

Compilation of State Definitions of Food and Food Products; 2013

State	FTA indicates food exemption from tax	FTA indicated food sales tax %	Citation	Enacted Date	Effective Date	Definition (if available) or Notes
AL	no	4.000%	NA	NA	NA	No food exemption
AK	no	0.000%	NA	NA	NA	No state sales tax
						<p>"Food" means: Items intended for human consumption. Food is deemed to be intended for human consumption when its intended or ordinary use is as a food for human consumption or is an ingredient used in preparing food for human consumption. For example, even though animal food may be used by some humans, its ordinary or intended use is not for human consumption. Also, even though vitamins and other medication may be ingested, its intended or ordinary use is as a health aid or therapeutic agent or a deficiency corrector and is not intended for use as food. Following is a numeration of items which the Department does not consider food for human consumption:</p> <ul style="list-style-type: none"> i. Pet food and supplies ii. Cosmetics and grooming items iii. Tobacco products iv. Soaps and paper products and household supplies v. Dietary supplements such as vitamins or protein supplements vi. Medicines vii. Fertilizer <p>The following are examples of items which the Department will consider as tax exempt food:</p> <ul style="list-style-type: none"> bread and flour products vegetables and vegetable products candy and confectionery sugar, sugar products and substitutes cereal and cereal products butter, oleomargarine, shortening and cooking oils cocoa and cocoa products coffee and coffee substitutes milk and milk products eggs and egg products tea meat and meat products spices, condiments, extracts and food colorings fish and fish products frozen foods soft drinks and soda (including bottles on which a deposit is required to be paid) fruit and fruit products packaged ice cream products dietary substitutes ice cubes and bottled water including carbonated and mineral water purchases of seed and plants for use in gardens to produce food items for personal consumption
AZ	yes	0.000%	Ariz. Admin. Code R15-5-1860	10/19/80	10/19/80	
AR	yes	2.000%	ARK. CODE ANN § 26-52-103	3/1/07	1/1/08	<p>"Food" and "food ingredients" mean substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food" and "food ingredients" do not include an alcoholic beverage, tobacco, or a dietary supplement;</p>
						<p>For the purposes of this section, "food products" include all of the following:</p> <ul style="list-style-type: none"> (1) Cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, candy, gum, confectionery, coffee and coffee substitutes, tea, and cocoa and cocoa products. (2) Milk and milk products, milkshakes, malted milks, and any other similar type beverages that are composed at least in part of milk or a milk product and that require the use of milk or a milk product in their preparation. (3) All fruit juices, vegetable juices, and other beverages, whether liquid or frozen, including bottled water, but excluding spirituous, malt, or vinous liquors or carbonated beverages. <p>For purposes of this section, "food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.</p> <p>None of the exemptions in this section apply to any of the following:</p> <ul style="list-style-type: none"> (1) When the food products are served as meals on or off the premises of the retailer. (2) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others. (3) When the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though those products are sold on a "take out" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer. (4) When the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments, marinas, campgrounds, and recreational vehicle parks. (5) When the food products are sold through a vending machine. (6) When the food products sold are furnished in a form suitable for consumption on the seller's premises, and both of the following apply:
CA	yes	0.000%	CAL. REV. & TAX CODE § 6359	11/3/92	12/1/92	

Source: Bridging the Gap Program, University of Illinois at Chicago (compiled by The MayaTech Corporation), 2013

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						(A) Over 80 percent of the seller's gross receipts are from the sale of food products. (B) Over 80 percent of the seller's retail sales of food products are sales subject to tax pursuant to paragraph (1), (2), (3), or (7). (7) When the food products are sold as hot prepared food products. (e) "Hot prepared food products," for the purposes of paragraph (7) of subdivision (d), include a combination of hot and cold food items or components where a single price has been established for the combination and the food products are sold in combination, such as a hot meal, a hot specialty dish or serving, a hot sandwich, or a hot pizza, including any cold components or side items. Paragraph (7) of subdivision (d) does not apply to a sale for a separate price of bakery goods or beverages (other than bouillon, consommé, or soup), or where the food product is purchased cold or frozen; "hot prepared food products" means those products, items, or components that have been prepared for sale in a heated condition and that are sold at any temperature that is higher than the air temperature of the room or place where they are sold.
CO	yes	0.000%	CO. REV. STAT. ANN. § § 39-26-714, 707, 106, 104(e), 102	Candy and Soft drink definitions added 02/24/10	Candy and Soft drink definitions added 05/1/10	"Food" means food for domestic home consumption as defined in 7 U.S.C. sec. 2012(g) [Federal Food Stamp Definition, see Georgia for definition], as amended, for purposes of the federal food stamp program as defined in 7 U.S.C. sec. 2012(h), as amended; except that "food" does not include carbonated water marketed in containers; chewing gum; seeds and plants to grow foods; prepared salads and salad bars; packaged and unpackaged cold sandwiches; deli trays; and hot or cold beverages served in unsealed containers or cups that are vended by or through machines or non-coin-operated coin-collecting food and snack devices on behalf of a vendor. except that, on and after May 1, 2010, the storage, use, or consumption of candy and soft drinks shall be subject to state use taxation. "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruit, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" shall not include any preparation containing flour and shall require no refrigeration. "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume.
CT	yes	0.000%	CONN. GEN. STAT. ANN. § 12-412	Prior to 1988	Prior to 1988	"Food products" include cereals and cereal products, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products other than candy and confectionery; coffee and coffee substitutes, tea, cocoa and cocoa products other than candy and confectionery. "Food products" do not include spirituous, malt or vinous liquors, soft drinks, sodas or beverages such as are ordinarily dispensed at bars and soda fountains, or in connection therewith, medicines except by prescription, tonics and preparations in liquid, powdered, granular, tablet, capsule, lozenge and pill form sold as dietary supplements or adjuncts. "Food products" also do not include meals sold by an eating establishment or caterer. "Meal" means food products which are furnished, prepared or served in such a form and in such portions that they are ready for immediate consumption. A meal as defined in this subsection includes food products which are sold on a "take out" or "to go" basis and which are actually packaged or wrapped. The sale of a meal, as defined in this subsection, is a taxable sale. "Eating establishment" means a place where meals are sold and includes a restaurant, cafeteria, grinder shop, pizzeria, drive-in, fast food outlet, ice cream truck, hot dog cart, refreshment stand, sandwich shop, private or social club, cocktail lounge, tavern, diner, snack bar, or hotel or boarding house which furnishes both lodging and meals to its guests.
DE	no	0.000%	NA	NA	NA	No sales tax
DC	yes	0.000%	D.C. CODE ANN. §§ 47-2002, 2001, 2202.01, B, 858 (2010), B, 751 (2010)	12/13/00	01/01/01 soft drink definition added effective 10/1/10	"Food or drink" means items sold for human or animal ingestion that are consumed for their taste or nutritional value. These items include, but are not limited to, baby foods and formula; baked goods; baking soda, baking powder, and baking mixes; bouillon; cereal and cereal products; cocoa and cocoa products; coffee and coffee substitutes; condiments; cooking wines; cough drops; edible cake decorations; egg and egg products; fish and fish products, including shellfish; fruit, fruit products, and fruit juices; gelatin; honey; ice cream; meat and meat products; milk and milk products; nondairy creamers; oleomargarine; pasta and pasta products; poultry and poultry products; powdered drinks, including health and diet drinks; salad dressings; salt and salt substitutes; sauces and gravies; snack foods; soups; spices and herbs; sugar and sugar products; syrup and syrup substitutes; tea and tea substitutes; vegetables, vegetable products, and vegetable juices; vitamins; water; yogurt; pet foods; flavored extracts; ice; and any combination of these items. The term "food or drink" does not include spirituous or malt liquors, beers, and wines; drugs, medicines or pharmaceuticals; chewing tobacco; toothpaste; or mouthwash. "Soft drink" means a non-alcoholic beverage with natural or artificial sweeteners. The term "soft drink" shall not include a beverage that contains: (A) Milk or milk products; (B) Soy, rice, or similar milk substitutes; (C) Fruit or vegetable juice, unless the beverage is carbonated; or (D) Coffee, coffee substitutes, cocoa, or tea
FL	yes	0.000%	FLA. STAT. ANN. § 212.08	Unknown	7/1/99	the term "food products" means edible commodities, whether processed, cooked, raw, canned, or in any other form, which are generally regarded as food. This includes, but is not limited to, all of the following: 1. Cereals and cereal products, baked goods, oleomargarine, meat and meat products, fish and seafood products, frozen foods and dinners, poultry, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices, salt, sugar and sugar products, milk and dairy products, and products intended to be mixed with milk. 2. Natural fruit or vegetable juices or their concentrates or reconstituted natural concentrated fruit or vegetable juices, whether frozen or unfrozen, dehydrated, powdered, granulated, sweetened or unsweetened, seasoned with salt or spice, or unseasoned; coffee, coffee substitutes, or cocoa; and tea, unless it is sold in a liquid form. 3. Bakery products sold by bakeries, pastry shops, or like establishments that do not have eating facilities. (c) The exemption provided by this subsection does not apply: [FN1] 1. When the food products are sold as meals for consumption on or off the premises of the dealer. [FN2]

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						<p>2. When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware, whether provided by the dealer [FN2] or by a person with whom the dealer [FN2] contracts to furnish, prepare, or serve food products to others.</p> <p>3. When the food products are ordinarily sold for immediate consumption on the seller's premises or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "take out" or "to go" order and are actually packaged or wrapped and taken from the premises of the dealer. [FN2]</p> <p>4. To sandwiches sold ready for immediate consumption on or off the seller's premises.</p> <p>5. When the food products are sold ready for immediate consumption within a place, the entrance to which is subject to an admission charge.</p> <p>6. When the food products are sold as hot prepared food products.</p> <p>7. To soft drinks, which include, but are not limited to, any nonalcoholic beverage, any preparation or beverage commonly referred to as a "soft drink," or any noncarbonated drink made from milk derivatives or tea, when sold in cans or similar containers. [FN3]</p> <p>8. To ice cream, frozen yogurt, and similar frozen dairy or nondairy products in cones, small cups, or pints, popsicles, frozen fruit bars, or other novelty items, whether or not sold separately.</p> <p>9. To food prepared, whether on or off the premises, and sold for immediate consumption. This does not apply to food prepared off the premises and sold in the original sealed container, or the slicing of products into smaller portions.</p> <p>10. When the food products are sold through a vending machine, pushcart, motor vehicle, or any other form of vehicle.</p> <p>11. To candy and any similar product regarded as candy or confection, based on its normal use, as indicated on the label or advertising thereof.</p> <p>12. To bakery products sold by bakeries, pastry shops, or like establishments that have eating facilities, except when sold for consumption off the seller's premises.</p> <p>13. When food products are served, prepared, or sold in or by restaurants, lunch counters, cafeterias, hotels, taverns, or other like places of business.</p> <p>(d) As used in this subsection, the term:</p> <p>1. "For consumption off the seller's premises" means that the food or drink is intended by the customer to be consumed at a place away from the dealer's [FN2] premises.</p> <p>2. "For consumption on the seller's premises" means that the food or drink sold may be immediately consumed on the premises where the dealer [FN2] conducts his or her business. In determining whether an item of food is sold for immediate consumption, there shall be considered the customary consumption practices prevailing at the selling facility.</p> <p>3. "Premises" shall be construed broadly, and means, but is not limited to, the lobby, aisle, or auditorium of a theater; the seating, aisle, or parking area of an arena, rink, or stadium; or the parking area of a drive-in or outdoor theater. The premises of a caterer with respect to catered meals or beverages shall be the place where such meals or beverages are served.</p> <p>4. "Hot prepared food products" means those products, items, or components which have been prepared for sale in a heated condition and which are sold at any temperature that is higher than the air temperature of the room or place where they are sold. "Hot prepared food products," for the purposes of this subsection, includes a combination of hot and cold food items or components where a single price has been established for the combination and the food products are sold in such combination, such as a hot meal, a hot specialty dish or serving, or a hot sandwich or hot pizza, including cold components or side items.</p>
GA	yes	0.000%	GA. CODE ANN. § 48-3 (b)(1)	Unknown	10/1/96	Follows the Federal Food Stamp Act definition of food: "Food" means (1) any food or food product for home consumption except alcoholic beverages, tobacco, and hot foods or hot food products ready for immediate consumption other than those authorized pursuant to clauses (3), (4), (5), (7), (8), and (9) of this subsection, (2) seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, (3) in the case of those persons who are sixty years of age or over or who receive supplemental security income benefits or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act [42 U.S.C.A. §§ 301 et seq., 401 et seq., 1201 et seq., 1351 et seq., 1381 et seq.], and their spouses, meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by such persons, public or private nonprofit establishments (eating or otherwise) that feed such persons, private establishments that contract with the appropriate agency of the State to offer meals for such persons at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly.
HI	no	4.000%	NA	NA	NA	No food exemption
ID	no	6.000%	NA	NA	NA	No food exemption
IL	yes	1.000%	35 ILL. COMP. STAT. ANN. 105/3-10	07/13/09	09/01/09	Beginning September 1, 2009, "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume. Beginning September 1, 2009, "food for human consumption that is to be consumed off the premises where it is sold" does not include candy. For purposes of this Section, "candy" means a preparation 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 that contains flour or requires refrigeration.
IN	yes	0.000%	IND. CODE ANN. §§ 6-2.5-5-20, 6-2.5-1-12, 6-2.5-1-16, 6-2.5-1-20, 6-2.5-1-26	5/8/03	01/01/04	For purposes of this section, the term "food and food ingredients for human consumption" includes the following items if sold without eating utensils provided by the seller: (1) Food sold by a seller whose proper primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries). (2) Food sold in an unheated state by weight or volume as a single item. (3) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. (c) Except as otherwise provided by subsection (b), for purposes of this section, the term "food and food ingredients for human consumption" does not include: (1) candy; (2) alcoholic beverages; (3) soft drinks; (4) food sold through a vending machine;

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						<p>(5) food sold in a heated state or heated by the seller;</p> <p>(6) two (2) or more food ingredients mixed or combined by the seller for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses);</p> <p>(7) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food); or</p> <p>(8) tobacco.</p> <p>"Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. The term does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent (50%) of vegetable or fruit juice by volume.</p>
IA	yes	0.000%	IOWA CODE ANN. § 423.3, 2012 IA Regulation Text 119	6/19/03, Regulation Filed 08/01/12	7/1/04, Regulation Effective 09/26/12	<p>"food" does not include alcoholic beverages, candy, dietary supplements, food sold through vending machines, prepared food, soft drinks, and tobacco. For the purposes of this subsection:</p> <p>a. "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.</p> <p>b. "Candy" means a preparation 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 shall not include any preparation containing flour and shall require no refrigeration.</p> <p>c. "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that contains one or more of the following dietary ingredients:</p> <p>(1) A vitamin.</p> <p>(2) A mineral.</p> <p>(3) An herb or other botanical.</p> <p>(4) An amino acid.</p> <p>(5) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake.</p> <p>(6) A concentrate, metabolite, constituent, extract, or combination of any of the ingredients in subparagraphs (1) through (5) that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label and as required pursuant to 21 C.F.R. § 101.36.</p> <p>d. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.</p> <p>"Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.</p> <p>2012 IA Regulation Text 119 Text:</p> <p>701--231.4(423) Sales of candy.</p> <p>231.4(1) [D> Definition <D] [A> Definitions <A] . Sales of candy were excluded from exemption prior to July 1, 2004; however, the definition of "candy" applicable to the exclusion was slightly different from the definition set out in this rule. Reference rule [D> 701--21.1(422,423) <D] [A> 701--20.1(422,423) <A] . [D> For the purposes of this rule, "candy" means a preparation 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 shall not include any preparation containing flour and shall require no refrigeration. Any preparation to which flour has been added only for the purpose of excluding its sales from tax and not for any legitimate purpose, culinary or otherwise, shall not be sold exempt from tax under this rule. <D] [A> This rule and the following definitions apply to sales of candy on or after July 1, 2004. <A]</p> <p>[A> a. Candy. For the purposes of this rule, "candy" is a preparation 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" shall not include any preparation containing flour and shall require no refrigeration. Any preparation to which flour has been added only for the purpose of excluding the candy's sales from tax and not for any legitimate purpose, culinary or otherwise, shall not be sold exempt from tax under this rule. This definition is intended to be used when a person is trying to determine if a product that is commonly thought of as "candy" is in fact "candy." For example, the definition would be applied in a situation where a person is trying to determine if a product is "candy" as opposed to a cookie. The definition is not intended to be applied to every type of food product sold. Many products, such as meat products, breakfast cereals, potato chips, and canned fruits and vegetables are not commonly thought of as "candy." The definition of "candy" is not applicable to products such as these since they are not commonly thought of as candy. <A]</p> <p>[A> b. Preparation. Candy must be a "preparation" that contains certain ingredients, other than flour. A "preparation" is a product that is made by means of heating, coloring, molding, or otherwise processing any of the ingredients listed in the definition of "candy." For example, reducing maple syrup into pieces and adding coloring to make maple candy is a form of preparation. <A]</p> <p>[A> c. Bars, drops or pieces. Candy must be sold in the form of bars, drops, or pieces. <A]</p> <p>[A> (1) A "bar" is a product that is sold in the form of a square, oblong, or similar form. For example, if Company A sells one-pound square blocks of chocolate, the blocks of chocolate are "bars." <A]</p> <p>[A> (2) A "drop" is a product that is sold in a round, oval, pear-shaped, or similar form. For example, if Company B sells chocolate chips in a bag, each individual</p>

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						<p>chocolate chip contains all of the ingredients indicated on the label and the chocolate chips are "drops." <A]</p> <p>[A> (3) A "piece" is a portion that has the same makeup as the product as a whole. Individual ingredients and loose mixtures of items that make up the product as a whole are not pieces. EXCEPTION: If a loose mixture of different items that make up the product as a whole are all individually considered candy and are sold as one product, that product is also candy. <A]</p> <p>[A> EXAMPLE 1: Company C sells jellybeans in a bag. Each jellybean is made up of the ingredients indicated on the label. Each jellybean is a "piece" or "drop." <A]</p> <p>[A> EXAMPLE 2: Company D sells trail mix in a bag. The product being sold (trail mix) is made up of a mixture of carob chips, peanuts, raisins, and sunflower seeds. The individual items that make up the trail mix are not "pieces," but instead are the ingredients, which, when combined, make up the trail mix. Therefore, the trail mix is not sold in the form of bars, drops, or pieces. <A]</p> <p>[A> EXAMPLE 3: Company E sells a product called "candy lovers mix." Candy lovers mix is a product that is made up of a loose mixture of jellybeans, toffee, and caramels. Individually, the jellybeans, toffee, and caramels are all candy. The sale of the mixture is the sale of candy since all of the individual items that make up the product are individually considered to be candy. <A]</p> <p>[A> EXAMPLE 4: Company F sells cotton candy which is packaged and sold in grocery stores. Cotton candy contains sugar, corn syrup, water, coloring, and flavoring; it does not contain flour. Cotton candy is not "candy" because it is not sold in the form of a bar, drop, or piece. Cotton candy is, however, "prepared food" under Iowa Code section 423.3(57)"f." <A]</p> <p>[A> d. Flour. In order for a product to be treated as containing "flour," the product label must specifically list the word "flour" as one of the ingredients. There is no requirement that the "flour" be grain-based, and it does not matter what the flour is made from. Many products that are commonly thought of as "candy" contain flour, as indicated on the ingredient label and therefore are specifically excluded from the definition of "candy." Ingredient labels must be examined to determine which products contain flour and which products do not contain flour. Any preparation to which flour has been added only for the purpose of excluding its sales from tax and not for any legitimate purpose, culinary or otherwise, shall not be sold exempt from tax under this rule. For example, a candy bar that contains flour, for a legitimate purpose, is excluded from the definition of "candy." <A]</p> <p>[A> EXAMPLE 1: The ingredient list for a breakfast bar lists "flour" as one of the ingredients. This breakfast bar is not "candy" since it contains flour. <A]</p> <p>[A> EXAMPLE 2: The ingredient list for a breakfast bar lists "peanut flour" as one of the ingredients. This breakfast bar is not "candy" because it contains flour. <A]</p> <p>[A> EXAMPLE 3: The ingredient list for a breakfast bar that otherwise meets the definition of "candy" lists "whole grain" as one of the ingredients, but does not specifically list "flour" as one of the ingredients. This breakfast bar is "candy" because the word "flour" is not included in the ingredient list. <A]</p> <p>[A> EXAMPLE 4: Company E sells a box of chocolates that are not individually wrapped. The ingredient list on the label for the box of chocolates identifies flour as one of the ingredients. The box of chocolates is not "candy" since flour is identified as one of the ingredients on the label. <A]</p> <p>[A> EXAMPLE 5: Company F sells a box of chocolates that are not individually wrapped. The ingredient list on the label for the box of chocolates, which otherwise meets the definition of "candy," does not identify flour as one of the ingredients. The box of chocolates is "candy." <A]</p> <p>[A> EXAMPLE 6: Company G sells high-end licorice--licorice A and licorice B. Licorice A would otherwise be "candy," but its wrapper lists "flour" as an ingredient. Licorice A is not "candy." Licorice B is the same as licorice A, except it does not contain "flour." Licorice B is "candy." <A]</p> <p>[A> e. Other ingredients or flavorings. "Other ingredients or flavorings" as used in this rule means other ingredients or flavorings that are similar to chocolate, fruits or nuts. This phrase includes candy coatings such as carob, vanilla and yogurt; flavorings or extracts such as vanilla, maple, mint, and almond; and seeds and other items similar to the classes of ingredients or flavorings. This phrase does not include meats, spices, seasonings such as barbeque or cheddar flavor, or herbs which are not similar to the classes of ingredients or flavorings associated with chocolate, fruits, or nuts, unless the product otherwise meets the definition of "candy." <A]</p> <p>[A> EXAMPLE 1: Retailer A sells barbeque-flavored peanuts. The ingredient label for the barbeque-flavored peanuts indicates that the product contains peanuts, sugar and various other ingredients, including barbeque flavoring. Since the barbeque-flavored peanuts contain a combination of sweeteners and nuts, and flour is not listed on the label and the nuts do not require refrigeration, barbeque-flavored peanuts are "candy." <A]</p> <p>[A> EXAMPLE 2: Retailer B sells barbeque potato chips. Potato chips are potatoes, a vegetable, and are not commonly thought of as candy. The barbeque potato chips are "food and food ingredients" and not "candy." The fact that the ingredient label for the barbeque potato chips indicates that the product contains barbeque seasoning which contains a sweetener does not change the fact that the barbeque potato chips are not commonly thought of as candy. <A]</p>

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					<p>[A> f. Sweeteners. The term "natural or artificial sweeteners" as used in this rule means an ingredient of a food product that adds a sugary sweetness to the taste of the food product and includes, but is not limited to, corn syrup, dextrose, invert sugar, sucrose, fructose, sucralose, saccharin, aspartame, stevia, fruit juice concentrates, molasses, evaporated cane juice, rice syrup, barley malt, honey, maltitol, agave, and artificial sweeteners. <A]</p> <p>[A> g. Refrigeration. A product that otherwise meets the definition of "candy" is not "candy" if it requires refrigeration. A product "requires refrigeration" if it must be refrigerated at the time of sale or after being opened. In order for a product to be treated as requiring refrigeration, the product label must indicate that refrigeration is required. If the label on a product that contains multiple servings indicates that it "requires refrigeration," smaller size packages of the same product are also considered to "require refrigeration." A product that otherwise meets the definition of "candy" is "candy" if the product is not required to be refrigerated, but is sold refrigerated for the convenience or preference of the customer, retailer, or manufacturer. <A]</p> <p>[A> EXAMPLE 1: Company A sells sweetened fruit snacks in a bag that contains multiple servings. The label on the bag indicates that after opening, the sweetened fruit snacks must be refrigerated. The sweetened fruit snacks "require refrigeration." <A]</p> <p>[A> EXAMPLE 2: Company A sells sweetened fruit snacks in single-serving containers. Other than for packaging, the sweetened fruit snacks are identical to the sweetened fruit snacks in Example 1 above. However, since this container of sweetened fruit snacks only contains one serving, it is presumed that it will be used immediately, and the label does not indicate that after opening, the product must be refrigerated. Even though the label does not contain the statement that after opening the sweetened fruit snacks must be refrigerated, these sweetened fruit snacks are considered to "require refrigeration." <A]</p> <p>[A> EXAMPLE 3: Company A sells chocolate truffles. The label on the truffles indicates to keep the product cool and dry, but does not indicate that the product must be refrigerated. Since the chocolate truffles are not required to be refrigerated, even though the label indicates to keep them cool, the chocolate truffles do not "require refrigeration." <A]</p> <p>231.4(2) Candy, candy-coated items and candy products. Candy-coated items and candy products include those products normally considered to be "candy." Their sales were taxable prior to July 1, 2004, and remain taxable after that date.</p> <p>a. Candy. Candy is a prepared food made of a sugar paste or syrup or other natural or artificial sweeteners often enriched and varied with coloring and flavoring and formed into various shapes.</p> <p>b. Candy-coated items. Candy-coated items are products like fruit or nuts which are dipped or otherwise substantially covered with candy and which would normally be considered candy and which are "candy" under the definition set out in subrule 231.4(1).</p> <p>c. Candy products. Candy products include mixtures containing both candy and noncandy items. The inclusion of candy merely as an incidental ingredient in a product does not make the item a candy product.</p> <p>d. Taxable candy, candy-coated items, and candy products. Candy, candy-coated items, and candy products include: preparation of fruits, nuts or other ingredients in combination with sugar, honey or other natural or artificial sweeteners in the form of bars, drops or pieces; [A> caramel-coated or other candy-coated apples or other fruit; candy-coated popcorn; <A] hard or soft candies including jelly beans, taffy, licorice [A> not containing flour, marshmallows <A] , and mints; dried fruit leathers or other similar products prepared with natural or artificial sweeteners; [D> cotton candy; <D] candy breath mints; chewing gum; and mixes of candy pieces, dried fruits, nuts, and similar items.</p> <p>Sales of items which are normally sold for use as ingredients in recipes but which can be eaten as candy are taxable on and after July 1, 2004. Examples of these items include but are not limited to the following: white, milk, and German chocolate baking squares; unsweetened or sweetened baking chocolate in bars or pieces; white and dark chocolate almond bark; toffee bits; M&M's sold for baking; candy primarily intended for decorating baked goods; and the following baking chips: mint, mint-chocolate, peanut butter, peanut butter and chocolate, butterscotch, chocolate, and butterscotch and chocolate.</p> <p>e. Nontaxable items and products. Candy, candy-coated items, or candy products do not include: jams, jellies, preserves, or syrups; frostings; dried fruits; [D> marshmallows; <D] breakfast cereals; prepared fruit in a sugar or similar base; ice cream or other frozen desserts covered with chocolate or similar coverings; [D> caramel-coated or other candy-coated apples or other fruit; candy-coated popcorn; <D] [A> cotton candy; <A] cakes, cookies, and similar products covered with chocolate or other similar coating; and granola bars. However, these and similar items are taxable if sold as prepared food under rule 701--231.5(423).</p> <p>[A> 231.4(3) Bundled transaction including candy. "Bundled transaction" is defined as the retail sale of two or more products, except real property and services to real property, where (1) the products are otherwise distinct and identifiable and (2) the products are sold for one non-itemized price. <A]</p> <p>[A> a. Candy and food. Products that are a combination of items that are defined as "candy" under this rule and items that are defined as "food and food ingredients" under rule 701--231.3(423) are "bundled transactions" when the items are distinct and identifiable and are sold for one non-itemized price. For example, a bag of multiple types of individually wrapped bars that is sold for one price is two or more distinct and identifiable products sold for one non-itemized price. For purposes of determining whether such a bag of individually wrapped bars is a "bundled transaction," the following criteria apply: <A]</p> <p>[A> (1) Ingredients listed separately. <A]</p>

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						<p>[A] > 1. If a package contains individually wrapped bars, drops, or pieces and the product label on the package separately lists the ingredients for each type of bar, drop, or piece included in the package, those bars, drops, or pieces that have "flour" listed as an ingredient are "food and food ingredients" and those bars, drops, or pieces which do not have "flour" listed as an ingredient are "candy." The determination of whether the package as a whole meets the definition of "bundled transaction" is based on the percentage of bars, drops, or pieces that meet the definition of "food and food ingredient" as compared to the percentage of bars, drops, or pieces that meet the definition of "candy." <A]</p> <p>[A] > 2. Determining the percentage. For purposes of determining the percentage of the sales price or purchase price of the bars, drops, or pieces that meet the definition of "candy" as compared to all of the bars, drops, or pieces contained in the package, the retailer may presume that each bar, drop, or piece contained in the package has the same value. <A]</p> <p>[A] > 3. Presumption of product amount. A retailer may presume that there is an equal number of each type of product contained in the package, unless the package clearly indicates otherwise. <A]</p> <p>[A] > EXAMPLE 1: Retailer A sells a package that contains 100 total pieces of food and food ingredients. There are ten different types of foods and food ingredients in the package. Eight of the types of food and food ingredients included in the package meet the definition of "candy," while two of the types included do not meet the definition of "candy." It is a reasonable presumption that 20 (2/10 times 100) of the pieces are not "candy" and 80 (8/10 times 100) of the pieces are "candy." Therefore, since 80 percent of the product is "candy," the retailer shall treat the entire package as a bundled transaction containing primarily "candy." Sales tax is due on the sales price of the entire package. See Iowa Code section 423.2(8). <A]</p> <p>[A] > EXAMPLE 2: Retailer B sells bulk food and food ingredients by the pound. Each food and food ingredient is in a separate bin or container. Some of the food and food ingredients are "candy" and some of them are not because they contain flour. However, regardless of the items chosen, the retailer charges the customer \$3.49/lb. Customer C selects some items that are "candy" and some that are not and puts them in a bag. Since some of the items in the bag are "candy," the retailer shall treat the entire package as a bundled transaction containing primarily "candy," unless the retailer ascertains that 50 percent or less of the items in the bag are "candy." Even if the retailer ascertains that 50 percent or less of the items in the bag are "candy," sales tax is due on the sales price of the entire package. See Iowa Code section 423.2(8). <A]</p> <p>[A] > (2) Ingredients listed together. If a package contains individually wrapped bars, drops, or pieces and all of the ingredients for each of the products included in the package are listed together, as opposed to being listed separately by each product included as explained in subparagraph (1) above, and even if the ingredient lists "flour" as an ingredient, the product will be treated as "candy," unless the retailer is able to ascertain that 50 percent or less of the products are "candy." Even if the retailer ascertains that 50 percent or less of the items in the bag are "candy," sales tax is due on the sales price of the entire package. See Iowa Code section 423.2(8). <A]</p> <p>[A] > The retailer may presume that each bar, drop, or piece contained in the package has the same value. The retailer may presume that there is an equal number of each type of product contained in the package, unless the package clearly indicates otherwise. <A]</p> <p>[A] > b. Combination of ingredients. Products whose ingredients are a combination of various unwrapped food ingredients that alone are not "candy," along with unwrapped food ingredients that alone are "candy," such as breakfast cereal and trail mix with candy pieces, are considered "food and food ingredients," but not "candy." Sales of these products are not "bundled transactions" because there are not two or more distinct and identifiable products being sold. The combination of the ingredients results in a single product. <A]</p>
KS	no	5.300%	NA	NA	NA	No food exemption
						<p>(2) The term "food and food ingredients" as used in subsection (1) of this section means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" shall not include:</p> <p>(a) Alcoholic beverages;</p> <p>(b) Tobacco;</p> <p>(c) Candy;</p> <p>(d) Dietary supplements;</p> <p>(e) Soft drinks; and</p> <p>(f) Prepared food.</p> <p>(3) For purposes of this section:</p> <p>(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume;</p> <p>(b) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco;</p> <p>(c) "Candy" means a preparation 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" shall not include:</p> <p>1. Any preparation containing flour; or</p> <p>2. Any item requiring refrigeration;</p> <p>(d) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:</p>
KY	yes	0.000%	KY. REV. STAT. ANN. § 139.485	3/18/03	7/1/04	1. Contains one (1) or more of the following dietary ingredients:

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						<p>a. A vitamin; b. A mineral; c. An herb or other botanical; d. An amino acid; e. A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or f. A concentrate, metabolite, constituent, extract, or combination of any ingredient described above; 2. Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and 3. Is required to be labeled as a dietary supplement, identifiable by the "Supplement facts" box found on the label as required pursuant to 21 C.F.R. 101.36; (e) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent (50%) of vegetable or fruit juice by volume; (f) "Food sold through vending machines" means food dispensed from a machine or other mechanical device that accepts payment; (g) "Prepared food" means: 1. Food sold in a heated state or heated by the retailer; 2. Two (2) or more food ingredients mixed or combined by the retailer for sale as a single item except food that is only cut, repackaged, or pasteurized by the retailer, eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of the FDA Food Code so as to prevent food-borne illnesses; or 3. Food sold with eating utensils provided by the retailer, including plates, knives, forks, spoons, glasses, cups, napkins, or straws; (h) Notwithstanding paragraph (g) of this subsection, "prepared food" shall not include the following items if sold without eating utensils provided by the seller: 1. Food sold by a seller whose proper primary North American Industry Classification System classification is manufacturing in sector 311, except subsector 3118; or 2. Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danishes, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. (4) Notwithstanding the provisions of subsection (1) of this section, "food and food ingredients" sold through vending machines or nonmechanical self-service vending systems shall be subject to the tax imposed by this chapter.</p>
LA	yes	0.000%	LA. REV. STAT. ANN. § 47:305	Unknown	7/15/91	<p>Louisiana doesn't necessarily define food, but does have this in their "exemptions from state sales and use tax" statute: (n) Solely for purposes of the state sales and use tax, food sold for preparation and consumption in the home including by way of extension and not of limitation bakery products. (o) Solely for purposes of the state sales and use tax, dairy products. (p) Solely for purposes of the state sales and use tax, soft drinks. (q) Solely for purposes of the state sales and use tax, fresh fruits and vegetables.</p>
ME	yes	0.000%	ME. REV. STAT. ANN. tit. 36, § 1752	grocery staples: last amended 1991; snack food definition repealed 1999	grocery staples: last amended 1991; snack food definition repealed 1999	<p>"Grocery staples" means food products ordinarily consumed for human nourishment. "Grocery staples" does not include spirituous, malt or vinous liquors; soft drinks, iced tea, sodas or beverages such as are ordinarily dispensed at bars or soda fountains or in connection with bars or soda fountains; medicines, tonics, vitamins and preparations in liquid, powdered, granular, tablet, capsule, lozenge or pill form, sold as dietary supplements or adjuncts, except when sold on the prescription of a physician; water, including mineral bottled and carbonated waters and ice; dietary substitutes; candy and confections; and prepared food.</p>
MD	yes	0.000%	MD. CODE ANN., Tax § 11-206			<p>(2) "Food for immediate consumption" means: (i) food obtained from a salad, soup, or dessert bar; (ii) party platters; (iii) heated food; (iv) sandwiches suitable for immediate consumption; or (v) ice cream, frozen yogurt, and other frozen desserts, sold in containers of less than 1 pint. (3) "Facility for food consumption" does not include parking spaces for vehicles as the sole accommodation. (4)(i) "Food" means food for human consumption. (ii) "Food" includes the following foods and their products: 1. beverages, including coffee, coffee substitutes, cocoa, fruit juices, and tea; 2. condiments; 3. eggs; 4. fish, meat, and poultry; 5. fruit, grain, and vegetables; 6. milk, including ice cream; and 7. sugar. (iii) "Food" does not include: 1. an alcoholic beverage as defined in § 5-101 of this article; 2. a soft drink or carbonated beverage; or 3. candy or confectionery.</p>
MA	yes	0.000%	MASS. GEN.	Prior to	Prior to	"Food products" includes cereals and cereal products, flour and flour products, milk and milk products, including ice cream, oleomargarine, meat and meat

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			LAWS ANN. Ch. 64H, § 6	1996	1996	products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, soft drinks, herbs, spices and salt, sugar and sugar products, candy and confectionery; coffee and coffee substitutes, tea, cocoa and cocoa products; and ice when used for household consumption. "Food products" does not include alcoholic beverages as defined in chapter one hundred and thirty-eight except as hereinafter provided, medicines, tonics and preparations in liquid, powdered, granular, tablet, capsule, lozenge and pill form sold as dietary supplements or adjuncts. "Food products" does not include meals consisting of any of the items defined as food products in this paragraph for consumption on or off the premises where sold. "Honor snack tray", any vending arrangement in which only candy or snacks are available in an open tray for the benefit of employees in an establishment that normally does not sell food or food products and for which payment is made on the honor system. "Meals" shall mean any food or beverage, or both, prepared for human consumption and provided by a restaurant, where the food or beverages is intended for consumption on or off the restaurant premises, and includes food or beverages sold on a "take out" or "to go" basis, whether or not they are packaged or wrapped and whether or not they are taken from the premises of the restaurant. (CHANGE TO SALES TAX RATE TO 6.25% effective August 1, 2009
MI	yes	0.000%	MICH. COMP. LAWS ANN. § 205.54g	6/28/04	9/1/04	"Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients do not include alcoholic beverages and tobacco. Food or drink heated or cooled mechanically, electrically, or by other artificial means to an average temperature above 75 degrees Fahrenheit or below 65 degrees Fahrenheit before sale and sold from a vending machine, except milk, nonalcoholic beverages in a sealed container, and fresh fruit, is subject to the tax under this act. The tax due under this act on the sale of food or drink from a vending machine selling both taxable items and items exempt under this subsection shall be calculated under this act based on 1 of the following as determined by the taxpayer: (a) Actual gross proceeds from sales at retail. (b) Forty-five percent of proceeds from the sale of items subject to tax under this act or exempt from the tax levied under this act, other than from the sale of carbonated beverages.
MN	yes	0.000%	MINN. STAT. ANN. § 297A.61 and 297A.67	6/30/01	1/1/02	Subd. 2. Food and food ingredients. Except as otherwise provided in this subdivision, food and food ingredients are exempt. For purposes of this subdivision, "food" and "food ingredients" mean substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients exempt under this subdivision do not include candy, soft drinks, food sold through vending machines, dietary supplements, and prepared foods. Subd. 32. Soft drinks. "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products; soy, rice, or similar milk substitutes; or greater than 50 percent vegetable or fruit juice by volume. Subd. 33. Candy. "Candy" means a preparation 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 and must require no refrigeration.
MS	no	7.000%	NA	NA	NA	No food exemption
MO	yes	1.225%	MO. ANN. STAT. § 144.014	1997	1/1/98	Follows the Federal Food Stamp Act definition of food: "Food" means (1) any food or food product for home consumption except alcoholic beverages, tobacco, and hot foods or hot food products ready for immediate consumption other than those authorized pursuant to clauses (3), (4), (5), (7), (8), and (9) of this subsection, (2) seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, (3) in the case of those persons who are sixty years of age or over or who receive supplemental security income benefits or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act [42 U.S.C.A. §§ 301 et seq., 401 et seq., 1201 et seq., 1351 et seq., 1381 et seq.], and their spouses, meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by such persons, public or private nonprofit establishments (eating or otherwise) that feed such persons, private establishments that contract with the appropriate agency of the State to offer meals for such persons at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly.
MT	no	0.000%	NA	NA	NA	No sales tax
NE	yes	0.000%	NEB. REV. STAT. § 77.2704.24	5/6/03	01/01/04	Food and food ingredients means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients does not include alcoholic beverages, dietary supplements, or tobacco
NV	yes	0.000%	NEV. REV. STAT. ANN. §§ 360B.460, .445, 372.284	6/13/07	10/1/07	"Food" and "food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value, except alcoholic beverages, dietary supplements and tobacco. (2007 legislation added dietary supplements)
NH	no	0.000%	NA	NA	NA	No sales tax
NJ	yes	0.000%	N.J. STAT. ANN. § 54:32B-8.2	7/2/05	10/1/05	a. Receipts from the following are exempt from the tax imposed under the "Sales and Use Tax Act:" sales of food and food ingredients and dietary supplements, sold for human consumption off the premises where sold but not including (1) candy , and (2) soft drinks , all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. b. The exemption in this section is not applicable to prepared food subject to tax under subsection (c) of section 3 of the Sales and Use Tax Act (C.54:32B-3). c. As used in this section: "Candy" means a preparation 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 requiring refrigeration; [during the state verification project in 2007, state said that gum is a type of candy] "Dietary supplement" means any product, other than tobacco, intended to supplement the diet, that: (1) contains one or more of the following dietary ingredients: a vitamin; a mineral; an herb or other botanical; an amino acid; a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; a concentrate, metabolite, constituent, extract, or combination of any ingredient described

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						<p>herein;</p> <p>(2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and</p> <p>(3) is required to be labeled as a dietary supplement, identifiable by the "Supplemental Facts" box found on the label and as required pursuant to 21 C.F.R. s.101.36;</p> <p>"Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include alcoholic beverages or tobacco;</p> <p>"Soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain: milk or milk products; soy, rice or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume ; and</p> <p>"Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.</p>
NM	yes	0.000%	N.M. STAT. ANN. § 7-9-92	3/1/04	01/01/05	<p>Follows the Federal Food Stamp Act definition of food: "Food" means (1) any food or food product for home consumption except alcoholic beverages, tobacco, and hot foods or hot food products ready for immediate consumption other than those authorized pursuant to clauses (3), (4), (5), (7), (8), and (9) of this subsection, (2) seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, (3) in the case of those persons who are sixty years of age or over or who receive supplemental security income benefits or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act [42 U.S.C.A. §§ 301 et seq., 401 et seq., 1201 et seq., 1351 et seq., 1381 et seq.], and their spouses, meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by such persons, public or private nonprofit establishments (eating or otherwise) that feed such persons, private establishments that contract with the appropriate agency of the State to offer meals for such persons at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly.</p>
NY	yes	0.000%	N.Y. TAX LAW § 1115	Prior to 1987	Prior to 1987	<p>1) Food, food products, beverages, dietary foods and health supplements, sold for human consumption but not including (i) candy and confectionery, (ii) fruit drinks which contain less than seventy percent of natural fruit juice, (iii) soft drinks, sodas and beverages such as are ordinarily dispensed at soda fountains or in connection therewith (other than coffee, tea and cocoa) and (iv) beer, wine or other alcoholic beverages, all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. The food and drink excluded from the exemption provided by this paragraph under subparagraphs (i), (ii) and (iii) of this paragraph shall be exempt under this paragraph when sold for seventy-five cents or less through any vending machine activated by the use of coin, currency, credit card or debit card. With the exception of the provision in this paragraph providing for an exemption for certain food or drink sold for seventy-five cents or less through vending machines, nothing herein shall be construed as exempting food or drink from the tax imposed under subdivision (d) of section eleven hundred five.[which taxes food in addition to alcohol sold in restaurants, taverns, and bars]</p>
NC	yes	0.000%	N.C. GEN. STAT. §§ 105-164.13B, 105-164.3	11/29/01	1/1/02	<p>Food. -- Substances that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. The substances may be in liquid, concentrated, solid, frozen, dried, or dehydrated form. The term does not include an alcoholic beverage, as defined in G.S. 105-113.68, or a tobacco product, as defined in G.S. 105-113.4.</p> <p>Candy. -- A preparation 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 that do not require refrigeration. The term does not include any preparation that contains flour.</p> <p>Soft drink. -- A nonalcoholic beverage that contains natural or artificial sweeteners. The term does not include beverages that contain one or more of the following:</p> <ol style="list-style-type: none"> Milk or milk products. Soy, rice, or similar milk substitutes. More than fifty percent (50%) vegetable or fruit juice <p>[NC exempts food, but not candy or soft drinks from sales tax, or sales of food from vending machines:N.C. GEN. STAT. § 105-164.13B]</p>
ND	yes	0.000%	N.D. CENT. CODE § 57.39.2-04.1; § 57.40.2-	3/9/07	9/15/07	<p>"food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for taste or nutritional value.</p> <p>1. For purposes of this section, "food" and "food ingredients" do not include:</p> <ol style="list-style-type: none"> Alcoholic beverages. Candy or chewing gum. Dietary supplements. Prepared food. Soft drinks containing fifty percent or less fruit juice. Tobacco. <p>For purposes of this section:</p> <p>"Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.</p> <p>"Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavoring in the form of bars, drops, or pieces. Candy does not include any preparation containing flour and does not require refrigeration.</p> <p>"Dietary supplement" means any product, other than tobacco, intended to supplement the diet which contains one or more of the following dietary ingredients: a vitamin; a mineral; an herb or other botanical; an amino acid; a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; an oral concentrate, metabolite, constitute, extract, or combination of any dietary ingredients described in this sentence and which is intended for ingestion in tablet, capsule, powder, soft gel, gel cap, or liquid form, or if not represented for use as a sole item of a meal or of a diet; and is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 CFR section 101.36.</p> <p>"Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume.</p>

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						<p>"Food" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food" does not include alcoholic beverages, dietary supplements, soft drinks, or tobacco.</p> <p>"Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.</p> <p>"Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:</p> <p>(i) A vitamin;</p> <p>(ii) A mineral;</p> <p>(iii) An herb or other botanical;</p> <p>(iv) An amino acid;</p> <p>(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;</p> <p>(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)(2)(b)(i) to (v) of this section.</p> <p>"Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.</p> <p>"Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.</p>
OH	yes	0.000%	OHIO REV. CODE ANN. §§ 5739.01, .02	9/15/03	7/1/04	
OK	no	4.500%	NA	NA	NA	No food exemption
OR	no	0.000%	NA	NA	NA	No state sales tax
PA	yes	0.000%	72 PA. CONS. STAT. §§ 7204, 7201	8/4/1991	1/1/92	<p>[PA exempts the following from sales tax]</p> <p>The sale at retail or use of food and beverages for human consumption, except that this exclusion shall not apply with respect to-</p> <p>(i) Soft drinks;</p> <p>(ii) Malt and brewed beverages and spirituous and vinous liquors;</p> <p>(iii) Food or beverages, whether sold for consumption on or off the premises or on a "take-out" or "to go" basis or delivered to the purchaser or consumer, when purchased (A) from persons engaged in the business of catering; or (B) from persons engaged in the business of operating establishments from which ready-to-eat food and beverages are sold, including, but not limited to, restaurants, cafes, lunch counters, private and social clubs, taverns, dining cars, hotels, night clubs, fast food operations, pizzerias, fairs, carnivals, lunch carts, ice cream stands, snack bars, cafeterias, employe cafeterias, theaters, stadiums, arenas, amusement parks, carryout shops, coffee shops and other establishments whether mobile or immobile. For purposes of this clause, a bakery, a pastry shop, a donut shop, a delicatessen, a grocery store, a supermarket, a farmer's market, a convenience store or a vending machine shall not be considered an establishment from which food or beverages ready to eat are sold except for the sale of meals, sandwiches, food from salad bars, hand-dipped or hand-served iced based products including ice cream and yogurt, hot soup, hot pizza and other hot food items, brewed coffee and hot beverages. For purposes of this subclause, beverages shall not include malt and brewed beverages and spirituous and vinous liquors but shall include soft drinks. The sale at retail of food and beverages at or from a school or church in the ordinary course of the activities of such organization is not subject to tax.</p> <p>"Soft drinks." All nonalcoholic beverages, whether carbonated or not, such as soda water, ginger ale, coca cola, lime cola, pepsicola, Dr. Pepper, fruit juice when plain or carbonated water, flavoring or syrup is added, carbonated water, orangeade, lemonade, root beer or any and all preparations, commonly referred to as "soft drinks," of whatsoever kind, and are further described as including any and all beverages, commonly referred to as "soft drinks," which are made with or without the use of any syrup. The term "soft drinks" shall not include natural fruit or vegetable juices or their concentrates, or non-carbonated fruit juice drinks containing not less than twenty-five per cent by volume of natural fruit juices or of fruit juice which has been reconstituted to its original state, or natural concentrated fruit or vegetable juices reconstituted to their original state, whether any of the foregoing natural juices are frozen or unfrozen, sweetened or unsweetened, seasoned with salt or spice or unseasoned, nor shall the term "soft drinks" include coffee, coffee substitutes, tea, cocoa, natural fluid milk or non-carbonated drinks made from milk derivatives.</p>
RI	yes	0.000%	R.I. GEN. LAWS §§ 44-18-30, 44-18-7.1	3/3/07	1/1/07	<p>"Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include "alcoholic beverages," "tobacco," "candy," "dietary supplements" and "soft drinks."</p> <p>"Candy" means a preparation 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" shall not include any preparation containing flour and shall require no refrigeration.</p> <p>"Soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than fifty percent (50%) of vegetable or fruit juice by volume.</p> <p>"Dietary supplement" means any product, other than "tobacco," intended to supplement the diet that:</p> <p>(A) Contains one or more of the following dietary ingredients:</p> <ol style="list-style-type: none"> 1. A vitamin; 2. A mineral; 3. An herb or other botanical; 4. An amino acid; 5. A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or 6. A concentrate, metabolite, constituent, extract, or combination of any ingredient described in above; and <p>(B) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and</p> <p>(C) Is required to be labeled as a dietary supplement, identifiable by the "Supplemental Facts" box found on the label and as required pursuant to 21 C.F.R. §</p>

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						101.36. Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas; and is not sold with utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws [are not taxed]
SC	yes	0.000%	S.C. STAT. ANN § 12-36-2120	5/2/07	7/1/07	Follows the Federal Food Stamp Act definition of food: "Food" means (1) any food or food product for home consumption except alcoholic beverages, tobacco, and hot foods or hot food products ready for immediate consumption other than those authorized pursuant to clauses (3), (4), (5), (7), (8), and (9) of this subsection, (2) seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, (3) in the case of those persons who are sixty years of age or over or who receive supplemental security income benefits or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act [42 U.S.C.A. §§ 301 et seq., 401 et seq., 1201 et seq., 1351 et seq., 1381 et seq.], and their spouses, meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by such persons, public or private nonprofit establishments (eating or otherwise) that feed such persons, private establishments that contract with the appropriate agency of the State to offer meals for such persons at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly.
SD	no	4.000%	NA	NA	NA	No food exemption
TN	yes	5.500%	TENN. CODE ANN. §§ 67-6-228, 67-6-102	6/19/03	7/1/03	"Candy" means a preparation 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 shall not include any preparation containing flour and shall require no refrigeration; "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include alcoholic beverages, tobacco, candy, dietary supplements, or prepared food; "Alcoholic beverages" means beverages that are suitable for human consumption and contain one half of one percent (0.5%) or more of alcohol by volume; "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that: (A) Contains one (1) or more of the following dietary ingredients: (i) A vitamin; (ii) A mineral; (iii) An herb or other botanical; (iv) An amino acid; (v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or (vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in subdivisions (24)(A)(i)-(v); (B) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and (C) Is required to be labeled as a dietary supplement, identifiable by the supplement facts box found on the label and as required pursuant to 21 C.F.R. § 101.36;
TX	yes	0.000%	TEX. TAX CODE ANN. §§ 151.314 and 151.305	6/20/03	10/1/03	Food products for human consumption are exempted from the taxes imposed by this chapter. "Food products" shall include, except as otherwise provided herein, but shall not be limited to cereals and cereal products; milk and milk products, including ice cream; oleomargarine; meat and meat products; poultry and poultry products; fish and fish products; eggs and egg products; vegetables and vegetable products; fruit and fruit products; spices, condiments, and salt; sugar and sugar products; coffee and coffee substitutes; tea; cocoa products; or any combination of the above. "Food products" shall not include: (1) drugs, medicines, tonics, vitamins, dietary supplements, and medicinal preparations in any form; (2) carbonated and noncarbonated packaged soft drinks, which are nonalcoholic beverages that contain natural or artificial sweeteners; (3) ice; or (4) candy. For purposes of this section, diluted juice that is more than 50 percent vegetable or fruit juice by volume is not considered to be a soft drink.
UT	yes	1.750%	UT. ST. ANN. §§ 59-12-102, 103	Unknown	1/1/07	"Food and food ingredients" means substances: (i) regardless of whether the substances are in: (A) liquid form; (B) concentrated form; (C) solid form; (D) frozen form; (E) dried form; or (F) dehydrated form; and (ii) that are: (A) sold for: (I) ingestion by humans; or (II) chewing by humans; and (B) consumed for the substance's: (I) taste; or (II) nutritional value. (b) "Food and food ingredients" includes an item described in Subsection (66)(b)(iii). (c) "Food and food ingredients" does not include:

State	FTA indicates food exemption from tax	FTA indicated food sales tax %	Citation	Enacted Date	Effective Date	Definition (if available) or Notes
						(i) an alcoholic beverage; (ii) tobacco; or (iii) prepared food.
VT	yes	0.000%	32 VT. STAT. ANN. §§ 9701, 9741, 9771	6/3/04	6/3/04	Food and food ingredients: means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include alcoholic beverages or tobacco.
VA	yes	1.500%	Va. Code Ann. § 58.1-611.1	2/18/02	1/1/03	Follows the Federal Food Stamp Act definition of food: "Food" means (1) any food or food product for home consumption except alcoholic beverages, tobacco, and hot foods or hot food products ready for immediate consumption other than those authorized pursuant to clauses (3), (4), (5), (7), (8), and (9) of this subsection, (2) seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, (3) in the case of those persons who are sixty years of age or over or who receive supplemental security income benefits or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act [42 U.S.C.A. §§ 301 et seq., 401 et seq., 1201 et seq., 1351 et seq., 1381 et seq.], and their spouses, meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by such persons, public or private nonprofit establishments (eating or otherwise) that feed such persons, private establishments that contract with the appropriate agency of the State to offer meals for such persons at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly.
WA	yes	0.000%	WASH. REV. CODE ANN. § 82.08.0293	3/26/04	1/1/04	"Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include: (a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and (b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. (2) The exemption of "food and food ingredients" provided for in subsection shall not apply to prepared food, soft drinks, or dietary supplements. "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume. (d) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that: (i) Contains one or more of the following dietary ingredients: (A) A vitamin; (B) A mineral; (C) An herb or other botanical; (D) An amino acid; (E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or (F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection; (ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and (iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.
WI	yes	4.000%	WIS. STAT. §§ 77.51, .54	02/19/09	10/1/2009	(Previous food definition is repealed effective October 1, 2009) Exempt from sales tax is food and food ingredients except for candy, soft drinks, dietary supplements, and prepared food "Food and food ingredient" means a substance in liquid, concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion, or for chewing, by humans and that is ingested or chewed for its taste or nutritional value. "Food and food ingredient" does not include alcoholic beverages or tobacco. 77.51(3n) "Dietary supplement" means a product, other than tobacco, that is intended to supplement a person's diet, if all of the following apply: (a) The product contains any of the following ingredients or any combination of any of the following ingredients: 1. A vitamin. 2. A mineral. 3. An herb or other botanical. 4. An amino acid. 5. A dietary substance that is intended for human consumption to supplement the diet by increasing total dietary intake. 6. A concentrate, metabolite, constituent, or extract. (b) The product is intended for ingestion in tablet, capsule, powder, soft-gel, gel-cap, or liquid form, or, if not intended for ingestion in such forms, is not represented as conventional food and is not represented for use as the sole item of a meal or diet. (c) The product is required to be labeled as a dietary supplement as required under 21 CFR 101.36. "Candy" means a preparation of sugar, honey, or other natural or artificial sweetener combined with chocolate, fruit, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include a preparation that contains flour or that requires refrigeration. "Soft drink" means a beverage that contains less than 0.5 percent of alcohol and that contains natural or artificial sweeteners. "Soft drink" does not include a beverage that contains milk or milk products; soy, rice, or similar milk substitutes; or more than 50 percent vegetable or fruit juice by volume.
WY	yes	0.000%	WY. STAT.	Prior to	Prior to	Exempted is "food for domestic home consumption" . No other definition or explanation is provided.

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			ANN. § 39-15-101	1987	1987	
WV	yes	3.000%	W. VA. CODE §§ 11-15-3a, 3b, 11-15b-2	11/30/06	02/12/07	"Soft drink" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes or greater than fifty percent of vegetable or fruit juice by volume. Food is defined as food for human consumption but excludes soft drinks.