



# Guideline

## Sales Tax Grocery Stores, Convenience Stores & Delicatessens

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*October 2005*  
*Revised*

### 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)
- Baking ingredients (including baking chocolate)
- 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
- 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 exempt items
- 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
- Aspirin
- Bird feed
- Breath mints
- Candy and confections
- Canning supplies
- Chewing gum
- Chocolate covered nuts, candy coated nuts, and honey roasted nuts
- Cigarettes and tobacco products
- Cleaning products and supplies
- Cocktail mixes (liquid)
- Cooking utensils
- Cosmetics
- Cough drops
- Dietary supplements (including energy bars containing "supplemental facts" box)
- 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

**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  
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  
Honey  
Ice  
Ice cream (including toppings and novelties)  
Jams, jellies and preserves  
Ketchup  
Marshmallows (including 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  
Popsicles  
Powdered drink mixes (including sweetened)  
Pudding/gelatin  
Relishes  
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)  
Sandwich spreads  
Sugar, sugar products, and sugar substitutes  
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)

**Taxable Products (con't.)**

Lozenges  
Magazines and books  
Over the counter medicine (nonprescription)  
Paper and tin products  
Personal hygiene products  
Pet food  
Plants  
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  
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.

## 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.

Taxable food includes self-service food such as that provided by salad bars and drink islands. Taxable food also includes meals, sandwiches, or other food intended for consumption on or near the seller’s premises.

All food sold and catered is regarded as prepared food subject to tax.

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

## 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.

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.