

### **310.1 Meals & Food Sales**

Food sales by the University are taxable. These taxable sales include the sale of food, meals and drinks prepared, served, or sold ready for immediate consumption; sales from university-owned vending machines; catered events to non-exempt organizations; and concession stand operations at sporting events.

Meals served by the university to students, visitors, or employees are all taxable. Food “ready for immediate consumption” means the type of food, beverages, or meals normally prepared, served, or sold by restaurants, lunch counters, cafeterias, etc., which, when sold, require no further preparation prior to consumption. (Texas Tax Code Section 3.293(b)).

If a privately owned third party owns and operates an eating facility or vending machine, the third party is responsible for collecting and remitting the sales tax. However, if the university sells meal plans to students, this constitutes a sale of a food item subject to taxation by the university. If a student has not purchased a meal plan but instead purchases the meal directly at the third party-owned dining facility, the third party is responsible for collecting the sales tax.

A nonprofit organization may hold a tax-free annual banquet or other food sale provided:

- the event is not professionally catered;
- not held in a restaurant, hotel or similar place of business;
- not in competition with a retailer required to collect tax; and
- the food is prepared, served and sold by members of the organization.

This exemption from the requirement to collect sales tax does not extend to the sale of alcoholic beverages. (Texas Tax Publication 96-122).