

Delicatessens & New Jersey Sales Tax

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Introduction

Delicatessens offer a variety of food and beverages for sale. Some foods are prepared and “ready to eat” either on the premises or off the premises as take-out orders, similar to restaurant sales. Others are intended to be eaten or consumed at home, similar to food store sales. Foods may be sold by the pound or by the individual item and some may be heated. Because of these dual operations, the manner in which food and beverages are prepared and packaged and where they will be consumed determines whether the sale is subject to New Jersey sales tax. However, some items, such as candy and soda are always taxable. For New Jersey sales tax purposes, premises means “the total space and facilities in or on which the vendor conducts his business, including, but not limited to, parking areas for the convenience of in-car consumption, counter space, indoor or outdoor tables, chairs, benches and similar convenience.”

Taxable Food Sales

Sales of food and beverages which are purchased for consumption on the premises of the delicatessen are subject to sales tax. This includes, but is not limited to:

- Eggs, pancakes, waffles, etc.
- Bacon, sausage, ham, etc.
- Hot and cold sandwiches/subs
- Hot and cold platters
- Soups
- Salads
- Potato chips, pretzels, cakes and snacks
- Coffee, tea, hot beverages
- Carbonated and non-carbonated beverages
- Desserts

Generally, food and beverages taken off the premises which are prepared as take-out or “ready to eat” meals are also taxable. This includes such items as:

- Hot and cold sandwiches/subs
- Prepared soups
- Meal platters
- Coffee, tea, hot beverages
- Carbonated beverages (including fountain beverages)
- Hand scooped ice cream cones and sundaes

When food is prepared, whether it is heated, buttered or arranged on a tray, it is considered “ready to eat” and is taxable no matter where it is eaten. For example, party platters are taxable whether the price is determined by the number of servings or by the weight of the contents, but deli meats and cheeses sold by the pound are not taxable. For more information on food service businesses request Tax Topic Bulletin S&U-1, *Restaurants and New Jersey Taxes*.

Nontaxable Food Sales

Certain food or drink which is not heated and is intended to be eaten off the delicatessen premises may be exempt from sales tax because of the way it is packaged or sold. These items are generally sold in a food or grocery store by bulk, by weight, by the dozen (or part of a dozen) or by volume (gallon, quart, etc.). When these unheated items are sold in a delicatessen for off-premises consumption in the **same form, condition, quantities and packaging** as commonly sold in a food store, they are not subject to sales tax. Examples include:

- Potato chips, pretzels, prepackaged cakes and snacks
- Ice cream individually wrapped or by the gallon
- Cold cuts/deli meats sold by the pound
- Cheeses sold by the pound
- Bacon sold by the pound
- Bread, rolls, bagels and other baked goods
- Non-carbonated beverages
- Prepared salads at a salad bar or sold by weight or volume
- Boxed cereals
- Nuts (without sugar or similar coating)
- Fruits and vegetables

Miscellaneous Sales

Delicatessens which also sell miscellaneous or sundry items must collect sales tax on taxable items such as pet foods, cigarettes, batteries, etc. Sales tax should not be collected on exempt items such as aspirin, antacids and bottled or naturally carbonated water.

For more information on taxable and nontaxable goods and services, request Tax Topic Bulletin S&U-4, *New Jersey Sales Tax Guide*.

Purchases of Food Service Supplies

Generally, a delicatessen pays sales tax on the supplies it purchases for use in the business. But when the delicatessen purchases disposable nonreturnable food containers and wrapping supplies used to transfer food, beverages and miscellaneous purchases to the customer, the delicatessen may issue the supplier a properly completed **New Jersey Exempt Use Certificate (Form ST-4)** and not pay sales tax. For more information on exemption certificates, request Tax Topic Bulletin S&U-6, *Sales Tax Exemption Certificates*.

A delicatessen must pay sales tax when it purchases the following items:

- Ashtrays
- Butter trays
- Dispensers
- Freezer wrap
- Guest checks
- Janitorial supplies
- Napkins
- Paper napkins
- Placemats
- Plastic Can Liners
- Plastic forks
- Plastic knives
- Plastic spoons
- Plastic stirrers
- Plastic trays
- Straws
- Table and counter equipment
- Toilet and tissue paper
- Toothpicks
- Towels

The following disposable items are exempt from sales tax *when used to deliver or transfer purchases to patrons*:

- Aluminum foil
- Aluminum plates
- Baking cups
- Boxes for take-out orders
- Cake boxes
- Cellophane paper
- Cup carriers
- Cup lids
- Paper bags
- Paper buckets
- Paper cups
- Plastic cups
- Sandwich plastic wrap
- Trays for take-out orders
- Twine
- Waxed bags
- Waxed paper
- Wrapping paper

For More Information

For more information on delicatessens and New Jersey sales tax, contact the Division's Customer Service Center at 609-292-6400, e-mail us at taxation@tax.state.nj.us, or write to:

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