

Sales Tax Guide

Sale of Candy, Soda and Soft Drinks	Taxable, except for certain drinks.	Tax Law §1115(a)(1) generally provides an exemption for the sales and purchases of food, food products, beverages sold for human consumption. However, the exemption does not apply to candy, sodas or soft drinks, and fruit drinks that contain less than 70% natural fruit juice.
Spaghetti dinners and catered meals	Taxable	Tax Law §1115(a)(1) generally provides an exemption for the sales and purchases of food, food products, beverages sold for human consumption. However, the exemption does not apply to catered situations, where the students of the club would be serving, assisting in serving, cooking, or otherwise providing services with respect to the food items in question.
Bake Sales	Non-Taxable.	Tax Law §1115(a)(1) generally provides an exemption for the sales and purchases of food, food products, beverages sold for human consumption. This provision exempts bake sales from the collection of sales tax.
Vending Machine Sales – Food Items	Taxable, generally.	Where tables, chairs, benches, etc. are provided where the vending machine operations are conducted, the sales through the vending machine are taxable. Where no eating facilities are provided, the sales are exempt from sales tax.
Pizza, Chicken, Popcorn, Coffee, Tea, etc.	Taxable.	All sales of prepared food sold in a heated state (where the food is maintained at a temperature warmer than surrounding air temperature) are subject to sales tax, including those sold for off-premises consumption.
Admission Charges	Taxable, except for certain events.	Exemption is provided from sales tax for admissions to dramatic or musical arts performances, which do not include variety shows, magic shows, circuses, ice shows, dances, and similar performances. Included in the exemption is an admission charge to choreographed performances to music, which may exempt color guard admissions.
Sale of Newspapers and Magazines	Non-Taxable.	
Sale of shrubs, plants and trees	Taxable.	
Sale of Yearbook	Taxable, generally.	If the entire cost of the yearbook is underwritten by the Board of Education and the revenue is recognized as a General Fund item, the sale becomes an exempt transaction, not subject to sales tax.
Sale of Yearbook Advertising Space	Non-Taxable.	
Sale of Sweatshirts, T-shirts, Jackets, Jewelry	Taxable.	Tax Law §1105(a) provides that sales tax is imposed on the sale of tangible personal property.
Book Store Sales	Taxable.	Unless specifically exempt.
Pre-packaged Popcorn, Potato Chips, Pretzels	Non-Taxable, generally	When packaged and sold in a cold state, prepackaged snack foods are exempt. This exemption does not apply to caramel or other candy coated snack foods.
Hair Cuts and Styling	Non-Taxable.	The cutting and styling of hairpieces is not included in this exemption.
Repair/Maintenance Services, Car Washes	Taxable, generally.	An exemption is provided for the repair, maintenance or service of farm machinery.



Listings of Taxable and Exempt Foods and Beverages Sold by Food Stores and Similar Establishments

Introduction

Most food is exempt from sales tax. The exemption for food includes:

- food products;
- dietary foods;
- health supplements; and
- certain beverages.

Food must meet these conditions to be exempt from tax:

- it must be sold for human consumption;
- it must be sold unheated; and
- it must be sold in the same form and condition, quantities, and packaging as is commonly used by retail food stores.

These foods and beverages, however, are not exempt from tax:

- candy and confectionary;
- alcoholic beverages;
- soft drinks, fruit drinks, sodas, or similar beverages;
- heated or prepared meals (sandwiches, salad bars, etc.); and
- food or beverage sold for on-premises consumption.

Additional resources relating to sales of food and beverages (e.g., sales by restaurants, sales from vending machines, or sales of candy or sandwiches) are listed at the end of this bulletin.

Listings of taxable and exempt food and beverages

The charts below list some examples of taxable and exempt foods and beverages sold at retail food markets and similar establishments. (**Note:** Any brand name product shown in italics is included as an example and is not to be construed as an endorsement of the product.)

Exempt foods and beverages

<i>Arnold Palmer Half & Half</i> ®	Fruit	Pepper
Artificial sweeteners	Fruit juices containing 70% or more of natural fruit juice (unless carbonated)	Popcorn
Baby food	<i>Fruit Rollups</i> ®	Potato chips
Bakery products	Game (e.g., partridges, rabbits, wild turkeys)	Poultry
Baking products	Grain products	Poultry products
<i>Beefamato</i> ®	Granola bars	Preservatives
<i>Boost</i> ®	Gravies	Pretzels
Bouillon cubes	<i>Great Shakes</i> ®	<i>Quik</i> ®
Bread	Health bars	Relishes
Brownies	Health food	Salad dressing mixes
Butter	Health supplements	Salad dressings
Cereals	Herbs	Salt
Chicory	Honey	Sandwich spreads
Chocolate (for cooking purposes only)	Ice cream (prepackaged)	Sauces
<i>Clamato Juice Cocktail</i> ®	Iced coffee	Seafood
Cocoa	Iced tea (frozen or liquid)	Seasonings
Coconut	Iced tea mix	Sesame seeds (for baking)
Coffee	Instant breakfast mix	Sherbet
Coffee creamers	Jams (fruit preserves)	Shortening
Condiments (e.g., salt, pepper)	Jelling agents	<i>Slim-Fast</i> ®
Cookies	Jellies	Soup
Crackers	Ketchup	Spices
Cupcakes	Lard	Starch (for cooking)
Dehydrated fruit	Leavening agents	<i>Start</i> ®
Dehydrated vegetables	Liquid diet products	Sugar
Diet foods (but not diet candy)	Mayonnaise	Sugar substitutes
Diet substitutes	Meats and meat products	Sunflower seeds (sold for human consumption)
Diet supplements	Milk and milk products	Syrups
Doughnuts	Mustard	<i>Tang</i> ®
Dressings	Non-stick cooking sprays	Tea
Eggs and egg products	<i>Nutrament</i> ®	Vanilla extract
<i>Ensure</i> ®	Nuts and nut products (but not chocolate- or candy coated or honey-roasted nuts)	Vegetables
Fats	Oils (cooking, salad)	Vegetable juices
Fish and fish products	Oleomargarine	Vegetable oils
Flavorings (e.g., vanilla or almond extract)	Olives	<i>V8 Juice</i> ®
Flour	<i>Ovaltine</i> ®	Vitamins
Food coloring	Peanut butter	Yeast
Frozen desserts	Peanuts	
Frozen dinners		

Taxable foods and beverages		
5-Hour Energy®	Fountain drinks (e.g., sodas, milkshakes, etc.)	Maple sugar candy
Beer	French burnt peanuts	Mineral water
Bottled water	Fruit drinks ¹	<i>MiO Liquid Water Enhancer</i> ®
Candied apples	Fruit nectars ¹	<i>Monster Energy Drink</i> ®
Candy and confectionery	Fruit punch ¹	Nuts (chocolate or candy coated)
Caramel-coated popcorn	Fudge	<i>Orange Crush</i> ®
Caramels	<i>Gatorade</i> ®	Pet foods ²
Carbonated beverages	Glazed fruit	<i>Powerade</i> ®
Carbonated water	<i>Hi-C</i> ®	<i>Red Bull</i> ®
Chewing gum	Honey-roasted nuts	<i>Rockstar Energy Drink</i> ®
Chocolate candy	Ice	Seltzer (water)
Chocolate-coated nuts	Ice cream cones (made to order)	Soft drinks
Chocolate-coated pretzels	Ice cream sodas	<i>smartwater</i> ™
Coated candy	Ice cubes	Vegetable plants (used to grow food)
Cocktail mixes	Jordan almonds	Vegetable seeds (used to grow food)
Collins mixer	<i>Kool-Aid</i> ®	Vichy water
Cranberry juice cocktails	Lemonade	<i>vitaminwater</i> ™
Dietetic candy	Licorice	<i>Yoo Hoo</i> ®
Dietetic carbonated beverages		
Dietetic soft drinks		

Coupons and food stamps

For information about foods and beverages purchased with coupons or food stamps, see Tax Bulletin *Coupons and Food Stamps* (TB-ST-140).

Note: A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

References and other useful information

Tax Law: Sections 1105(a); 1105(d); and 1115(a)(1)

Regulations: Sections 527.8 and 528.2

Publications:

Publication 750, *A Guide to Sales Tax in New York State*

Publication 840, *A Guide To Sales Tax For Drugstores and Pharmacies*

Bulletins:

Beverages Sold by Food Stores, Beverage Centers, and Similar Establishments (TB-ST-65)

Candy and Confectionery (TB-ST-103)

Coupons and Food Stamps (TB-ST-140)

Dietary Foods and Health Supplements (TB-ST-160)

Food and Beverages Sold from Vending Machines (TB-ST-280)

Food and Food Products Sold by Food Stores and Similar Establishments (TB-ST-283)

Purchases by Restaurants, Taverns, and Similar Establishments (TB-ST-695)

Sales by Restaurants, Taverns, and Similar Establishments (TB-ST-806)

Sales Tax Credits (TB-ST-810)

Sandwiches (TB-ST-835)

Recordkeeping Requirements for Sales Tax Vendors (TB-ST-770)

¹ If product contains less than 70% real fruit juice.

² Pet food purchased for guide, hearing, and service dogs is exempt. See Tax Bulletin *Exemptions Relating to Guide, Hearing, and Service Dogs* (TB-ST-245).