

Minnesota revenue notice

Revenue Notice # 92-09 Sales and Use Tax - Application to Candy and Soft Drinks

(Update: Revenue Notice #92-09 has been revoked by Revenue Notice #99-12.)

Candy and soft drinks are subject to Minnesota sales and use tax.

1. Candy and Candy Products

Products that are commonly packaged and sold as candy, including health and diet food products, are subject to sales tax whether sold over the counter or in a vending machine. Fruit, nuts, or popcorn which are combined with chocolate, carob, sugar, honey, candy, or other natural or artificial sweeteners are also considered candy and are subject to sales tax. Individually wrapped items ordinarily considered to be candy, such as Twix bars and PB Max bars, are taxable whether sold individually, in quantity, or in the candy or cookie sections.

The following are examples of candy subject to sales tax. Brand names are specified only to illustrate types of items considered to be candy. they do not imply that these are the only taxable brands in any category.

- breath mints, including sugarless
- candy bars
- caramel corn
- caramel apples
- chocolate- or carob-covered nuts, raisins, etc.
- chocolate-covered insects
- chocolate stars
- cough drops (taxable as health product)
- Cracker Jack
- Crunch and Munch
- Fiddle Faddle
- honey-covered nuts
- licorice
- nature snacks with 50% or more candy
- peanut brittle
- sugarless candy
- throat lozenges (taxable as health product)
- yogurt-covered raisins, nuts, etc.
- fresh prepared popcorn sold by a vendor

Products that are commonly sold as ingredients for cooking or baking purposes or as a meal substitute, e.g., breakfast bars, are not candy products and are exempt from tax. The following are examples of exempt products. Again, brand names are specified for illustration purposes only.

- bakery products
- breakfast bars
- cakes
- candied fruit for baking
- candy, cake decorations
- cheese popcorn
- chocolate or carob chips
- chocolate-covered donuts
- confectioners bark

- cookies
- dried fruit snacks
- Figurines
- Frito Lay's peanut butter bar
- fruit or pudding roll-ups, fruit pieces
- granola bars or clusters
- Hershey's or Baker's Sweet baking chocolate
- honey-roasted nuts
- marshmallows
- nature snacks with less than 50% candy
- peanuts
- pies
- Pillsbury food sticks
- popcorn (except when prepared by the vendor)
- Pop-tarts
- sunflower seeds
- sweetened cereals

2. Soft Drinks

Soft drinks include all carbonated beverages and all nonalcoholic beverages which contain less than 15% fruit juice. Diet drinks that meet the definition of soft drinks are taxable. Beverages that are labeled fruit drink, fruit ade, or fruit nectar and where the percentage of fruit juice content is not specified are taxable soft drinks.

The following are examples of taxable soft drinks:

- all carbonated beverages
- Cold Duck (nonalcoholic)
- Gatorade containing less than 15% fruit juice
- Hawaiian Punch containing less than 15% fruit juice
- Hi-C containing less than 15% fruit juice
- near beer
- sparkling apple cider
- sparkling catawba juices
- water (carbonated)
- water (noncarbonated) when the container size is less than 1/2 gallon

Soft drinks do not include the following packaged items, unless they are sold prepared in glasses or cups (eat-in or take-out):

- vegetable juices
- noncarbonated fruit juice drinks containing 15% or more of natural fruit juices
- coffee beans, ground coffee, coffee substitutes
- tea
- cocoa, milk, chocolate
- noncarbonated drinks made from milk derivatives, powders, and concentrates, either liquid or frozen

Products which are labeled 'fruit juice' are considered to be exempt beverages, even where the percentage of fruit juice content is not specified. Examples of beverages considered to be fruit juice are listed below:

- apple cider
- cocktail mixes (powdered, liquid, and frozen) such as daiquiri or Manhattan mixes
- cranberry juice cocktail
- frozen juice concentrate

- Hawaiian Punch containing 15% or more fruit juice
- Kool-Aid (powdered)
- iced tea (instant or canned)
- ReaLemon
- Roses Lime Juice
- Tang or other powdered fruit drinks
- water (noncarbonated) when the container size is 1/2 gallon or larger

Not all Ocean Spray products show the percentage of fruit juice content on the labels. The following Ocean Spray products contain more than 15% natural fruit juices and are exempt from tax.

- OCEAN SPRAY Cranberry Juice Cocktail
- Cranapple Cranberry Apple Drink
- Cran-Grape Grape Cranberry Drink
- Cran-Raspberry Raspberry Cranberry Drink
- Cranicot Cranberry Apricot Juice Drink
- Cran-Blueberry Blueberry Cranberry Drink
- OCEAN SPRAY Low Calorie Cranberry Juice Cocktail
- Low Calorie Cranapple Cranberry Apple Drink
- Low Calorie Cran-Raspberry Raspberry Cranberry Drink
- OCEAN SPRAY 100% Grapefruit Juice
- OCEAN SPRAY Pink Grapefruit Juice Cocktail
- OCEAN SPRAY Pineapple Grapefruit Juice Cocktail
- OCEAN SPRAY 100% Apple Juice
- OCEAN SPRAY 100% Orange Juice
- Cran-Tastic A Blended Juice Drink
- Pink Premium Grapefruit Juice
- Mauna La'i Hawaiian Guava Passion Fruit Drink

Other Ocean Spray products are taxable. The taxability of new products should be determined using the guidelines in this revenue notice.

Michael E. Boekhaus
Director, Appeals & Legal Services

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JMT