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THE TAX LAWYER

TAXES 4/14/2015

Tax Day Freebies Are Nice, But Not If They're Taxed Too

Tax Day can be painful, but [Tax Day freebies](#) and discounts make it more pleasant. In fact, you can make yours festive by collecting fun perks that help businesses, making lemonade out of the the Tax Day lemons. There are many lists of deals, including these [best freebies and deals](#).

- [Boston Market](#) offers a buy one meal, get one free.
- [California Tortilla](#), wants you to make a purchase and say, “Taxes, Shmaxes,” on April 15—ideally in “a bored, funny voice”—to get free chips and a choice of queso or salsa.
- [Great American Cookies](#), says you can relieve the stress of Tax Day with a regular sugar cookie on the house, no purchase necessary.
- [Hard Rock Café](#) is allowing customers to [sing for your supper](#), a free burger for belting out a song.
- [Hotel Deals](#). Many hotels are hosting promotions for Tax Day or the springtime tax season, with 15% or more off regular room rates.
- [Kona Ice](#): Shaved ice and Hawaiian leis will be handed out from Kona Ice trucks parked outside post offices and other businesses around the country on April 15.
- [Schlotzky's](#), says buy a 32-ounce drink and chips and an Original sandwich is free of charge at this deli chain on Tax Day.

TAX DAY BOGO

On April 15th, let us worry about dinner.

BOGO DETAILS →

No coupon needed. Limit 3 Tax Day BOGOs per person, per visit. Not available for online ordering.

April 15th only!

Boston Market: April 15th Tax Day Special. Buy One Individual Meal and Get One Individual Meal FREE! April 15, 2015 Only!

Some restaurants and bars offer themed and discount drink [relief](#) so you can celebrate or drown your sorrow [with special drink deals](#). But as you make the rounds of merchants to gather goodies, are the goodies *themselves* taxed? It's not a silly question. If a merchant gives you a free burger on Tax Day, the merchant treats it as a promotional expense.

If the merchant sells two for the price of one, it's the same result. The merchants write their cost off on their taxes. Fortunately, you don't have income, since usually the IRS can't impute income when you get something discounted or for free. Some deals require action by the customer, like singing at the [Hard Rock Café](#). But even that shouldn't mean you are taxed on your burger.

However, sales tax is a different story. There are sales taxes in 45 states and the District of Columbia, and most products get taxed. Many meals are taxed too. And the sales tax authorities commonly treat freebies as taxable sales even if no money changes hands. Often, the retailer is treated as the consumer. That way the state collects the sales tax just like it would if the merchant sold it. Many items given away are treated as sold.

Another promotional gimmick? The store pays your sales tax. The store actually reduces the price of the item, so you are really still paying it. What if your employer grosses-up your year-end bonus to cover your taxes? That gross-up is additional wages, a tax issue that's circular, so you need a formula to solve it.

Many bargains are taxed. Most Tax Day freebies are small-scale, but what if one customer wins a free trip to Paris or a free car? You guessed it, it's taxed. If you pay \$5 for a \$20 meal on Tax Day

for yourself, there should be no tax effect. But suppose an employer gives Tax Day freebies to its employees?

Depending on the employer's line of business, it may be taxable as compensation, perhaps at the full \$20 value, not just \$5. If you get a Tax Day freebie and share the wealth with family and friends, there could be gift tax, although these gifts should fall within the \$14,000 annual gift tax exclusion.

If you win the lottery, win cash in a game show, or hit it big at the casino, you pay tax. If you win goods, their value is income. When Pontiac gave away cars on Oprah, the recipients were on the hook for [taxes](#) even though they didn't receive cash. If you get property 'gifts' from your employer, your employer must withhold extra taxes from your cash pay to make up for the property you got in kind. But can't your employer claim it was a gift?

Not really. Gifts involve detached and disinterested generosity. A briefcase or a country club membership from your boss is meant to reward you for a job well done, and to help secure additional services in the future.

There is an [exception for small holiday gifts to employees](#). The IRS says you can hand out turkeys or holiday baskets to employees, as long as the gifts don't exceed \$100 in value. But suppose an employee puts in unpaid overtime, and you reward him with tickets to the Super Bowl? They are wages. You're supposed to increase the withholding on her cash wages to cover the value of the tickets. But that works only if you pay with a combination of cash and goods. If a buddy who isn't a regular employee helps out at your business occasionally and you thank him with tickets? The IRS says to report them as pay on [Form 1099](#); they're not a tax-free gift.

Doesn't it seem like Tax Day is *every day*?

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