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## **Beverages Sold by Food Stores, Beverage Centers, and Similar Establishments**

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### **Introduction**

Most beverages sold by food stores, beverage centers, and similar establishments are subject to sales tax. This bulletin explains which beverages are taxable and which are exempt when sold for human consumption off the premises. Additional resources relating to sales of food and beverages in other circumstances (e.g., sales by restaurants, sales from vending machines, or sales of candy or sandwiches) are listed at the end of this bulletin.

*Beverages* are liquids that are suitable for humans to drink. Beverages also include products that are added to water or other liquids to make a drink (for example, coffee beans, concentrates, mixes, powders, syrups, and tea bags). (**Note:** Any brand name product shown in italics is included as an example and is not to be construed as an endorsement of the product.)

### **Taxable beverages include:**

- fruit drinks, whether or not carbonated, that contain less than 70% natural fruit juice (for example, lemonade and cranberry juice cocktail);
- alcoholic beverages (for example, beer, cocktails, hard cider, hard lemonade, liquor, liqueur, mixed drinks, spirits, and wine);
- nonalcoholic beer, spirits, and wine (containing less than 0.5% alcohol, but not alcohol free);
- bottled water, including flavored and vitamin waters;
- carbonated drinks, including carbonated 70%-100% natural fruit juice (for example, sparkling apple cider, colas, flavored sodas, root beer, ginger ale, and alcohol-free beer);
- flavored drinks (for example, chocolate and strawberry *Yoo-hoo*®, and vanilla drinks), but not including drinks that qualify as dietary or health supplements;
- cocktail mixes and other drink mixes;
- energy and sport drinks;
- hot and cold coffee or tea sold and served in a cup or other container, with or without a lid;
- beverages that are intended to be consumed on the premises where they are sold (for example, at a snack bar area in a food store); and
- hot chocolate.

### **Nontaxable beverages include:**

- dairy products (for example, milk, chocolate milk, yogurt drinks, etc.);
- 70%-100% non-carbonated natural fruit juice (including boxes, cartons, jugs, bottles, or frozen concentrate);
- vegetable juice (including cans, bottles, or cartons);
- unheated coffee products (caffeinated, decaffeinated, beans, grounds, instant, flavored, and specialty coffees sold in bottles or cans);
- unheated tea and tea products (caffeinated, decaffeinated, bagged, powdered, concentrated liquid mixes sold in canisters or envelopes, flavored, herbal, iced,

- instant, loose, or leaves, and specialty teas sold in bottles or cans);
- liquid or dry nondairy coffee creamers sold in bottles, canisters, or packets;
  - chocolate/cocoa powders sold in boxes, envelopes, or jars, and syrups sold in squeeze bottles or cans;
  - alcohol-free wine (zero percent alcohol);
  - baby formula; and
  - soy milk sold in cans, bottles, or cartons.

### **Bottle deposits**

Bottle deposits are not subject to sales tax.

### **Exempt purchasers**

Sales of beverages are not taxable if the purchaser is an exempt organization that gives the seller a properly completed Form ST-119.1, *Exempt Organization Exempt Purchase Certificate*.

### **Coupons and food stamps**

For information about purchasing beverages using coupons or food stamps, see Tax Bulletin [Coupons and Food Stamps \(TB-ST-140\)](#).

### **Purchases for resale**

Most taxable beverages may be purchased for resale without payment of tax provided the purchaser gives the seller a properly completed [Form ST-120](#), *Resale Certificate*. The purchaser will collect tax when the beverage is resold at retail.

An exempt beverage may be purchased without payment of tax even if the purchaser will later resell it in a taxable manner. For example, a restaurant may purchase exempt beverages without tax at a food store and resell the beverages as part of a taxable meal, without giving the seller a resale or other exemption certificate. However, the restaurant must collect tax when it sells the beverage at the restaurant.

However, heated beverages and other beverages that the seller prepares may not be purchased for resale and the seller must collect tax. When the purchaser resells a beverage of this kind, it must collect tax from the purchaser on the selling price and it may then take a credit on its sales tax return for the amount of tax it paid to the original seller. See Tax Bulletin [Sales Tax Credits \(TB-ST-810\)](#).

Note: A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

**References and other useful information**

**Tax Law:** Sections 1105(a); 1105(d); 1115(a)(1); 1115(ff); and 1132(c)(1)

**Regulations:** Sections 526.5(j); 527.8; and 528.2

**Publications:**

[Publication 750](#), *A Guide to Sales Tax in New York State*;  
[Publication 840](#), *A Guide To Sales Tax For Drugstores and Pharmacies*;

**Memoranda:**

[TSB-M-06\(15\)S](#), *Supplemental Summary of Recently Enacted Legislation Affecting Sales and Use Taxes Effective in 2006*

**Bulletins:**

[Coupons and Food Stamps \(TB-ST-140\)](#)  
[Dietary Foods and Health Supplements \(TB-ST-160\)](#)  
[Food and Beverages Sold from Vending Machines \(TB-ST-280\)](#)  
[Food and Food Products Sold by Food Stores and Similar Establishments \(TB-ST-283\)](#)  
[Listings of Taxable and Exempt Foods and Beverages Sold by Food Stores and Similar Establishments \(TB-ST-525\)](#)  
[Sales by Restaurants, Taverns, and Similar Establishments \(TB-ST-806\)](#)  
[Sales Tax Credits \(TB-ST-810\)](#)