



Guideline

Sales Tax Grocery Stores, Convenience Stores & Delicatessens

Food and Food Ingredients

Generally food and food ingredients sold for domestic home consumption qualifies for the sales tax exemption. While most grocery store sales of food and food ingredients are tax exempt, sales tax is due on prepared food for immediate consumption, gross receipts from sales of candy, chewing gum, soft drinks and other generally recognized soft drinks (including fruit drinks which contain 50% or less fruit juice). Bottled drinking water (including mineral, carbonated, and distilled water) is considered food and is exempt from tax. However, if the water contains natural or artificial sweeteners then it is considered a soft drink excluded from the definition of food and is taxable. Flavored water would be a food unless it also includes a natural or artificial sweetener. Ice is generally considered food and is generally not taxable, including ice sold by grocery, convenience, or similar stores.

Food Stamp Purchases

When purchases are made using Food Stamps or WIC food vouchers, no sales tax applies to such purchases.

Nontaxable Food Products

- Baby food and formulas (including infant and adult formula)
- Bakery items (including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, pies, tarts, muffins, bars, cookies, and tortillas)
- Baking soda other forms of leavening agents
- Beverages containing more than 50% fruit or vegetable juice or containing milk, milk products, or milk substitutes
- Broths and bouillons
- Cereal products (including unsweetened cereal bars with flour)
- Cocoa and cocoa powdered drink mixes
- Coconut (whether whole, shredded, sweetened, processed, or raw)
- Coffee and coffee substitutes (beans, grounds, freeze dried, bags, and instant only)
- Condiments and spices
- Cooking oils
- Deli items when sold unheated by weight or volume as a single item
- Deli trays that only contain food items sold by weight or volume
- Eggs and egg products or substitutes
- Extracts and flavorings intended as a cooking ingredient
- Fish and fish products (including all other forms of seafood)
- Flour

Taxable Products

- Alcoholic beverages
- Almond bark
- Aspirin
- Baking ingredients (including baking chocolate in the form of bars, drops, or pieces)
- Bird feed
- Breath mints
- Butterscotch chips
- Cake decorations (edible)
- Candy and confections
- Canning supplies
- Caramel apples
- Cereal bars (sweetened and without flour)
- Chewing gum
- Chocolate covered nuts, candy coated nuts, and honey roasted nuts
- Chocolate chips
- Cigarettes and tobacco products
- Cleaning products and supplies
- Cocktail mixes (liquid)
- Cooking utensils
- Cosmetics
- Cough drops
- Cracker jacks
- Dietary supplements (including energy bars containing "supplemental facts" box)

Nontaxable Food Products (con't.)

Food coloring
Food sold by a seller whose primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries)
Food sold by weight or volume as a single item
Frosting in containers
Frozen drink mix
Frozen foods and dinners
Fruit and fruit products (whether fresh, frozen, canned or dehydrated, excludes items on salad bars)
Gelatins (whether powdered or prepared)
Granola
Gravy and gravy mixes
Herbs (seasonings)
Honey
Ice
Ice cream (including toppings and novelties)
Jams, jellies and preserves
Ketchup
Licorice (with flour)
Marshmallow creme
Meat and meat products, including beef jerky
Meat seasoning
Milk and milk products
Mustard
Nuts (including salted, but not chocolate candied, or honey coated nuts)
Oleomargarine
Olive oil
Peanut butter
Pepper
Pickles
Popcorn (unpopped and flavored)
Popsicles
Powdered drink mixes (including sweetened)
Pudding/gelatin
Raisins
Relishes
Rice cakes (unsweetened)
Salad dressings and mixes
Salt
Sauces
Sherbets and sorbets
Shortenings
Soups
Soy products
Snack chips and pieces (including potato chips, corn chips, pork rinds, pretzels, and trail mixes without candy)
Sandwich spreads

Taxable Products (con't.)

Film and film processing
Flowers
Fruit juice containing 50% or less juice content
Garden seed
Ice used as a refrigerant and not sold at a grocery, convenience or similar store
Laundry products and supplies
Laxatives
Light bulbs
Lozenges
Magazines and books
Marshmallows
Over the counter medicine (nonprescription)
Paper and tin products
Party trays (prepared food not sold by weight or volume)
Personal hygiene products
Pet food
Plants
Popped corn (popped kettle and caramel)
Prepaid telephone calling cards
Prepared foods, including heated foods such as pizza, sandwiches, hot dogs, barbeques, bratwurst, nachos and cheese, sandwiches prepared by customer or at customer's request
Rehydration solutions (Pedialyte, Ceralyte, Infalyte, etc.)
Soap and soap products
Soft drinks
Sports/Energy drinks
Tonics
Toothpaste and mouthwash
Trail mix with candy pieces
Vegetable juice containing 50% or less juice content
Video rentals
Vitamins
Water softener salt
Water-sweetened (including artificially)

Food sold in a heated state or heated by the seller is taxable.

Food sold with eating utensils, provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws is taxable.

Nontaxable Food Products (con't.)

Sugar, sugar products, and sugar substitutes
Sunflower seeds (including flavored)
Syrups (including molasses and dietetic syrups and similar products)
Tea (bags, leaves, or instant only)
Vegetables and vegetable products (whether fresh, frozen, canned or dehydrated, excludes items on salad bars)
Vegetable oils
Water (including carbonated, distilled, and mineral)

Candy, Dietary Supplements, and Soft Drinks

Candy

Sales of candy are taxable, and are defined as preparations of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy does not include any preparation containing flour or any item requiring refrigeration.

Dietary Supplements

Dietary Supplements are taxable, and means and product intended to supplement the diet. The easiest method for determining if a product is a dietary supplement subject to tax is to look for a product label containing a “supplemental facts” box. If the label contains a “nutrition facts” box, the product is regarded as a food and is exempt from tax.

Soft Drinks

Soft drinks are taxable, and include nonalcoholic beverages that contain natural or artificial sweeteners, pop and fruit drinks or fruit punches that are fifty percent (50%) or less juice by volume. Products that are not soft drinks are those containing milk or milk products, soy, rice, or similar milk substitutes, or that contain greater than fifty percent (50%) vegetable or fruit juice by volume.

The deposit, which may be required on returnable bottles or containers, is exempt from sales tax.

Prepared Food

Prepared foods remain subject to sales tax. Prepared food includes food sold in a heated state or heated by the seller, or food that is prepared by mixing or combining two or more food ingredients for sale as a single item, or food sold with eating utensils, such as plates, knives, forks, spoons, glasses, cups, napkins, or straws provided by the seller. Food sold in an unheated state by weight or volume as a single item is taxable only if sold with eating utensils.

All food sold and catered is regarded as prepared food subject to tax. Taxable food includes meals (heated by the seller) and self-service food such as that provided by salad bars and drink islands.

Bakery items are not taxable unless they are sold with eating utensils by the seller or sold in a heated state.

Vending Machine Receipts

Gross receipts from vending machines are always subject to sales tax. Therefore, sales of all food and food ingredients sold through a vending machine are subject to sales tax. For example, a piece of fruit or a bottle of unsweetened water is subject to sales tax when sold through a vending machine.

Discount Coupons

When a manufacturer, processor, or wholesaler issues a coupon entitling a purchaser to credit on the item purchased, tax is due on the total gross selling price.

Example: If a manufacturer, processor, or wholesaler issues a coupon entitling the holder to a credit allowance of one dollar on the purchase of its product from a retailer, sales tax is computed as follows:

Regular price	5.00
Sales tax at 5 percent	.25
Subtotal	5.25
Credit for coupon	1.00
Amount due from purchaser	4.25

When a retailer issues a coupon entitling the purchaser to a discounted price on an item and when the retailer received no reimbursement from a manufacturer, processor, or wholesaler, sales tax is due only on the discounted price.

Example: If a retailer issues a coupon entitling the holder to a credit allowance of one dollar on the purchase of a product, sales tax is computed by the retailer as follows:

Regular price	5.00
Credit for coupon	1.00
Subtotal	4.00
Sales tax at 5 percent	.20
Amount due from purchaser	4.20

Sales to Churches and Other Religious Organizations

Churches and other religious organizations are subject to sales and use tax in North Dakota and are required to pay sales tax on all items purchased for final use except for food and other items expressly exempt from North Dakota sales or use tax. These organizations must pay sales tax on maintenance supplies and any miscellaneous supplies for final use by the church or religious group.

Sales to Schools - Public and Private

Sales of food supplies and groceries to either a public or private school for the operation of a school lunch program are exempt from sales tax. Similarly, cleaning material and supplies, such as soap, bleach, disinfectant, paper towels, toilet tissue and similar items, are exempt when sold to either a public school or a private, nonprofit school or college.

Freight, Delivery, or Other Transportation Charges

Freight, delivery, and other transportation charges, including shipping and handling charges, are considered to be part of the selling price. If the sale is taxable, the freight, delivery, and other transportation charges are taxable. If the product being delivered is exempt from sales tax, then the freight, delivery, and other transportation charges are also exempt.

Delivery charges billed directly to the customer by the delivery services that are not making the sale of tangible personal property remain exempt from sales and use tax.

Purchases Subject to Tax

All stores are required to pay sales or use tax on purchases of equipment and supplies for their own use. Examples of these items include: cash registers, file cabinets, light bulbs, paper towels, cash register tapes. If these items are purchased from a North Dakota supplier, the North Dakota sales tax should be paid directly to the supplier. If these items are purchased from a supplier who fails to charge North Dakota sales tax or from a supplier who does not have a North Dakota sales and use tax permit, the buyer must include the cost of such purchases as “items subject to use tax” on the North Dakota sales and use tax return and remit use tax on those items to the Office of State Tax Commissioner.

Cleaning supplies and similar materials removed from inventory for store use are also subject to use tax.

Food and food products given as samples to consumers for consumption on the premises of a food store are exempt from sales and use tax. The disposable paper products and tableware used to provide the exempt samples to consumers are also exempt from sales and use tax. Samples or giveaways of pop and candy, continue to be subject to tax based upon the cost of the products to the food store and are to be included as “items subject to use tax” on the tax return.