

# Food and Food Ingredients

**102A**
**Fact Sheet**
**Sales Tax Fact Sheet 102A**
**What's new in 2017**

Starting July 1, 2017, the only taxable food sold through vending machines is prepared food, soft drinks, candy, and dietary supplements.

Food and food ingredients are exempt from sales tax. Food and food ingredients means a substance that is:

- in liquid, concentrated, solid, frozen, dried, or dehydrated form
- sold for ingestion or chewing by humans
- consumed for their taste or nutritional value

**Nontaxable food and food ingredients**

The following items are generally exempt. However, if any of these items are prepared by the seller or sold with eating utensils provided by the seller they are taxable.

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|--|--------------------------------------|
| • baking powder                                | • ice cubes or blocks                |
| • baking soda                                  | • malted milk powder                 |
| • beverage powders (unless dietary supplement) | • margarine                          |
| • bread  | • meat                               |
| • cakes and cake icing                         | • nuts                               |
| • cereals                                      | • peanuts                            |
| • cereal bars with flour                       | • pies                               |
| • chip dip                                     | • popcorn                            |
| • chips (potato, corn, etc.)                   | • popsicles                          |
| • cocoa  | • poultry                            |
| • coffee                                       | • pumpkins                           |
| • condiments                                   | • raisins                            |
| • cookies                                      | • relishes                           |
| • cooking oil                                  | • saccharin                          |
| • dairy products                               | • salad dressing                     |
| • dried fruit (without sweeteners)             | • salt                               |
| • eggs   | • sauces                             |
| • fish   | • seasonings                         |
| • flavorings                                   | • shortening                         |
| • flour  | • spices                             |
| • food coloring                                | • spray candy                        |
| • frozen meals                                 | • sugar (including colored)          |
| • fruit juices (more than 50% juice)           | • sunflower seeds                    |
| • fruits                                       | • sweeteners                         |
| • gelatin                                      | • tea (bags, leaves, or powdered)    |
| • granola                                      | • trail mix (prepackaged with candy) |
|  | • vegetables                         |

- gravies
- herbs (seasoning)
- ice cream, sherbet, and frozen yogurt, including prepackaged novelties
- water

**Note:** Starting July 1, 2017, the only taxable food sold through vending machines is prepared food, soft drinks, candy, and dietary supplements. Previously, all food sold through vending machines was taxable. For more information, see Fact Sheet 158, *Vending Machines and Other Coin-Operated Devices*.

**Taxable items**

The exemption for food and food ingredients does not include candy, soft drinks, food sold through vending machines, prepared foods, alcoholic beverages, dietary supplements, and tobacco. Following is a list of items that are taxable because they fall into these subcategories that are specifically excluded from the food exemption. The taxable subcategory is noted in parentheses.

- |  |   |
|--|---|
| • baking chips, sweetened                                | • marshmallows (candy)  |
| • baking bars, candy-coated items (candy)                | • party trays (prepared food)   |
| • beer (alcoholic beverage)                              | • soda pop (soft drinks)  |
| • beer nuts (candy)                                      | • sweetened baking bars or chips (candy)                                      |
| • breath mints (candy)                                   | • sweetened bottled water (soft drink)  |
| • cake decorations (candy)                               | • tea (with "supplement facts" label)   |
| • cereal bars without flour                              | • tobacco products, except cigarettes which are not taxed at retail (tobacco) |
| • dried fruit with sweeteners (candy)                    | • vitamins and minerals (dietary supplement)                                  |
| • fruit drinks with 50% or less fruit juice (soft drink) |   |
| • gum (candy)  |   |
| • herbal supplements (dietary supplement)                |   |
| • honey roasted and honey coated nuts (candy)            |   |

**Gift baskets and other combination packages (bundled transactions)**

When a bundled transaction includes food and food ingredients special rules apply and the sale may or may not be taxable. The sale is taxable if:

1. the seller's purchase price of the taxable items

in the transaction is more than 50% of the total purchase price of all of the items in the transaction, or

2. the seller's sales price of the taxable items in the transaction is more than 50% of the total sales price of the transaction.

Sellers cannot use a combination of the purchase price and sales price when making the 50% determination for a transaction.

Use tax is due on the seller's cost of taxable items included in the bundle if:

- 1) the retail sale of the bundled transaction is not taxable, **and**
- 2) the seller's purchase price of all taxable items in the bundled transaction is more than \$100.

**Example 1.** A grocery store assembles and sells fruit baskets. The store purchases the baskets for \$5.00 each and puts a variety of fruit into each basket that cost the store \$7.00 per basket. Each fruit basket is sold for \$20.00. Sale of the fruit baskets are not taxable, because the taxable item (the basket) costs less than 50% of the total purchase price of all of the items in the transaction. The store does not owe use tax on the purchase of the fruit baskets, because the store's purchase price of the basket included in each sale is less than \$100.00.

**Example 2.** A children's store makes gift packages for new parents. The package sells for \$300.00 and includes baby formula and other nontaxable items along with a baby monitor and a car seat. The transaction qualifies for the 50% test because baby formula is a food or food ingredient. The store uses its purchase price of the items in the transaction to determine the taxable percentage of the sale. The store's purchase price of the nontaxable items in the gift package is less than 50% of the total purchase price of all the items in the package so the sale of the gift package is taxable. Since the retail sale is taxable, the store does not owe use tax on the taxable items included in the gift package.

**Example 3.** Same as Example 2, except that the store's purchase price of the taxable items in the package is less than 50% of the total purchase price of all the items in the package. However, the cost of the taxable items in the package is more than \$100.00. In this situation, the sale of the gift package is not taxable, but the store owes use tax on their cost of all taxable items included in the gift package.

#### **Legal References**

Minnesota Statutes 297A.61

subd. 3(d), Definitions

subd. 31, Prepared food

subd. 32, Soft drinks

subd. 33, Candy

subd. 34, Food sold through vending machines

subd. 38, Bundled transaction

M. S. 297A.63, Subd. 1(d), Use of tangible personal property or taxable services

M. S. 297A.67

subd. 2, Food and food ingredients

subd. 32, Cigarettes

Minnesota Rule 8130.4700, Prepared Food, Candy, and Soft Drinks

Minnesota Rule 8130.4705, Food Sold with Eating Utensils

#### **Other Fact Sheets**

102B, *Candy*

102C, *Soft Drinks and Other Beverages*

102D, *Prepared Food*

102E, *Dietary Supplements*

115, *Food Stamps*

164, *Local Sales and Use Taxes*

137, *Restaurants and Bars*

158, *Vending Machines and Other Coin-Operated Devices*