



State of Connecticut

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SENATE REPUBLICAN LEADER

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September 19, 2019

Scott D. Jackson, Commissioner
Department of Revenue Services
450 Columbus Blvd. Suite 1
Hartford CT 06103

Dear Commissioner Jackson:

It is my understanding that you will be issuing new guidance on when food will be subject to the sales and use tax as a meal after facing extreme political pressure and public outcry following your initial guidance issued last week.

As you are well aware, the Fiscal Year 2020/2021 Democrat state budget added the phrase "grocery store" into statute, and therefore opened the door to imposing the sales tax on many grocery store items never subject to the tax before. The only way to eliminate the broadening of the tax by future commissioners, governors or legislatures is to change the statute through legislation. Clearly, the governor and Democrat leaders will not call special session to change the statute at this time, a change is still needed in the future to remove "grocery store" from the law. As a result, any revised guidance you issue will be a temporary agreement, but a true fix can only be achieved when the legislature changes the language of the law.

As you write your new guidance on this issue, I expect that you will state that any item currently exempt from the sales tax today will remain exempt from the new meals tax passed by Democrat lawmakers in their most recent state budget. As a result, such guidance would be in line with the Department of Revenue Services' 2002 guidance which specifies which grocery store items can, and have, been taxed in previous years.

Any guidance issued by your office that broadens items subject to the sales tax sold in grocery stores beyond the 2002 guidance would raise serious concerns and suspicions by my caucus relative to how any new language came into being. It would lead me to seek additional information from all parties negotiating this guidance.

Additionally, because the Democrats are unwilling to make the needed legal change to undo the law they passed, I would ask that in addition to your revised guidance, you make a formal statement that DRS will not seek any penalties, interest or unrealized taxes as a result of any future court or administrative ruling regarding the "meals tax" contained in the FY 2020/2021 Democrat state budget.

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Businesses need certainty that they will not be held liable if they do not tax items that your office previously indicated should be taxed as a result of the new state budget. This is extremely important to ensure businesses have the confidence to not implement the tax imposed by Democrats, so that taxpayers will not be burdened with this tax starting October 1, 2019.

I must again emphasize that while I appreciate new guidance from DRS, any new policy statement from your office will not change what the law says. The only way to truly resolve this issue and undo what Democrat lawmakers passed is to pass new legislation. The statute must change to ensure clarity in all future years.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Len Fasano", with a stylized flourish extending from the end.

Len Fasano
Senate Republican Leader