivery charges	Yes	Sales or Mixed Beverage	Delivery charges associated with the sale of a taxable item (e.g., prepared food) are subject to sales tax. Delivery charges associated with the sale or service of alcoholic beverages are subject to mixed beverage taxes.	Tex. Tax Code §§151.007(a), 183.021, and 183.041; 34 Tex. Admin. Code §§3.303, 3.1001, and 3.1002
7. Cover charges, door charges, entry fees, and admission fees	Yes	Sales	Cover charges, door charges, entry fees, and admission fees are subject to sales tax as admissions to amusement services. Admissions to amusement services (e.g., cover charges) held in a place listed in the National Register of Historic Places or designated as a Recorded Texas Historic Landmark are exempt from sales tax.	Tex. Tax Code §§151.005(3) and 151.3101(a); 34 Tex. Admin. Code §3.289, 3.298, 3.1001, and 3.1002
		Mixed Beverage	Cover charges that the TABC determines to be in violation of TABC rules are subject to mixed beverage taxes, regardless of the location. The tax base will be the total receipts from the cover charge plus the reduced sales or service prices received for the alcoholic beverages.	

8. Corkage Fee (fee charged for service of wine or liquor not purchased on premises)	Yes*	Mixed Beverage	Charges for the service of liquor or wine by a mixed beverage or private club permittee are subject to mixed beverage taxes. <i>*Charges for the service of wine or beer by the holder of a wine and beer retailer's permit are not taxable.</i>	Tex. Tax Code §§183.021 and 183.041; 34 Tex. Admin. Code §§3.1001 and 3.1002
9. Employee meals:				
a. Provided at cost	No		Meals provided immediately before, during, or after a shift to food service employees are not taxable.	34 Tex. Admin. Code §3.293
b. Provided for a charge above cost	No			
c. Provided free of charge	No			
10. Complimentary Meals (No separate charges made to guests)	No*		A guest does not owe sales tax on a complimentary meal. <i>*The hotel owes sales or use tax on the cost of taxable ingredients used in the complimentary meals and on any taxable disposable items furnished with the complimentary meals, such as paper napkins, paper plates, and straws, unless the hotel paid tax on the purchase of the items.</i>	Tex. Tax Code §151.101; 34 Tex. Admin. Code §3.293
11. Complimentary Beverages (No separate charges made to guests)				
a. Liquor, beer, wine, ale, and malt liquor	No*		A guest does not owe sales tax or mixed beverage sales tax on a complimentary alcoholic beverage. The hotel does not have to include the receipts from a complimentary alcoholic beverage in its mixed beverage gross receipts tax base. <i>*The hotel owes sales or use tax on the cost of taxable ingredients used in the complimentary alcoholic beverages.</i>	Tex. Tax Code §151.101; 34 Tex. Admin. Code §§3.289, 3.1001, and 3.1002
b. Soft drinks (carbonated and noncarbonated beverages)	No*		A guest does not owe sales tax on a complimentary soft drink. <i>*The hotel owes sales or use tax on the cost of the soft drinks.</i>	Tex. Tax Code §151.101; 34 Tex. Admin. Code §3.289
12. Food and beverage cancellation and attrition fees (for an event and not the rental of rooms) ¹				
a. Cancellation fee charged when event cancelled	No		No sales or mixed beverage taxes are due because the charge is not for the sale of food or beverages; hotel occupancy tax is not due because the charge is not related to the rental of a room in a hotel.	Tex. Tax Code §151.051
b. Attrition fee charged when contracted price not met (e.g., only \$800 of \$1,000 contract price in food and beverage met; hotel charges \$200)	No			
¹ For information on hotel room cancellation and attrition fees, see Room Revenue (pdf) of the Hotel Quick Reference Guide.				