

Subject: Meals Tax on Commercial Airline Meals
Related Department: DMF

FY 2026 Proposed Budget
Budget Work Session Follow-up

3/14/2025

The following information is provided in response to a request made by Mr. de Ferranti at the work session on March 13, 2025, regarding the following question:

The meals tax includes two components – a levy on prepared meals (currently at 4%; proposed increase to 5%) and a levy on commercial airline meals (currently at 2%). Would it be possible to increase the levy on commercial airline meals from 2% to 4%, and how much revenue would this change generate? (VA Code 58.1-3833; VA Code 58.1-3850; County Code 65-2.B)

It is not recommended that the commercial airline meals tax be adjusted from the current rate of 2%. Because meals prepared for consumption on a commercial airline will likely be used in another state, imposing a tax can create a Federal Commerce Clause issue. The Virginia Attorney General advised in the mid-1990s for Virginia localities to use an analogous tax rate from regulations adopted under the Virginia Retail Sales and Use Tax Act, which are designed to prevent the tax from interfering in interstate commerce. The analogous tax rate is 2% for aircraft. So, at this time, to avoid the tax being subject to a Commerce Clause challenge, the rate needs to remain at 2%.