

Restaurants and retailers of prepared food

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This guide was created to assist persons engaged in the selling of prepared food and other related businesses to better understand the Washington State taxes that apply to their businesses. Some of the businesses included are restaurants, cafes, caterers, coffee shops, drive-in restaurants, snack bars, bakeries, personal chefs and some grocery stores.

[Additional information is available on our Food Services and Drinking Places page.](#)

Contents

Business and occupation (B&O) tax

Business and occupation (B&O) tax

Restaurants and similar type businesses are responsible for paying a variety of taxes based upon the activities they conduct. The most common of these taxes include: business and occupation (B&O) tax; Retail Sales Tax, & Use Tax. A brief description of each tax follows.

B&O tax classifications

The most common B&O tax reporting classifications for restaurants and similar businesses include: retailing, wholesaling, and service and other activities.

Retailing: Gross income from sales to consumers of prepared food, soft drinks, cigarettes, and items of tangible personal property.

Wholesaling: Gross income from sales of any taxable item to persons other than consumers. For example, sales of prepared food to a nonprofit organization that is reselling the food as part of a fund raising activity.

Note: To document a wholesale sale, the seller must obtain a reseller permit from the buyer.

Service and other activities: Gross income from “other” sources including: compensation or commissions received for allowing placement of coin-operated machines on the premises (coin-operated telephones, ATM machines, cigarette machines, candy machines, etc.), corkage fees, and allowing patrons access to the Internet. (See [Other Types](#) of Income section.)

Gambling Contests of Chance: Gross income from sales of pull-tabs, punchboard, and bingo games. (See [Games, gambling and similar income](#).)

There are two B&O tax classifications that apply to income received from operating contests of chance:

- Gambling Contests of Chance (less than \$50,000 a year) – rate 1.5%.
- Gambling Contests of Chance (\$50,000 a year or greater) – rate 1.7% through June 30, 2024, and 1.76% thereafter.

Note: Washington cities may also impose a B&O tax. The Department of Revenue does not administer the B&O tax imposed by cities.

B&O tax exemptions and deductions

The law allows an exemption or deduction from the measure of the B&O tax for the following:

- Interstate sales: Prepared food delivered to customers outside the state. For example, pizza.
- Bad debts or dishonored checks: The net amount (before tax) of a dishonored check may be deducted to the extent it was taken as payment for goods or services and was included in amounts previously reported. A deduction may be taken when the debt is actually charged off the books of account.
Note: Any amounts subsequently recovered must be included in gross income and reported.

B&O tax credit for syrup tax paid

Retailers that pay syrup tax when buying carbonated beverage syrup to make carbonated fountain drinks can claim a business and occupation (B&O) tax credit. [Special Notice](#).

Requirements for the B&O tax credit:

- Syrup must be used by the buyer in making carbonated drinks sold by the buyer;
- Credit must be claimed in the tax reporting period when the syrup was purchased;
- Unused credit may be carried forward to future reporting periods for a maximum of one year (12 months from the end of the tax reporting period when the credit was earned);
- Credit may not exceed the B&O tax due; and
- No refunds for credits.

Retail sales tax

Retail sales tax

Collecting Retail Sales Tax

Sales of prepared food

Washington law exempts most grocery type food from retail sales tax. However, the law does not exempt “prepared food,” “soft drinks,” or “dietary supplements.” Businesses that sell these “foods” must collect sales tax. In addition, all alcoholic items are subject to retail sales tax.

What is a prepared food?

Most food that restaurants and similar businesses sell falls within the definition of prepared food or soft drinks and therefore is taxable. Prepared food is defined by law as any food where the seller:

- Combines two or more food ingredients and sells it as a single item ([see certain exclusions below](#));
- Sells the food in a heated state or heats the food; or
- Sells the food with eating utensils such as a plate, fork, knife, spoon or glass/cup straw.

Note: Utensils do not include containers and packaging used for transporting food.

Which beverages are “soft drinks?”

For this document, “soft drinks” are any sealed ready to drink beverages containing natural or artificial sweeteners but that do not contain milk, milk products or milk substitutes, or over 50 percent fruit or vegetable juice.

Can restaurants segregate their sales and not charge sales tax on food items?

Generally restaurants sales of prepared food are greater than 75% of their total sales; therefore, they can not segregate their sales and not charge sales tax on food and food ingredients. As of January 2008, retailers that primarily sell (more than 75% of their sales of food items) prepared food must collect retail sales tax on all sales of food and food ingredients, except food items sold as 4 or more servings. Food items of four servings or more of food or food ingredients packaged for sale as a single item and sold for a single price remain exempt from retail sales tax, unless the seller provides utensils.

Note: The seller must properly segregate between taxable and nontaxable sales. For more information please refer to our Special Notice on [Prepared Food](#) (pdf).

Are there any exemptions that apply if the prepared food sales by a retailer are less than 75% of their sales?

If prepared food sales by a retailer are less than 75% and they properly segregate their sales of taxable items from nontaxable items, then the following food and beverages may generally be sold tax exempt, provided eating utensils are not provided to the customer:

- Bakery items.
- Two or more food ingredients combined by the seller if the food is:
 - Only cut, repackaged, or pasteurized by the seller.
 - Sold in an unheated state by weight or volume as a single item, such as potato salad sold by the ounce.
 - Raw meat, eggs, fish, poultry or an item containing these raw foods and requires cooking as recommended by FDA.
- Ready to drink sealed beverages containing milk/milk product or milk substitute.
- Ready to drink sealed beverages containing over 50% fruit or vegetable juice.

More sales tax exemptions

- Sales to certain foreign diplomats/officials: The buyer must present an exemption card at the time of purchase. A colored stripe on the card identifies the level of exemption granted to foreign diplomats.
- Interstate sales: Sales of prepared food delivered to the customer outside the state such as pizza delivery.
- Sales of prepared food to nonprofit organizations engaging in a fund raising activity: The nonprofit organization must provide a reseller permit to the restaurant. The sale is subject to B&O tax under the wholesaling classification.
- Bad debts or dishonored checks: The net amount (before tax) of a dishonored check is deductible to the extent it was taken as payment for goods or services and was included in amounts previously reported. Deduction is allowed at the time the debt is actually charged off the books of account.

Note: Any bad debt amount that is subsequently recovered must be included in the gross sales amount and reported.

References: [RCW 82.08.0293](#); [WAC 458-20-119](#); [WAC 458-20-196](#); [WAC 458-20-124](#); [WAC 458-20-107](#), [WAC 458-20-110](#), [WAC 458-20-102](#), and [WAC 458-20-244](#)

Paying sales tax

Paying sales tax

Taxable purchases

Restaurants and similar businesses are considered consumers when purchasing goods or retail services for its own use and must pay retail sales or use tax when purchasing the following:

- Cash registers, computer equipment and maintenance contracts.
- Chairs, tables and other furnishings.
- Dishes, silverware and plastic trays.
- Equipment (ovens, grills, coffee makers, etc.).
- Guest checks.
- Inventory withdrawals (usually shirts and caps worn by employees).
- Janitorial supplies.
- Leasehold or building equipment.
- Matches, pens and magazine subscriptions.
- Pest control.
- Punchboard and pull tabs.
- Repair parts and labor.
- Signs, lighted and unlighted advertising items and pictures.
- Supplies and other items used in operation that are not for resale.
- Tangible personal property purchased as prizes for punchboard winners.
- Tap and vent cleaning.
- Vending machines (purchases or rentals).

Goods for resale

Restaurants and similar businesses may use a reseller permit to purchase the following tax exempt:

- Apparel and merchandise.
- Inventory/meal ingredients.
- Liquor, beer, and wine.
- Paper napkins, toothpicks and straws.
- Paper/plastic plates, cups, lids, and plastic utensils.
- Soft drinks.
- “To-go” food containers.

References: [RCW 82.08.0293](#), [WAC 458-20-124](#); [WAC 458-20-244](#); [WAC 458-20-102](#); and [WAC 458-20-178](#).

Use tax

Use tax

Use tax is a tax imposed on the use of tangible personal property in Washington when sales tax has not been paid. It is computed at the same rate as the sales tax. Unless specifically exempt by law, all tangible personal property purchased or used in this state is subject to either the sales tax or use tax, but not both, regardless of where or from whom the property is purchased.

There are many instances where sales tax is not paid to the seller. The following are examples of transactions where use tax would be due if sales tax wasn't paid on the acquisition of these items:

- Catalog purchases
- Internet purchases
- Inventory withdrawals

To report use tax, total your taxable purchases and list the amount on the use tax lines (state and local) of the excise tax return.

Note: Sales tax applies to the selling price whereas use tax applies to the value. The local use tax rate is determined by the location where the goods are used.

References: [RCW 82.08.020](#) and [RCW 82.12.020](#); [WAC 458-20-178](#)

Local sales/use tax

Local sales/use tax

Place of sale and local sales/use tax

The local sales tax is calculated using the rate at the location where the meals are served. Generally this will be the location of the restaurant. However if the customer receives the meals at a different location, then tax is calculated using the rate at the location where delivery occurs.

When reporting use tax, the correct location code is the location of first use.

A complete list of location codes and tax rates is available in the list of sales and use tax rates that is mailed each quarter with the excise tax return.

Note: The local tax code used on the tax return determines how the Department will distribute local sales and use taxes. Because local governments depend upon these taxes to fund local services, it's important to use the correct location code.

References: [RCW 82.14.020](#); [RCW 82.08.0293](#); [WAC 458-20-124](#); [WAC 458-20-244](#); [WAC 458-20-145](#); [WAC 458-20-12401](#)

Restaurants, cafes, coffee shops, snack bars, etc.

Restaurants, cafes, coffee shops, snack bars, etc.

Generally restaurants and the like predominately sell prepared food (see discussion under [Tax Information for Retailers of Prepared Food](#)); therefore they must collect retail sales tax on the sales of all food and food ingredients sold by them. Additionally, they must pay Business and Occupation (B&O) tax under the retailing classification on all food and food ingredients sold by them.

For more information please also refer to [WAC 458-20-244](#) & [WAC 458-20-124](#).

Bakeries

Bakeries

Generally items sold by bakeries (see Bakery Items, below) are exempt from retail sales tax; unless the item is sold with a utensil. However the charges for the nontaxable bakery items must be properly segregated from the charge for any taxable items, such as a cup of coffee. Otherwise, the entire un-segregated charge is subject to retail sales tax.

Bakeries must report their entire gross income under the retailing classification for Business and Occupation (B&O) tax purposes. Additionally bakeries should report their full gross income under the retail sales tax classification and take a deduction for “exempt food sales” (0122).

Bakery items

Bakery items are exempt from retail sales tax unless the item is sold with eating utensils provided by the seller.

Bakery Items include bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danishes, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. Exempt bakery items tend to be sweet, and may include items filled with jelly, cream, fruit, or other sweet filling.

Bakery items that **do not** qualify for the exemption tend to be savory items, and may include meat, cheese, and/or vegetable filled foods such as pizzas, calzones, quiches, piroshkies, sandwiches, or other baked goods consumed as a meal.

Utensils include plates, knives, forks, spoons, glasses, cups, napkins, and straws. Utensils **do not** include bags, boxes, and other containers or packaging used to transport bakery items.

Caterers and catering

Caterers and catering

Are caterers required to collect sales tax?

Caterers must collect retail sales tax on their total charge to customers for catering services. This includes the charge for meals, equipment, decorations, as well as the catering service.

The caterer must collect sales tax based on the location where the meals are served.

Wholesale sales

Caterers selling to persons other than consumers are making wholesale sales and may accept a reseller permit and report under the Wholesaling B&O tax classification. Retail sales tax does not apply to these sales.

Do caterers have to pay sales tax on purchases?

Yes. Caterers must pay retail sales or use tax on purchases or rentals of items for their own use in the business. The caterer is considered to be the consumer of all tangible personal property used. The tax applies even if the caterer itemizes the charge to the customer for the use of the items.

Taxable items include:

- Plates
- Glasses
- Linens

- Serving utensils
- Silverware
- Decorations
- Cooking equipment

References: [WAC 458-20-124](#); [WAC 458-20-119](#)

Combination businesses

Combination businesses

What is a combination business?

A “combination business” is a business that sells both taxable and nontaxable goods at one location.

Sellers operating a combination business must collect sales tax on all their sales unless the seller properly segregates taxable and nontaxable sales.

A cash register or electronic checking machine that is programmed to identify and separately tax sales of taxable goods is sufficient segregation.

Note: Combination businesses that have prepared food sales greater than 75% of their total food sales (see discussion on [Tax Information for Retailers of Prepared Food](#)) are not allowed to segregate their sales and must charge retail sales tax on the sales of all food items, except sales of food with four or more servings and sales of eligible foods under the Federal Food Stamp Act.

References: [RCW 82.08.0293](#), [WAC 458-20-124](#), [WAC 458-20-119](#)

Delicatessens

Which food and beverage sales by a deli are subject to sales tax?

Delicatessens offer a variety of food and beverages for sale. Some foods are “prepared food” such as sandwiches, soups, or salads and are generally subject to sales tax. However, nontaxable grocery type foods such as canned or prepackaged food, baked goods, and meats and cheeses are also sold by delis.

If the deli’s sales of prepared food are less than 75% of their total food sales and the deli properly segregates taxable and nontaxable sales then the deli needs only to collect sales tax on sales of taxable food items and soft drinks.

Taxable food and beverages sold by a deli include:

- Any food or beverage sold with or in a cup, plate, napkin, fork, spoon, bowl, etc.
- Any food or beverage sold hot, except bakery items
- Any food or beverage where the seller has combined two or more ingredients – unless:
 - The seller merely cut, repackaged, or pasteurized the food items (sliced meats and cheeses).
 - The seller sells the item unheated and by weight or volume as a single item (salads).
 - The food is raw meat, fish, poultry, or eggs, or contains any of these raw ingredients and recommended by the FDA to be cooked.

Tax exempt food and beverages include:

- Fresh fruit/vegetables
- Bakery items sold without a utensil
- Other bottled or canned beverages containing over 50 percent fruit or vegetable juice, or milk, milk product, or milk substitute
- Candy
- Canned goods
- Prepackaged food (packaged by the manufacturer)

If the deli's sales of prepared food are greater than 75% of their total food sales, then the deli must charge retail sales tax on all food items. (See discussion on [Tax Information for Retailers of Prepared Food](#))

Note: Items of four or more servings (sold without utensils) remain exempt from sales tax.

For more information please see the previous discussion on "[Collecting Retail Sales Tax](#)."

Espresso stands**Which food and beverage sales are subject to sales tax?**

Espresso stands and coffee shops generally sell prepared coffee and coffee beverages. Many also sell sandwiches, soups, and other foods such as bottled water or juices, prepackaged chips, cookies, or muffins and coffee beans (whole bean or ground) by the pound.

Sellers that make utensils available to customers and sell both prepared foods and other foods must determine whether their prepared food sales make up more than 75 percent of their total food sales. This calculation can be done on an annual basis to apply for the subsequent years sales.

For more information about calculating the 75 percent threshold, please see discussion on [Tax Information for Retailers of Prepared Food](#).

Sellers that meet the 75 percent threshold must collect sales tax on most food sales. In this case, the only foods that may be sold tax-exempt are foods that are packaged as four or more servings, are generally exempt, and are sold for a single unit price. For example, coffee beans (ground or whole) sold by the pound.

Sellers below the 75 percent threshold may continue to segregate their food sales and collect sales tax only on sales of foods that they prepare, or foods that they sell in a manner that an eating utensil is necessary to receive the food.

Can I include the sales tax in my sales price?

Sales tax can be included in the sales price but only if the price list and other price information clearly indicate that sales tax is included. See the [Including Sales Tax in the Price section](#).

References: [RCW 82.08.0293](#); [WAC 458-20-124](#); [WAC 458-20-244](#); [WAC 458-20-119](#)

Pizza: Prepared and delivered or take-and-bake

Do I collect sales tax on “take and bake” pizzas?

When the seller is the one who combines two or more ingredients to make the pizza, the seller must collect sales tax.

Retail sales tax does not apply to sales of prepackaged pizza when sold by a person who did not combine the ingredients.

Example: Retail sales tax does not apply to pizza when sold by a grocery store when the grocer does not make the pizza or combine the ingredients.

What if I deliver pizza to a customer outside the state?

If you deliver pizza to the customer at a location outside the state, Washington’s tax does not apply. You may take an “interstate sale” deduction under both retail sales tax and retailing B&O tax.

References: [WAC 458-20-124](#); [WAC 458-20-12401](#) and [WAC 458-20-193](#)

Spirits, beer and wine lounge; Taverns

Spirits, beer and wine lounge; Taverns

Spirits, beer and wine lounge

The term “Spirit, Beer and Wine Lounge” (Lounge) as defined by the Liquor and Cannabis Board, means any establishment licensed to sell beer, wine and spirits. Nonalcoholic beverages and food may also be sold at these establishments. Minors may be allowed in these establishments provided they meet requirements set forth by the Liquor and Cannabis Board.

Taverns

The term “Spirit, Beer and Wine Lounge” (Lounge) as defined by the Liquor and Cannabis Board, means any establishment licensed to sell beer, wine and spirits. Nonalcoholic beverages and food may also be sold at these establishments. Minors may be allowed in these establishments provided they meet requirements set forth by the Liquor and Cannabis Board.

Personal chefs

Personal chefs

Personal chefs are independent persons (not employees) that prepare and serve food in private homes for consumption by household members and their guest. Occasionally, personal chefs prepare meals for social events, such as dinner parties, cocktail parties, engagement parties, weddings, and receptions. Some personal chefs also shop for groceries, purchase beverages, hire service people, rent equipment, and order flowers for events.

Generally, personal chefs who prepare food must collect retail sales tax and pay business and occupation tax under the Retailing classification on their income.

Note: Retail sales tax applies to sales of meals by personal chefs (when the chef provides the ingredients) prepared and frozen or refrigerated for late consumption unless the meals (at the time of freezing or

refrigeration) contain raw eggs, fish, meat, or poultry that the Food and Drug Administration recommends be cooked to prevent food borne illness.

For more information please refer to our Special Notices on [Personal Chefs](#) (pdf) and [Prepared Food Tax Changes](#) (pdf).

Tax information for retailers of prepared food

Tax information for retailers of prepared food

This information explains a change in the taxability of food items when sold by businesses that make eating utensils available to customers. A business must collect retail sales tax on all food item sales if its sales of “prepared foods” make up more than 75 percent of its annual sales of food and food ingredients.

Sellers may elect to collect sales tax on all sales, whether or not sales of prepared foods make up more than 75 percent of the seller’s annual sales of food and food ingredients.

Sales of “prepared food” are subject to sales tax. “Prepared food” is defined in detail in amended [WAC 458-20-244](#) (Rule 244) but generally means heated foods, combined foods, or foods sold with utensils that are “provided by the seller.” In general, food is sold with utensils “provided by the seller” if:

- A utensil is physically given or handed to the buyer as part of the seller’s customary practice for the food item.
- A utensil (a plate, glass, cup, or bowl only) is necessary to receive the food.
- A utensil is made available by the seller and the seller’s percentage of prepared foods sales is greater than 75 percent.

Determining percentage of prepared food sales

Determining percentage of prepared food sales

Sellers of prepared food that make utensils available must calculate their percentage of prepared food sales.

Formula

Percentage of prepared food equals n/d

Numerator (n) represents prepared food

Denominator (d) represents all food sales

Numerator

The numerator includes sales of the following prepared foods:

1. Food sold in a heated state or heated by the seller, except bakery items.
2. Foods where the seller has combined two or more ingredients, except:
 - bakery items
 - food that is only cut, repackaged, or pasteurized by the seller
 - food that contains eggs, fish, meat, or poultry in a raw or undercooked state requiring cooking to prevent food-borne illness
 - food sold in an unheated state at a price that varies based on weight or volume
3. Food items where a plate, bowl, glass or cup is necessary to receive the food.

Denominator

The denominator includes all sales of food and food ingredients (including prepared foods), soft drinks, and dietary supplements.

n
d = percentage of prepared food

Note:

1. If the seller of prepared food wants to segregate their food sales and not charge sales tax on food and food ingredients, they must make this calculation annually.
2. Food items that are four or more servings are exempt from sales tax even if the retailer sells more than 75 percent prepared food. (Unless the seller provides utensils.)
3. Nonfood items (i.e. tobacco, alcohol, medicines, hygiene items, block ice, dry ice, and ice in bags of greater than 10 lbs.) are not included in the calculation.
4. For a definition of food and food ingredients please refer to [WAC 458-20-244](#).

How to calculate prepared food sales percentages

How to calculate prepared food sales percentages

Example 1

Tiny Town Theater operates a concession stand at their theater. The concession stand has utensils on the counter for the customers to use (i.e. napkins, lids, plastic ware, straws, etc.).

In 2017, Tiny Town Theater made the following sales:

Hot dogs	\$25,000
Popcorn	\$30,000
Fountain drinks	\$30,000
Candy bars	\$5,000
Other candy	\$10,000
Nachos	\$15,000
Bottled water	\$2,000
Bottled juice (more than 50 percent juice)	\$2,000
Sealed soft drinks (pop)	\$5,000
Sealed beverages containing milk (i.e. cold coffee drinks)	\$1,000
Coffee	\$2,500
Potato chips	\$2,000
Milk	\$1,000
Fruit	\$1,000
Cheesecake (single servings on a plate, made by a local bakery, not the theater)	\$500

Mr. Jones, the bookkeeper, is preparing the annual calculation to determine whether sales of prepared foods make up more than 75 percent of the theater's annual sales of food and food ingredients. Here is his calculation:

Step 1: Calculate the Numerator

The numerator includes the following items (items are to be counted only once in the numerator, even if they qualify under more than one classification):

1. All foods sold in a heated state:

Hot dogs \$25,000
 Popcorn \$30,000
 Nachos \$15,000
 Coffee \$2,500

2. Combined foods (all foods where the seller combines two or more ingredients)

Fountain drinks (combined syrup and water) \$30,000

3. Foods sold where a utensil is necessary to receive the food

Cheesecake (served on a plate) \$500
 Fountain drinks (cup required to receive drink, except counted in #2 above)

The total amount for the **numerator** is \$103,000 (\$72,500 heated food, + \$30,000 combined foods, + \$500 utensil necessary)

Step 2: Calculate the Denominator

The denominator includes food, food ingredients, prepared food, soft drinks, and dietary supplements. (Items are to be counted only once in the denominator, even if they qualify under more than one classification):

1. Food includes:

Hot dogs	\$25,000
Pop corn	\$30,000
Candy bars	\$5,000
Other candy	\$10,000
Nachos	\$15,000
Bottled water	\$2,000
Bottled juice (more than 50% juice)	\$2,000
Sealed beverages containing milk	\$1,000
Coffee	\$2,500
Potato chips	\$2,000
Milk	\$1,000
Fruit	\$1,000
Cheese cake (served on a plate)	\$500

2. Food ingredients:

The theater does not separately sell any items that are classified as food ingredients.

3. Soft drinks include:

Fountain drinks \$30,000

Sealed soft drinks \$5,000

4. Dietary supplements:

The theater does not sell any items that are classified as dietary supplements.

The total for the *denominator* would be \$132,000 (\$97,000 food items, + \$35,000 soft drinks).

Step 3: Calculate the Percentage

The percentage of prepared food sales is determined by dividing the *numerator (n)* by the *denominator (d)*. In this example the calculation would be:

$$\frac{n}{d} = \frac{\$103,000}{\$132,000} = .780 \text{ or } 78\%$$

Step 4: Determination

Tiny Town Theater's percentage of prepared food sales in 2017 was greater than 75 percent. Therefore, they are classified as predominately selling prepared food. During 2018 the Tiny Town Theater is required to collect retail sales tax on all sales of food items. This includes items that were not previously subject to retail sales tax:

- candy bars
- other candy
- bottled juice
- sealed beverages containing milk
- potato chips
- milk
- fruit

After 2018, Tiny Town Theater is required to recalculate their percentage of prepared food sales annually. If the sales remain above 75 percent, they are required to continue to collect retail sales tax on all food items. If their prepared food sales drop below 75 percent then they may segregate their sales and only collect retail sales tax on those items which do not qualify for the food and food ingredients exemption. In this example, the following items would remain subject to retail sales tax:

- bottled water
- hot dogs
- popcorn
- fountain drinks
- nachos
- sealed soft drinks
- coffee
- cheesecake

However, the following items would be exempt from retail sales tax, if the sales are properly segregated:

- candy
- bottled juice
- sealed beverages containing milk
- bags of potato chips
- milk
- fruit

How to calculate prepared food sales percentages (continued)

How to calculate prepared food sales percentages (continued)

Example 4

Giant Food Store, Inc. is a large grocery store. In addition Giant Food Store also has a deli and bakery and a “you–make–it” salad bar onsite. The deli has utensils (i.e. napkins, lids, plastic ware, straws, etc.) on their counters for customer use. Previously, Giant Food Store had segregated their sales and not charged retail sales tax on exempt food items. Deli items could be purchased at the deli counter or paid for at the checkout stand. Bakery items and other food items can only be paid for at the checkout stand. Giant Food Store decides they would like to see if they can continue to segregate their sales and not have to charge sales tax on all food items.

In 2017, Giant Food Store, Inc. made the following sales. (Since Giant Food Store has a deli on their site (same entity) they must include the sales of the grocery store and the sales of the deli when making this calculation.)

Deli sales:

Hamburgers/cheeseburgers	\$100,000
Deli sandwiches	\$300,000
Hot wings	\$200,000
Chicken strips	\$100,000
Potato salad (sold in containers by weight)	\$75,000
Jo Jo’s	\$55,000
Burritos	\$75,000
Fruit salad (sold in containers by weight)	\$45,000
4-Bean salad (sold in containers by weight)	\$20,000
French fries	\$35,000
Onion rings	\$15,000
Fountain drinks (soda pop)	\$300,000
Bottled water	\$10,000
Bottled juice (more than 50% juice)	\$10,000
Coffee	\$92,500
Sealed milk	\$12,000
Hot apple pie (by the slice, served on a plate)	\$15,000
Chocolate cake (by the slice)	\$20,000
Meat (sliced and repackaged by the deli)	\$30,000
Cheese (sliced and repackaged by the deli)	\$25,000
Meat and cheese platter	\$50,000
Combo meal #1 (cheese burger, french fries, soft drinks)	\$135,000
Combo meal #2 (chicken strips, Jo Jo’s, soft drink)	\$75,000

Bakery items sales:

Donuts	\$75,000
Box of donuts (12)	\$40,000

Whole pies	\$75,000
Whole cakes	\$80,000
Bagels	\$50,000

Grocery store sales:

Spices (food ingredient)	\$30,000
Exempt food items	\$3,285,300
Alcoholic beverages (beer and wine)	\$350,000
Sealed soft drinks (soda pop)	\$400,000
Tobacco	\$175,000
Cough drops	\$25,000
Gum and candy	\$300,000
Ice (cubed)	\$30,000
Ice (block)	\$15,000
Dietary supplements	\$45,000
Salad bar sales	\$135,000

(Giant Food Stores does not combine any of the food items. The customer makes his own salad in a Styrofoam to-go container.)

Ms. Wilson, their CPA, is preparing their annual calculation to evaluate whether Giant Food Stores Inc. predominately sells prepared foods. In making this evaluation, she must determine whether 75 percent or more of their sales are considered prepared foods. Her calculation follows:

Step 1: Calculate the numerator

The numerator includes the following items (items are to be counted only once in the numerator, even if they could qualify under more than one classification):

1. All foods sold in a heated state:

Hamburgers/cheeseburgers	\$100,000
Hot wings	\$200,000
Chicken strips	\$100,000
Jo Jo's	\$55,000
Burritos	\$75,000
French fries	\$35,000
Onion rings	\$15,000
Coffee	\$92,500

Note: Although the apple pie is served heated, it is not included in this portion of the calculation because it is a bakery item.

2. Combined foods (all foods where the seller combines two or more ingredients)

Deli sandwiches	\$300,000
Fountain drinks (soda pop)	\$300,000
Combo meal #1 (cheese burger, French fries, soft drinks)	\$135,000
Combo meal #2 (chicken strips, Jo Jo's, soft drink)	\$75,000

Note:

- Although the salads (potato, 4-bean, and fruit) are made with two or more ingredients, they are exempt from this calculation, because they are sold by volume or weight.
- Although the cakes, pies, bagels, and donuts are made with two or more ingredients, they are exempt from this calculation because they are considered bakery items.

3. Foods sold where a utensil is necessary to receive the food

Hot apple pie (by the slice)	\$15,000
Cake by the slice	\$20,000
Salad bar sales	\$135,000

Note:

- The salad bar sales are included in this calculation, even though the store does not combine the ingredients. The Styrofoam container is considered a necessary utensil to receive the food.
- Even though the hot apple pie and cake by the slice are both bakery items, they are included because they are served with a utensil (plate).

The total amount for the **numerator** is \$1,652,500 (\$672,500 heated food, + \$810,000 combined foods + \$170,000 utensil necessary).

Step 2: Calculate the denominator

The denominator includes food, food ingredients, prepared food, soft drinks, and dietary supplements. (Items are to be counted only once in the denominator, even if they qualify under more than one classification.)

1. Food includes:

Hamburgers/cheeseburgers	\$100,000
Deli sandwiches	\$300,000
Hot wings	\$200,000
Chicken strips	\$100,000
Potato salad	\$75,000
Jo Jo's	\$55,000
Burritos	\$75,000
Fruit salad	\$45,000
4-Bean salad	\$20,000
French fries	\$35,000
Onion rings	\$15,000

Bottled water	\$10,000
Bottled juice (more than 50% juice)	\$10,000
Coffee	\$92,500
Sealed milk	\$12,000
Hot apple pie (by the slice)	\$15,000
Chocolate cake (by the slice)	\$20,000
Meat (sliced and repackaged by the deli)	\$30,000
Cheese (sliced and repackaged by the deli)	\$25,000
Meat and cheese platter	\$50,000
Combo meal #1 (cheeseburger, french fries, soft drinks)	\$135,000
Combo meal #2 (chicken strips, Jo Jo's, soft drink)	\$75,000
Donuts	\$75,000
Box of donuts (12)	\$40,000
Whole pies	\$75,000
Whole cakes	\$80,000
Bagels	\$50,000
Exempt food items	\$3,285,300
Gum and candy	\$300,000
Ice (cubed)	\$30,000
Salad bar sales	\$135,000

2. Food ingredients:

Spices \$30,000

3. Soft drinks include:

Fountain drinks \$300,000

Sealed soft drinks \$400,000

4. Dietary supplements:

Dietary supplements \$45,000

The total for the *denominator* would be \$6,339,800 (\$5,564,800 food items, + \$30,000 food ingredients, + \$700,000 soft drinks + \$45,000 dietary supplements)

Note: Although the store made the following sales, these sales are not part of the calculation:

- Beer and wine – \$350,000 (Alcoholic beverages are not considered food items and therefore are not part of the calculation.)

- Tobacco – \$175,000 (Tobacco products are not considered food items and therefore are not considered part of the calculation.)
- Cough drops – \$25,000 (Medicines and hygiene products are not considered food items and therefore are not part of the calculation.)
- Ice (block) – \$15,000 (Block and dry ice are not considered food items and therefore are not part of the calculation.)

Step 3: Calculate the percentage

The percentage of prepared food sales is determined by dividing the *numerator (n)* by the *denominator (d)*. In this example the calculation would be:

$$n/d = \text{percentage}$$

$$\begin{aligned} n \text{ \$1,652,500} &= .261 \text{ or } 26.1\% \\ &= \\ d \text{ \$6,339,800} \end{aligned}$$

Step 4: Determination

Giant Food Store's percentage of prepared food sales in 2017 was less than 75 percent. Therefore, they are not classified as predominately selling prepared food. During 2018, the store may segregate its sales and is not required to collect retail sales tax on exempt food items (food and food ingredients).

Even though Giant Food Stores is not required to collect sales tax on all food items, the following items would remain subject to retail sales tax:

- bottled water
- hamburgers/cheeseburgers
- deli sandwiches
- hot wings
- chicken strips
- Jo Jo's
- burritos
- french fries
- onion rings
- fountain drinks
- coffee
- hot apple pie (served on a plate)
- chocolate cake (served on a plate)
- combo meal #1
- combo meal #2
- salad bar sales
- alcoholic beverages
- sealed soft drinks
- tobacco products
- juice containing less than 50% juice
- cough drops (all medicines except prescribed)
- ice in blocks
- dietary supplements (except prescribed)

For more information, please see our [Special notices: food and food ingredients](#)

How to calculate prepared food sales percentages (continued)

How to calculate prepared food sales percentages (continued)

Example 3

Mega Burgers Inc. is a large fast food corporation with six locations in the state of Washington. They also have several locations outside of Washington. Previously, Mega Burgers had segregated their sales and did not charge retail sales tax on exempt food items (food and food ingredients) as previously allowed under the rule ([WAC 458-20-244](#)). Mega Burgers has utensils (i.e. napkins, lids, plastic ware, straws, etc.) on the counters for customer use. Mega Burgers decides they would like to see if they can continue to segregate their sales and not have to charge sales tax on all items.

In 2017, Mega Burgers Inc made the following sales: (Even though Mega Burgers has six locations in Washington, because they are a single entity they must combine all sales for all Washington locations when making this calculation. They do not have to include locations outside of Washington.)

Hamburgers/cheeseburgers	\$835,000
Fish burgers	\$450,000
French fries	\$325,000
Onion rings	\$275,000
Milkshakes	\$650,000
Fountain drinks (soda pop)	\$1,000,000
Bottled water	\$30,000
Bottled juice (more than 50% juice)	\$10,000
Coffee	\$92,500
Sealed milk	\$25,000
Fruit (apples/oranges)	\$11,000
Cookies	\$115,000
Combo meal #1 (cheeseburger, french fries, soft drinks)	\$535,000
Combo meal #2 (fish burger, onion rings, milkshake)	\$175,000

Mr. Smith, their CPA, is preparing their annual calculation to evaluate whether Mega Burgers predominately sells prepared foods. In making this evaluation, he must determine whether 75 percent or more of their sales are considered prepared foods. His calculation follows:

Step 1: Calculate the numerator

The numerator includes the following items: (Items are to be counted only once in the numerator, even if they qualify under more than one classification.)

1. All foods sold in a heated state:

Hamburgers/cheeseburgers	\$835,000
Fish burgers	\$450,000
French fries	\$325,000

Onion rings	\$275,000
Coffee	\$92,500

2. Combined foods (all foods where the seller combines two or more ingredients)

Combo meal #1	\$535,000
Combo meal #2	\$175,000
Fountain drinks (combined syrup and water)	\$1,000,000
Milkshakes (combined mix and syrup)	\$650,000

Note: Although the cookies are made with two or more ingredients, they are exempt from this calculation, because they are classified as a bakery item.

3. Foods sold where a utensil is necessary to receive the food

- Milkshakes (cup required to receive drink, except counted in #2 above)
- Fountain drinks (cup required to receive drink, except counted in #2 above)

The total amount for the **numerator** is \$4,337,500 (\$1,977,500 heated food, + \$2,360,000 combined foods, + \$0 utensil necessary)

Step 2: Calculate the Denominator

The denominator includes food, food ingredients, prepared food, soft drinks, and dietary supplements. (Items are to be counted only once in the denominator, even if they qualify under more than one classification.):

1. Food includes:

Hamburgers/cheeseburgers	\$835,000
Fish burgers	\$450,000
French fries	\$325,000
Onion rings	\$275,000
Milkshakes	\$650,000
Bottled water	\$30,000
Bottled juice	\$10,000
Coffee	\$92,500
Sealed milk	\$25,000
Fruit	\$11,000
Cookies	\$115,000
Combo meal #1	\$535,000
Combo meal #2	\$175,000

2. Food ingredients:

Mega Burgers does not separately sell any items that are classified as food ingredients.

3. Soft drinks include:

Fountain drinks \$1,000,000

4. Dietary supplements:

Mega Burgers does not sell any items that are classified as dietary supplements.

The total for the *denominator* would be \$4,528,500 (\$3,528,500 food items, + \$1,000,000 soft drinks).

Step 3: Calculate the Percentage

The percentage of prepared food sales is determined by dividing the *numerator (n)* by the *denominator (d)*. In this example the calculation would be:

$$n/d = \text{percentage}$$

$$\begin{aligned} n \text{ } \$4,337,500 &= .958 \text{ or } 95.8\% \\ &= \\ d \text{ } \$4,528,500 \end{aligned}$$

Step 4: Determination

Mega Burgers' percentage of prepared food sales in 2017 was greater than 75 percent. Therefore, they are classified as predominately selling prepared food. During 2018, Mega Burgers is required to collect retail sales tax on **all sales of food items**. This includes items that were not previously subject to retail sales tax:

- bottled juice
- sealed milk
- fruit
- cookies

After 2018, if Mega Burgers wants to be able to segregate their food sales and not charge sales tax on those items classified as food and food ingredients, they must recalculate their prepared food sales based on 2018 sales figures. In the alternative, if Mega Burgers determines that it is not worth their time and effort to conduct this calculation, they may simply continue to charge retail sales tax on all food items.

How to calculate prepared food sales percentages (continued)

How to calculate prepared food sales percentages (continued)

Example 2

Jan and Joe's deli is a quick food and deli café. The deli has utensils on the counter for the customers to use (i.e. napkins, cup, lids, etc.) The deli sells the following combination meals:

- **Combo meal #1** - Deli Sandwich, potato salad, fountain soft drink, bag of chips
- **Combo meal #2** - Deli Sandwich, cup of soup, fountain soft drink
- **Combo meal #3** - Deli Sandwich, cup of milk, bag of chips
- **Combo meal #4** - Potato salad, bottled juice, bag of chips, piece of fruit, and two cookies

During 2017 the deli made the following sales:

Deli sandwiches (made on site)	\$25,000
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Sliced deli meats (only sliced and repackaged)	\$10,000
Sliced cheeses (only sliced and repackaged)	\$5,000
Meat and cheese platters (only sliced and repackaged)	\$7,500
Potato salad (made on site, sold by volume)	\$3,000
Hot soup	\$5,000
2% milk (served in a cup)	\$2,000
Fountain drinks	\$15,000
Candy	\$10,000
Bottled water	\$3,000
Bottled juice (more than 50 percent juice)	\$4,500
Sealed soft drinks (cans and bottles)	\$6,000
Sealed beverages containing milk (i.e. cold coffee drinks)	\$2,500
Coffee	\$10,000
Potato chips	\$2,500
Sealed milk	\$2,000
Fruit	\$3,500
Cheese cake (served on a plate)	\$1,000
Cookies (made by the deli, wrapped in cellophane)	\$2,500
Whole cakes	\$1,000
Bottled beer	\$1,500
Dietary supplements (sealed)	\$2,500
Combo meal #1	\$12,000
Combo meal #2	\$11,000
Combo meal #3	\$10,000
Combo meal #4	\$7,000

Mrs. Smith, the bookkeeper, is preparing their annual calculation to evaluate whether the deli predominately sells prepared food. In making this evaluation, she must determine whether more than 75 percent of the deli's sales are considered prepared foods. Her calculation follows:

Step 1: Calculate the numerator

The numerator includes the following items (items are to be counted only once in the numerator, even if they qualify under more than one classification):

1. All foods sold in a heated state:

Hot soup \$5,000
Coffee \$10,000

2. Combined foods (all foods where the seller combines two or more ingredients)

Deli sandwiches \$25,000
Fountain drinks \$15,000
Combo meal #1 \$12,000

Combo meal #2 \$11,000

Combo meal #3 \$10,000

Combo meal #4 \$7,000

Note:

- Although the potato salad is made by the deli, it is not considered a combined food because it is sold by volume or weight. Therefore, it is excluded from this calculation.
- Even though combo meal #4 contains only one taxable item, when the items are combined into a single meal, the meal is considered combined food and included in the calculation.
- Even though the cookies are made by the deli, because they are a bakery item and no utensil is required to receive this item, it is excluded from this calculation.
- Even though the meat and cheese platters are a combination food item, these platters are not included in this calculation as a combined item because the deli is only cutting and repackaging the meat and cheeses.

3. Foods sold where a utensil is necessary to receive the food

Cheese cake (plate and fork required). \$1,000

2% milk (cup required) \$2,000

Note: Although the hot soup could be counted as either a “**heated item**” or “**food with necessary utensil**,” it is only counted in one classification.

The total amount for the **numerator** is \$98,000 (\$15,000 heated food, + \$80,000 combined foods, + \$3,000 utensil necessary).

Step 2: Calculate the denominator

The denominator includes food, food ingredients, prepared food, soft drinks, and dietary supplements.

1. Food would include:

Deli sandwiches	\$25,000
Sliced deli meats	\$10,000
Sliced cheeses	\$5,000
Meat and cheese platters	\$7,500
Potato salad	\$3,000
Hot soup	\$5,000
2% milk	\$2,000
Candy	\$10,000
Bottled water	\$3,000
Bottled juice (more than 50 percent juice)	\$4,500
Sealed beverages containing milk	\$2,500
Coffee	\$10,000
Potato chips	\$2,500
Sealed milk	\$2,000

Fruit	\$3,500
Cheesecake	\$1,000
Cookies	\$2,500
Whole cakes	\$1,000
Combo meal #1	\$12,000
Combo meal #2	\$11,000
Combo meal #3	\$10,000
Combo meal #4	\$7,000

2. Food ingredients:

The deli does not separately sell any items that are classified as food ingredients.

3. Soft drinks would include:

Fountain drinks \$15,000
Sealed soft drinks \$6,000

4. Dietary supplements:

Dietary supplements \$2,500

Note: Although the deli sold \$1,500 of bottled beer, alcoholic beverages are excluded from the definition of food and are not included in the calculation.

The total for the **denominator** is \$163,500 (\$140,000 food items, + \$21,000 soft drinks + \$2,500 dietary supplements).

Step 3: Calculate the percentage

The percentage of prepared food sales is determined by dividing the **numerator (n)** by the **denominator (d)**. In this example the calculation would be:

$$\frac{n \$98,000}{d \$163,500} = .599 \text{ or } 59.9\%$$

Step 4: Determination

The deli's percentage of prepared food sales in 2017 was less than 75 percent. Therefore, they are not classified as predominately selling prepared food. During 2018, the deli may segregate its sales and is not required to collect retail sales tax on **food and food ingredients**. In this example the following items would be exempt from retail sales tax:

- deli meats
- sliced cheese
- meat and cheese platters
- potato salad
- candy

- bottled juice
- sealed beverages containing milk
- potato chips
- sealed milk
- fruit
- cookies
- whole cakes

Note: Sales of whole cakes remain exempt from retail sales tax as long as the deli does not provide utensils to customers who purchase cakes and the cake is four or more servings.

After 2018, they are required to recalculate their percentage of prepared food sales. If the percentage of prepared food sales remains below 75 percent, then they may continue to segregate their sales and not charge retail sales tax on food and food ingredients.

If their percentage of prepared food sales goes above 75 percent in 2018, the deli would be required to collect retail sales tax on all food items, except those items that constitute four or more servings (i.e. whole cakes, deli meat, sliced cheese, meat and cheese platters) as long as the deli does not provide the customer with a utensil when selling these items.

Other types of income

Other types of income

Listed below are several other types of income that can be received by restaurants and other similar businesses. The tax consequences of these types of income are discussed under each item.

Banquet room rentals

Restaurants and similar businesses often rent out part of their facilities to others for banquets, parties, meetings, etc. In most cases, if you make a separate charge for the use of a banquet or meeting room, retail sales tax does not apply. Instead, this income is subject to B&O tax under the service and other activities classification. However, banquet/meeting facilities provided by a lodging business (hotel, motel, etc.) are subject to sales tax.

If a single charge is made for both a banquet room and meals/drinks (the banquet facility charge is not separately stated), then the total charge is subject to retailing B&O tax and retail sales tax must be collected.

Cash overages and shortages

Shortages may not be deducted from the gross business income unless the business can demonstrate that the shortage was a result of an error in recording sales. Overages are assumed to be a part of the gross business income and must be reported as such.

The Department has published an Excise Tax Advisory on this subject: [ETA 3012.2009](#). Please refer to that document for more information.

Corkage fees

Charges for customers to bring their own bottle of wine instead of purchasing the wine from the restaurant are typically called "corkage fees." These fees are not subject to retail sales tax. However, the fees are subject to B&O tax under the service and other activities classification.

Juke box

Gross income from jukeboxes is subject to the service and other activities B&O tax.

Coupons, gift certificates and free meals

Coupons, gift certificates and free meals

What amount is subject to tax when a customer uses a two-for-one coupon?

Selling meals on a “two for one” or similar basis is not giving away a free meal, but rather selling meals at a discounted price. Retail sales tax and retailing B&O tax apply to the amount that is actually received by the seller.

Example: A customer uses a two-for-one coupon to purchase two meals costing \$10 each. Tax applies to \$10, which is the actual amount charged for the two meals. If extra items are sold such as beverages tax applies to \$10 plus the amount charged for the beverages.

Do I need to collect sales tax when I sell a gift certificate?

Retail sales tax does not apply to the sale of a gift certificate or gift card. Tax applies to the total cost of the meal at the time the gift certificate or card is actually redeemed.

Example: A customer purchases a \$25 gift certificate in July. A sale has not really occurred at this time and no tax applies. In August the customer redeems the certificate and purchases a meal costing \$30. Retail sales tax applies to \$30. The business charges the customer \$30 plus tax. The amount of the gift certificate is then applied as a cash payment toward the total amount due. The customer pays the total bill less the \$25 certificate.

Does tax apply to free meals?

If a restaurant or similar business provides a free meal to a person other than an employee, the meal is not subject to retail sales tax or use tax. However, if soft drinks or beer/wine are given away, use tax applies to the value.

Note: Meals provided to employees are presumed to be in exchange for services and are not considered free meals. See the [Employee Meals](#) Section.

References: [WAC 458-20-119](#); [WAC 458-20-124](#); [WAC 458-20-108](#).

Employee meals

Employee meals

Are employee meals subject to tax?

Complimentary meals that a restaurant provides to the employees of the restaurant are not subject to sales tax, B&O tax, or use tax.

This exemption from sales tax, use tax and business and occupation (B&O) tax is only for meals provided without a specific charge to restaurant employees and does not apply to meals provided to other employees that work outside of the restaurant.

Sales of meals to employees where there is a specific charge remain subject to sales tax and retailing B&O tax.

A “meal” means one or more items of prepared food or beverages other than alcoholic beverages.

References: [RCW 82.04](#); [RCW 82.08](#); [RCW 82.08.9995](#); [RCW 82.12](#)

Games, gambling and similar income

Games, gambling and similar income

See the [Games, Gambling and Similar Income guide](#).

Gratuities

Gratuities

Retail sales tax and retailing B&O tax do not apply to gratuities (tips) received under circumstances that are clearly voluntary. However, if a gratuity is added by the business to the check, bill, receipt, etc., such that it is not clearly voluntary, the charge becomes part of the selling price subject to retail sales tax and retailing B&O tax.

When gratuities are added to the check, bill, receipt, etc., by the business, the business has the burden to prove that the gratuity is clearly voluntary.

Gratuity examples

‘Tip’ jars

When customers voluntarily put money into a ‘tip’ jar left out by a business, these amounts are clearly voluntary gratuities and exempt of tax.

Cash payments over the total listed on the check, bill, etc.

When customers voluntarily leave a cash payment (on the table, in the check holder, etc.) over the total amount due listed on the check, bill, etc., these amounts are clearly voluntary gratuities and exempt of tax.

Gratuity is a blank amount/line on the check, bill, etc.

When the gratuity amount on a check or bill is a blank amount/line that the customer fills-in after food service is provided, the gratuity is clearly voluntary and exempt from tax.

Gratuity is added by the business to the check, bill, etc.

The Department assumes the gratuity is not clearly voluntary and will be subject to retail sales tax and retailing B&O tax when

- the gratuity amount is agreed upon before the provision of the service and/or
- the check, bill, contract, menu, business’s website or other documents state that a gratuity “will be added,” and that amount is then added to the bill or invoice with no clear means for the customer to modify or delete the charged gratuity.

Example: A restaurant's policy, which is listed in the menus and on checks, adds an 18 percent gratuity to the bill for groups of five or more customers. The total food bill for a group of five is \$100 and a mandatory tip of 18 percent is added for a total bill of \$118. Retail sales tax and retailing B&O tax applies on \$118.

Auto-generated or suggested gratuity added to an electronic check, bill, etc.

Many restaurants and similar businesses allow customers to pay through electronic means, applications (apps), on their customers' mobile devices, or through table kiosks, tablet computers, etc. accessed by customers.

Gratuity would be considered clearly voluntary and exempt from tax if the app or device did the following at the time of payment:

- makes clear that gratuity is voluntary by defaulting to a blank line or
- displaying \$0 value for the gratuity that the customer can freely adjust after the meal or service is provided and clearly makes the customer aware the gratuity is voluntary.

Otherwise, the Department assumes that any charges automatically added through apps or devices, etc., are mandatory and subject to retail sales tax and retailing B&O tax.

Including sales tax in the price

Including sales tax in the price

Can I include the sales tax in my sales price?

Sales tax must always be separately stated on the sales receipt that is given to the customer. However, there are instances when the sales tax may be included in the advertised price.

A business may advertise and/or sell meals, beverages, or other items at prices including sales tax but only if the menu and other price information clearly indicate that sales tax is included in the price.

Calculating the taxable amount: If sales tax is included in the price, the amount of tax may be backed out of "gross receipts" to arrive at the amount subject to tax.

Example: A glass of wine is sold for \$5, including sales tax. Assuming an 8.4 percent tax rate, the gross amount subject to tax is \$4.61 (5/1.084).

Example: A coffee bar sells a double, tall, latte for \$3, including sales tax. Assuming a tax rate of 8.4 percent, the taxable amount is \$2.77 (3/1.084).

Note: If sales tax is not separately stated or properly indicated as included, it is presumed that retail sales tax was not collected. In which case, retail sales tax applies to the gross receipts of the business.

What about vending machine sales?

It is not necessary to separately state the amount of sales tax or to post "tax included" when making sales through a vending machine. See the [Vending Machines](#) Section.

References: [WAC 458-20-107](#); [WAC 458-20-124](#); [WAC 458-20-187](#)

Sales of dietary supplements

Sales of dietary supplements

Sales of Dietary Supplements are subject to retail sales tax. Dietary supplements include any product, other than tobacco, that is intended to supplement the diet and that meets ***all three*** of the following criteria:

- It is required to be labeled as a dietary supplement with a “Supplement Facts” box as required under 21 Code of Federal Regulation (CFR) Sec. 101.36, **and**
- It contains a vitamin, mineral, herb or other botanical, amino acid, a dietary substance taken to supplement the diet by increasing the total dietary intake, or a concentrate, metabolite, constituent, extract, or combination of the aforementioned ingredients, **and**
- It is intended for ingestion in tablet, capsule, powder, soft gel, gelcap, liquid form, or is otherwise not represented as conventional food or for use as the sole component of a meal or diet.

Products labeled with both a “Supplement Facts” box and a “Nutrition Facts” box are **not** dietary supplements. Such products are “food and food ingredients” and are exempt from retail sales tax unless they are taxable as a “soft drink” or “prepared food.”

For more information please see our Special Notice on [Sale Tax Changes for Dietary Supplements](#) (pdf).

Sales of sealed beverages

Sales of sealed beverages

Soft drinks are subject to retail sales tax.

“Soft drinks” are nonalcoholic beverages sold in any manner, including in sealed containers, that contain natural or artificial sweeteners. However, beverages that contain any milk, milk products, or milk substitutes or that contain more than 50% vegetable or fruit juice by volume are not defined as “soft drinks” even if they contain sweeteners. Beverages in sealed containers that contain fruit or vegetable juice are required to disclose the percentage of juice by volume on the front of the label or near the “Nutrition Facts” box.

“Soft drinks” do not include frozen, powdered, or concentrated beverages.

Soft drinks and any other beverages served with an eating utensil provided by the seller, including hot coffee or juice from a fountain, are prepared food and subject to sales tax.

Carbonation is no longer a factor in determining taxability.

Vending machines

Vending machines

Should sales tax be collected when sales are made through a vending machine?

Retail sales tax applies to sales of merchandise that are sold through a vending machine. Gross receipts are subject to retailing B&O tax.

Merchandise includes items such as cigarettes, toiletries and toys.

The person that owns the machine should report and pay the tax. The owner may back out the amount of sales tax from the total amount received in the machines to arrive at the gross taxable amount.

Example: The total amount received in the machine is \$200. The tax rate is 8.4 percent. The gross taxable amount subject to retail sales tax and retailing B&O tax is \$184.50 ($\$200/1.084 = \184.50).

What about hot food and soft drinks?

Sales of hot food such as coffee, chocolate, tea, soups, etc. and soft drinks are subject to sales tax. The amount of sales tax may be backed out of the total amount received to arrive at the gross taxable amount.

Example: The gross receipts in the machine are \$200. The tax rate is 8.4 percent. The gross taxable amount subject to retail sales tax and retailing B&O tax is \$184.50 ($\$200/1.084 = \184.50).

Are candy and bottled water taxed?

As food or food ingredients, bottled water and candy are subject to sales tax on 57% of the gross receipts when sold through a vending machine.

Example: Gross receipts from the vending machine equal \$100. Tax rate is 8.4 percent. Total taxable amount subject to retail sales tax is \$57 ($\$100 \times 57 \text{ percent} = \57). The amount subject to retailing B&O tax is \$95.21 ($\$100.00 - \$4.79 \text{ sales tax on } \57). \$ 38.21 should be deducted under the retail sales tax category as an exempt food sale.

References: [WAC 458-20-187](#) and [WAC 458-20-244](#)

Other taxes

Other taxes

Based on your business activities the taxes below may apply to your business.

Carbonated beverage tax

The carbonated beverage tax (CBT) was repealed by Initiative 1107, effective December 2, 2010. Businesses are not subject to the carbonated beverage tax after that date.

Other local taxes

In addition to collecting the state and local sales tax, sellers in certain locations may be required to collect additional local taxes.

Regional Transit Authority (RTA)

Sellers located in portions of King, Pierce, and Snohomish counties must collect an additional 0.9 percent local tax.

Unclaimed property

Unclaimed property

What is “unclaimed property?”

Unclaimed property is money or intangible property held for a period of time with no owner contact. The Washington Unclaimed Property Act protects unclaimed property until it is returned to its rightful owner or their heir. The Department of Revenue acts as custodian for safe keeping of the property until the rightful owner can be located. When reported to the Department, abandoned property is available for refund to the owner or legal claimant indefinitely.

Washington State law requires businesses and other organizations to review their records each year to determine whether they hold any property that has been unclaimed for a set period of time. Businesses must file an annual report and deliver the property to the state.

What type of unclaimed property does a restaurant have?

The most common types of unclaimed property held by restaurants and similar businesses include:

- Unclaimed wages such as payroll checks; and
- Customer credits.
- Unredeemed gift certificates issued prior to July 1, 2001.

Gift certificates issued after July 1, 2001 may be retained if any listed expiration date is not enforced. For gift certificates issued after July 1, 2004, no expiration date is permitted. After July 1, 2004, retailers may not charge any kind of fees on gift certificates and balance \$5 and less must be refunded at the owner's request.

When is property considered abandoned?

Most property is presumed abandoned after three years.

When should I report unclaimed property?

A business that has unclaimed property must report before November 1 each year.

Unclaimed property forms are available via the Department’s web site, e-mail UCP, or by calling (360) 534-1502.

References: [RCW 63.29 170\(4\)](#)