

THE RETAIL SALES TAX ACT

FOOD AND BEVERAGES

This bulletin summarizes the kind of food and beverages that are retail sales tax (RST) exempt and the kind that are subject to tax. The lists provided include most food items but are not all-inclusive.

Section 1 – GENERAL INFORMATION

The sales tax on food and beverages is generally applicable as follows:

- Food and beverages that are considered basic groceries sold for human consumption are exempt from tax. (see Section 2)
- Prepared food and beverages sold in a form for immediate consumption are **not** considered to be basic groceries and are taxable. (See “Prepared Food and Beverages” in Section 3).
- Food and beverages sold through a vending machine are taxable. (See “Vending Machine Sales” in Section 3).
- Food and beverages are **not** considered to be basic groceries when sold at an establishment at which all or substantially all of the sales of food and beverages are taxable. (See “Sales in Eating Establishments” in Section 3).
- The following items are taxable when sold in quantities considered to be a “**single serving**” as indicated:
 - Beverages - less than 600ml
 - Sweetened baked goods - less than 230 grams
 - Ice cream and similar products - less than 500ml (or 500 grams)
 - Pudding and similar products - less than 425ml

GST rulings apply

- To simplify the handling of the tax by businesses, the Taxation Division uses the GST guidelines for determining whether a food or beverage product qualifies for an exemption under RST. Therefore, where a business obtains a tax status ruling from the **GST/HST Rulings Unit** on a particular product, that ruling will also determine the RST application on that product.

Note: Revisions to contents of previous Bulletin (February 2003) have been identified by shading ().

Section 2 - EXAMPLES OF TAX EXEMPT FOOD AND BEVERAGES

- Basic groceries**
- Fruits and vegetables (fresh, frozen, canned and vacuum sealed).
 - Milk and milk products (except chocolate milk and other flavoured milk sold in a single serving).
 - Meat and meat products including beef jerky, pepperoni sticks, etc. (fresh or cooked), **but not** when sold as an arrangement, such as a cold-cut platter, or heated for consumption.
 - Fish and fish products (fresh or cooked), **but not** when sold as an arrangement, such as a shrimp ring, or heated for consumption.
 - Eggs and egg products.
 - Breakfast cereals.
 - Flour.
 - Herbs and spices sold for use as seasonings for food.
 - Salt packaged for sale for human consumption, including table salt, pickling salt and salt for curing fish (but not when packaged for industrial use).
 - Sugar, sweetening agents and artificial sweeteners.
 - Baking supplies and other ingredients that are mixed in with or used in the preparation of food and beverages for human consumption.
 - Bottled water when sold in quantities of 600ml and larger, or if less than 600ml, packaged and sold by the manufacturer in multiples of single servings.
 - Unbottled water when dispensed in quantities greater than a single serving from a vending machine or at the premises of the seller, or provided by a municipality or by a private water hauler.
 - Cooking wines and food preserved in alcohol that is normally purchased in a grocery store.
 - Traditional breads and bread products such as bagels, English muffins, croissants, scones, tea biscuits or bread rolls without sweetened filling or coating.
 - Coffee, coffee substitutes, tea, cocoa and cocoa products (such as hot chocolate in powdered form), **but not** chocolate milk sold in single servings, chocolate bars and other confectionery items.
 - Syrups, crystals, powders and flavourings to make beverages, **but not** to make fruit flavoured beverages that contain less than 25 per cent natural fruit juice by volume.
 - Non-carbonated fruit juice beverages (including beverages reconstituted from concentrates) that contain 25 per cent or more by volume of natural fruit juice, when sold in quantities greater than a single serving or multiples thereof.
 - Non-alcoholic malt beverages, **but not** when carbonated.
 - Frozen fruit juices that in concentrated form contain 25 per cent or more fruit juice (even if the beverage contains less than 25 per cent fruit juice in its reconstituted form).
 - Ice tea mixes including fruit-flavoured ice tea mixes.
 - Meal replacement bars and meal replacement beverages, **but** dietary supplements are taxable (also see “dietary supplements” in Section 3).
 - Unpopped popcorn kernels including unpopped microwave packages.
 - Sweetened baked goods (e.g. cakes, pies, donuts, etc.), including condiments, such as a flavoured dip, packaged with the baked goods, when the item sold **exceeds a single serving** or when they are sold in quantities of six items or more of single servings. A single serving of sweetened baked goods is a unit of less than 230 grams (see “sweetened baked

goods” in Section 3).

- Tortilla and taco shells.
- Meat pies and other similar pies.
- Food such as pizza that is sold uncooked but fully prepared.
- Dough of all kinds including puff pastry and cookie dough.
- Pie shells, vol-au-vent, and phyllo leaves.
- Soft pretzels.
- Crackers, bread sticks, rusks, croutons and unsweetened rice cakes (see “sweetened baked goods” for graham crackers).
- Yoghurt (except frozen yoghurt or when sold for consumption at an eating establishment).
- Ice cream, ice milk, sherbet, frozen yoghurt, frozen pudding, non-dairy substitutes for any of the foregoing products, and any product such as ice cream cakes that contains any of the foregoing, only when pre-packaged, or hand packed at the retail level and sold for home consumption, **in a single container of 500ML or more.**
- Baby food, including beverages and pudding prepared and pre-packaged specially for consumption by babies. (e.g. Infalac and Similac.)
- Cold cooked foods sold from unheated or refrigerated shelves at an eating establishment or grocery store to be re-heated by the purchaser.
- Mixed vegetable sprouts.
- Mixed, cut vegetables packaged and promoted as a “stir-fry” or “chop suey mix”.
- Jams, jellies, peanut butter.
- Salad dressing
- Cheese and cracker snacks packaged together and sold in grocery stores.

Salads

- Vegetable, fruit or gelatin salads packaged in cans, or in containers that are vacuum sealed.
- Salad kits consisting of ingredients, such as vegetables, bacon bits, croutons, seasoning and/or salad dressing packaged in a separate compartment or container. **But not prepared salads** where the dressing and other ingredients are mixed together. (Also see “prepared food and beverages” in Section 3.)

Section 3 - EXAMPLES OF TAXABLE FOOD AND BEVERAGES

Beverages

- Wine, spirits, beer, malt liquor and other alcoholic beverages.
- De-alcoholized beer and wine.
- Carbonated beverages, including carbonated mineral water whether flavoured or not and carbonated non-alcoholic malt beverages.
- Non-carbonated fruit juice beverages or fruit-flavoured beverages (other than milk-based beverages) that contain less than 25 per cent by volume of a natural or reconstituted fruit juice(s).
- Powdered fruit-flavoured beverage mixes, which require mixing with water and contain little or no actual fruit (e.g. Tang and Kool-Aid), **but** ice tea mixes are exempt.
- Beverages, including spring water and chocolate milk (but not unflavoured milk), or pudding including flavoured gelatine, mousse, flavoured whipped dessert product or any product similar to pudding, **except** when:
 - Prepared and pre-packaged specially for consumption by babies.

- Sold in multiples, pre-packaged by the manufacturer or producer, of single servings (this exception does not apply to fruit-flavoured beverages that contain less than 25 per cent fruit juice).
- Sold in cans, bottles or other primary containers that contain a quantity exceeding a single serving (this exception does not apply to fruit flavoured beverages that contain less than 25 per cent fruit juice).

Please note: A single serving of pudding and similar items is a unit of less than 425 grams. A single serving of a beverage is a unit of less than 600ml.

Environmental Levy

- There is a two-cent per beverage container Waste Reduction and Prevention (Wrap) levy applied to all ready-to-serve, non-deposit, non-dairy beverage containers sold in Manitoba. RST applies on the levy if the beverage is taxable.
- The levy is applied on the container that holds the following beverages:
 - Soft drinks
 - Bottled teas
 - Fruit juices
 - Water
- The levy is not applied on the container that holds the following beverages:
 - Milk and milk products
 - Fruit concentrates
 - Infant formula
- This program is administered by the Manitoba Product Stewardship Corporation. For further information, please visit their Web Site at www.mpssc.com or contact them at (204) 989-6222.

Snack foods

- Candies, confectionery that may be classed as candy, or any goods sold as candies such as candy floss, chewing gum and chocolate, whether naturally or artificially sweetened, including fruits, seeds, nuts and popcorn that are coated or treated with candy, chocolate, honey, molasses, sugar, syrup or artificial sweeteners.
- Chips, crisps, puffs, curls or sticks, such as potato chips, corn chips, cheese puffs, potato sticks, bacon crisps and cheese curls, or similar snack foods, or popped popcorn and brittle pretzels, **but not** including any product that is sold primarily as a breakfast cereal.
- Salted nuts or salted seeds.
- Granola products, **but not** including any product sold as a breakfast cereal.
- Snack mixtures that contain cereals, nuts, seeds, dried fruit or any other edible product, **but not** including any mixture sold as a breakfast cereal.
- Ice lollies, juice bars, juice sticks, flavoured, coloured or sweetened ice waters, or similar products, whether frozen or not.
- Ice cream, ice milk, sherbet, frozen yoghurt, trifle, ice cream cake or frozen pudding, non-dairy substitutes for any of these products including any item that contains any of those products, when packaged or sold in single servings of less than 500ml or 500 grams. These items sold in multiples of single servings are also taxable.
- Fruit bars, rolls or drops or similar fruit-based snack foods.

Sweetened baked goods

- Cakes, muffins, pies, pastries, tarts, flans, cookies, doughnuts, brownies, graham crackers, croissants with sweetened filling or coating, or similar products when sold to consumers in quantities of less than six items, each of which is a single serving of less than 230 grams, **but** bread products such as bagels, English muffins, croissants or bread rolls, that are without sweetened filling or coating are exempt.
- Flavoured dip packaged and sold with sweetened baked goods (i.e., the dip is in a separate container/compartiment), when the sweetened goods are sold in quantities of less than six items.

Dietary supplements and vitamins

- Dietary supplements in pill, capsule, tablet or other similar form, made from synthetic or natural ingredients are generally taxable, **but** meal replacement bars and beverages, and nutritional supplements that are ingredients for food or beverages, are exempt.
- Dietary supplements that are merely mixed with food or beverages as means of consumption are taxable.

Please note: Products that are consumed to sustain or maintain life, to allay hunger or thirst, or for enjoyment are generally regarded to be food and beverages (exempt). Products that claim to have a therapeutic or preventative effect, to enhance mental or physical performance or enhance physique are generally regarded to be dietary supplements (taxable). Other factors such as labelling, packaging and marketing may also influence the tax status of the product. For consistency, **the Taxation Division uses the GST guidelines and interpretation for determining whether a product is a dietary supplement, or ingredient of food and beverage.**

- Vitamins and minerals in pill, capsule, or tablet form (see Bulletin No. 002 – Drugs, Medical Equipment and Supplies, for exempt prescription drugs, etc.).
- Appetite suppressants.
- Tonics such as cod liver oil.

Vending machine sales

- Food or beverages sold through a vending machine are subject to tax. This includes sales of food and beverages that are normally exempt as basic groceries, such as a single serving of white milk or raw fruit.
- Unbottled water sold in single servings of less than 600ml is taxable when dispensed through a vending machine.
- Food or beverage dispensed for a single coin of 25¢ or less is not taxable.

Prepared food and beverages

- The following are “prepared food and beverages” that are taxable when sold for consumption, either where sold or elsewhere:
 - Food or beverages sold in a heated state for consumption.
 - Vegetable, fruit or gelatin salads sold in prepared form, i.e., when the dressing is mixed with the other ingredients (**but** are exempt when packaged in cans or containers that are vacuum sealed).
 - Sandwiches, hamburgers or similar products (**but** are exempt if sold frozen).
 - Platters of cheese, canapés, pâtés, crudités, cold cuts, fruits or

vegetables, frozen shrimp rings, sushi and other arrangements of prepared foods (including any applicable catering charges).

- Beverages dispensed at the place where they are sold.
- Food and beverages sold under a contract for, or in conjunction with, catering services.

Sales in eating establishments

- Food or beverages are taxable when sold at an establishment of a seller at which all or substantially all (i.e. 90 per cent or more) of the sales of food or beverages are taxable. **For example:** Raw fruit which is otherwise basic groceries is subject to tax when sold in an eating establishment. However if the product is not sold for consumption at the establishment, tax would not apply in the following cases:
 - The food or beverage is sold in a form not suitable for immediate consumption, having regard to the nature of the product, the quantity sold or its packaging, such as a non-baked pizza.
 - In the case of sweetened baked goods, such as donuts, the product is sold to consumers in quantities of six items or more, each of which is a single serving (whether or not the product is pre-packaged).

What is an establishment of a seller?

- “Establishments” are considered to be providers of prepared food products whose sales of taxable food and beverages constitute all or substantially all (90 per cent or more) of their sales. Examples of establishments include:
 - Cafeterias, canteens and vending machines through which food or beverages are sold. (See Schools, Community Clubs, etc. in Section 4 for exception)
 - Catering services.
 - Convention centres.
 - Dining rooms, pubs, taverns, bars and lounges.
 - Eat-in and drive-in restaurants.
 - Eating facility within a business entity such as a lunch counter within a retail department store.
 - Fast food or quick-service outlets.
 - Lunch counters, coffee shops and snack bars.
 - Meeting halls and union halls.
 - Mobile canteens.
 - Movie theatres
 - Hotels, motels and lodging houses.
 - Motor vehicles wherein food and/or beverages are sold.
 - Private and social clubs and similar places or establishments where prepared food products are provided.
 - Royal Canadian Legion halls.
 - Sports arenas and stadiums.
 - Take-out and home delivery outlets, or
 - Any other facility where prepared food and beverages are dispensed.

Section 4 – EXEMPTION FOR FOOD AND BEVERAGES IN CERTAIN SITUATIONS**Exemption for certain persons**

- Prepared food and beverages provided to certain persons in the following situations are not taxable. The organization providing the prepared food and beverages may also purchase it exempt.
 - An elementary or secondary school without charge, or for a nominal charge, to its students under a student lunch program.
 - A hospital to its patients, or by a personal care home to its residents, as part of health care services.
 - A charitable or non-profit organization without charge, or for a nominal charge, to persons who, because of poverty, suffering, distress, age, infirmity or disability, require assistance. An example is Meals on Wheels.
 - A recreational camp operated by a charitable or non-profit organization, primarily to children 14 years of age or under, or to underprivileged or disabled persons.

Exemption when provision of prepared food and beverages not a “sale”

- Prepared food and beverages provided in the following circumstances are considered not to be a “sale” and are therefore not taxable. **Please note:** In these circumstances the provider must pay tax to its supplier when purchasing supplies that are taxable, (e.g. carbonated beverages and snack foods).
 - An elementary or secondary school to its students through a cafeteria, canteen or vending machine or vending machine operated at the school.
 - A boarding school, university or college to its students as part of a meal plan where the student purchases at least 10 meals each week at a single price for a continuous period of not less than one month.
 - A domestic boarding house to its residents, or by a recreational camp to its attendees, at an all-inclusive single price for food and lodging, for a continuous period of not less than one month.
 - A day care centre to its attendees as part of an all-inclusive price for day care services.
 - A senior citizens’ home to its residents as part of a meal plan where the resident purchases at least 10 meals each week, at a single price, for a continuous period of not less than one month.

Schools, community clubs and other charitable and non-profit organizations

- Sales of food and beverages by a charitable or non-profit organization to a person are tax exempt if the sale has not been publicly advertised and is not of a commercial nature competing with other registered vendors. **Please note:** In these cases the organization must pay the tax to its supplier when purchasing supplies that are taxable, (e.g. chocolates, carbonated drinks, snack foods, etc.). Examples of exempt sales include:
 - Confectionery or snack food items that are sold from a school or community club canteen, cafeteria or vending machine if operated

directly by the school (student group) or community club.

Please note: Community clubs and other non-profit organizations must register with the Taxation Division and collect tax on these sales if they also sell tobacco and liquor products.

- Food and beverages (and other goods) that are sold by schools, community clubs or charitable organizations for fundraising purposes.
- The sale of prepared food and beverages at a community club or church dinner, e.g. fall suppers.

Employee meals

- Businesses in the food industry are not required to pay tax on meals that are prepared by them and provided to their employees “free of charge”, as a term of employment.

Gratuities

- Gratuities that are shown separately on the bill, or paid separately by the customer, are not regarded to be part of the selling price of the meal, and are not taxable.

Delivery

- Where the delivery charges for prepared take-out food is charged separately and in addition to the established taxable picked-up price, the charge for delivery is not taxable.

Gift baskets

- Where the combined value of the basket (or container) and the value of the **taxable contents** (e.g. chocolate bars, toys, etc.) is more than 10 per cent of the total charge for the gift basket, the total charge is taxable. If the combined **taxable value** is 10 per cent, or less, the total charge is exempt.

Wine and beer making supplies

- Beer-making kits containing only the ingredients to make beer (yeast, hops, etc.) and grape juice concentrates used to make wine are exempt.
- Kits that include ingredients and apparatus to make beer or wine are taxable on the full selling price of the kits.

Section 5 – OTHER TAXABLE FOOD AND BEVERAGE SALES

Complimentary meals

- Prepared food and beverage establishments that provide complimentary meals or alcoholic beverages must pay the tax on their regular selling price of the complimentary item. Where the establishment can substantiate that the selling price is regularly discounted for preferred customers, the price used for preferred customers would be the value of the complimentary item for purposes of paying the tax.

Corkage

- Corkage charges that are billed in connection with banquet hall rentals or catering are taxable. Charges for the bartender or hall rental, if itemized separately on the invoice, are not subject to tax.

Non-food items

- Potted plants and flowers, pet foods, soaps and detergents, magazines, paper products, tools, and many other items that are frequently sold in grocery stores are taxable.

Section 6 - SUPPLIES AND EQUIPMENT PURCHASED BY RESTAURANTS AND SIMILAR ESTABLISHMENTS

Exempt supplies

- Restaurants and other establishments may purchase the following supplies (and other similar supplies) exempt from tax when used in the provision of prepared food and beverages. These products are considered to become part of the food or beverages sold (at no additional charge) to the customer.
 - Disposable containers
 - Disposable dishes
 - Stir sticks
 - Bags
 - Disposable utensils
 - Cocktail picks
 - Paper liners
 - Paper napkins
 - Straws
 - Disposable placemats
- Other items such as coffee filters, non-sticking agents used on cooking equipment, aluminum foil, etc., that are consumed while in direct contact with food being prepared for sale. This also includes bake pans used to mould products like muffins while being baked.

Taxable supplies and equipment

- Restaurants and other establishments are required to pay the tax on items they purchase for their own use in carrying out their business. Examples of taxable purchases are:
 - Dishes
 - Equipment and furniture
 - Stationery
 - Cutlery
 - Reusable linen such as
 - Menus
 - Cookware
 - tablecloths, napkins,
 - Toilet tissue
 - Cleaning supplies
 - placemats, dish towels, etc.
 - Matches, etc
 - Paper towels, etc.
 - Serving trays

FURTHER INFORMATION

This bulletin is intended to serve as a guideline and is not all-inclusive. For the specific wording of the law, please refer to the Act and Regulation stated below. Further information may be obtained from:

Winnipeg Office

Manitoba Finance
Taxation Division
101 - 401 York Avenue
Winnipeg, Manitoba R3C 0P8
Telephone (204) 945-5603
Manitoba Toll Free 1-800-782-0318
Fax (204) 948-2087
E-mail: MBTax@gov.mb.ca
Web Site: www.gov.mb.ca/finance/taxation

Westman Regional Office

Manitoba Finance
Taxation Division
311, 340 - 9th Street
Brandon, Manitoba R7A 6C2
Telephone (204) 726-6153
Manitoba Toll Free 1-800-275-9290
Fax (204) 726-6763

Principal

References in Legislation:

The Retail Sales Tax Act of Manitoba (C.C.S.M. c. R130), Sections 3(1)(a), 3(1)(d), 3(1)(k), 3(1)(l), 3(28), 3(29), 3(30);
Manitoba Regulation (75/88R) Section 1(1), definitions of "food and beverages", "natural water", and "prepared food and beverages".