

# Food and Food Ingredients

**102A**

Sales Tax Fact Sheet 102A

Fact Sheet

## What's New

Starting July 1, 2023, edible cannabinoid products are subject to the Cannabis Tax. See Cannabinoid Products.

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.

- Baking powder
- Baking soda
- Beverage powders (unless dietary supplement)
- Bread
- Cakes and cake icing
- Cereals
- Cereal bars with flour
- Chip dip
- Chips (potato, corn, etc.)
- Cocoa
- Coffee
- Condiments
- Cookies
- Cooking oil
- Dairy products
- Dried fruit (without sweeteners)
- Eggs
- Fish
- Flavorings
- Flour
- Food coloring
- Frozen meals
- Fruit juices (more than 50% juice)
- Fruits
- Gelatin
- Granola
- Gravies
- Herbs (seasoning)
- Ice cream, sherbet, and frozen yogurt, including prepackaged novelties
- Ice cubes or blocks
- Malted milk powder
- Margarine
- Meat
- Nuts
- Peanuts
- Pies
- Popcorn
- Popsicles
- Poultry
- Pumpkins
- Raisins
- Relishes
- Saccharin
- Salad dressing
- Salt
- Sauces
- Seasonings
- Shortening
- Spices
- Spray candy

- Sugar (including colored)
- Sunflower seeds
- Sweeteners
- Tea (bags, leaves, or powdered)
- Trail mix (prepackaged with candy)
- Vegetables
- Water

**Note:** Taxable food sold through vending machines includes prepared food, soft drinks, candy, and dietary supplements. For more information, see the Vending Machines and Other Coin-Operated Devices Fact Sheet.

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## 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 baking bars, candy-coated items (candy)
- Beer (alcoholic beverage)
- Beer nuts (candy)
- Breath mints (candy)
- Cake decorations (candy)
- Cereal bars without flour
- Dried fruit with sweeteners (candy)
- Fruit drinks with 50% or less fruit juice (soft drink)
- Gum (candy)
- Herbal supplements (dietary supplement)
- Honey roasted and honey coated nuts (candy)
- Marshmallows (candy)
- Party trays (prepared food)
- Soda pop (soft drinks)
- Sweetened baking bars or chips (candy)
- Sweetened bottled water (soft drink)
- Tea (with “supplement facts” label)
- Tobacco products, except cigarettes which are not taxed at retail (tobacco)
- Vitamins and minerals (dietary supplement)

## Cannabinoid Products

Currently, edible cannabinoid products and nonintoxicating topical products are legal to sell in Minnesota.

Starting July 1, 2023, edible cannabinoid products are subject to the 10% Cannabis Tax. In addition to the Cannabis Tax, taxable cannabis products are subject to both:

- 6.875% state general rate sales tax
- Any applicable local sales taxes based on where the transaction takes place

Nonintoxicating topical products are not subject to the 10% Cannabis Tax, but are subject to both:

- 6.875% state general rate sales tax
- Any applicable local sales taxes based on where the transaction takes place

For more information, go to our website [www.revenue.state.mn.us](http://www.revenue.state.mn.us) and type **Cannabis Tax** into the Search box.

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## Gift Baskets and Other Combination Packages

When a gift basket or other combination package (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.

### Examples

- A grocery store assembles and sells fruit baskets. The store purchases the baskets for \$5 each and puts a variety of fruit into each basket that cost the store \$7 per basket. Each fruit basket is sold for \$20. 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.
- A children's store makes gift packages for new parents. The package sells for \$300 and includes baby formula, other nontaxable items, 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'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. 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.
- 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. 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

Minnesota Statutes 297A.63, subd. 1(d), Use of tangible personal property or taxable services

Minnesota Statutes 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

### Fact Sheets

Candy

Dietary Supplements

Food Stamps

Local Sales and Use Taxes

Prepared Food

Soft Drinks and Other Beverages

### Guides

Eating Establishments

Vending Machines and Other Coin-Operated Devices