

State	General Tax Treatment	Exception Related To Prepared Food
Florida	Exempt food, except:	<ul style="list-style-type: none"> • Food products sold as meals for consumption on or off the seller's premises. • Food products furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware, whether provided by the seller or by a person with whom the seller contracts to furnish, prepare, or serve food products to others. • Food products 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 seller's premises. • Sandwiches sold ready for immediate consumption on or off the seller's premises. • Food products sold ready for immediate consumption within a place, the entrance to which is subject to an admission charge. • 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. • Bakery products sold by bakeries, pastry shops, or like establishments which have eating facilities, except when sold for consumption off the seller's premises. • When food products are served, prepared, or sold in or by restaurants, lunch counters, cafeterias, hotels, taverns, or other like places of business. • Food products sold as hot prepared food products.
Georgia	Exempt food that are eligible for purchasing with food stamps	Nothing further.
Hawaii	Tax food	
Idaho	Tax food	
Illinois	Food for consumption off premises taxed at a lower rate except:	<ul style="list-style-type: none"> • Food that has been prepared for immediate consumption.

State	General Tax Treatment	Exception Related To Prepared Food
Indiana	Exempt food except:	<ul style="list-style-type: none"> • Food furnished, prepared, or served for consumption at a location, or on equipment, provided by the retail merchant. • Meals served by a retail merchant off the merchant's premises. • Food sold by a retail merchant who ordinarily bags, wraps, or packages the food for immediate consumption on or near the merchant's premises, including food sold on a "take out" or "to go" basis.
Iowa	Exempt food that are eligible for purchasing with food stamps except:	<ul style="list-style-type: none"> • Food prepared for immediate consumption, including food prepared on or off the premises of the retailer, which is consumed on the premises of the retailer. • Foods sold by caterers. • Hot or cold foods prepared for immediate consumption off the premises of the retailer, except bakery.
Kansas	Tax food	
Kentucky	Exempt food except	<ul style="list-style-type: none"> • Meals served on or off the premises of the retailer. • Food furnished, prepared, or served for consumption at tables, chairs, or counters, or from trays, glasses, dishes, or other tableware provided by the retailer. • Food sold by retailers who ordinarily sell for consumption on or near the premises of the retailer even though the food is sold on a "take out" or "to go" order and is actually bagged, packaged, or wrapped and taken from the premises of the retailer. • Food sold by street vendors.
Louisiana	Tax food	
Maine	Exempts grocery staples	<p>Grocery staples do not include prepared food.</p> <p>"Prepared food" means meals served on or off the premises of the retailer; drinks or food furnished, prepared or served for consumption at tables, chairs or counters or from trays, glasses, dishes or other tableware provided by the retailer; food that is ordinarily sold by the retailer for immediate consumption on or near the location of the retailer, even though the products are sold on a take-out or to-go order and are actually packaged or wrapped and taken from the premises; food that is sold from a retail location from which food is ordinarily sold for consumption without further preparation or storage; heated food or drinks; and sandwiches.</p>

State	General Tax Treatment	Exception Related To Prepared Food
Maryland	Exempt food stamp eligible food	<ul style="list-style-type: none"> • Food that the vendor serves for consumption on the premises of the buyer or of a third party. • Food for immediate consumption.
Massachusetts	Exempt food except:	<ul style="list-style-type: none"> • Meals consisting of any of the items defined as food products in this paragraph for consumption on or off the premises where sold. <p>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.</p> <p>The following food or beverages sold by a restaurant for consumption off the restaurant premises shall not be deemed to be a meal for the purposes of this chapter:</p> <ol style="list-style-type: none"> a) Food sold by weight, liquid or dry measure, count, or in unopened original containers or packages, including, but not limited to, meat, bread, milk, specialty foods, cream and ice cream; provided, that such foods are commonly sold in such manner in a retail food store which is not a restaurant; b) Beverages in unopened original containers or packages when sold as a unit having a capacity of at least twenty-six fluid ounces, and c) Bakery products including but not limited to doughnuts, muffins, bagels, and similar items sold in units of six or more. Prepared meals, snacks, sandwiches, food platters, poultry, fish or meat items, or other food combinations, to the extent that such items are sold by a restaurant whose principal business is the preparation or sale of such items in such form as to be available for immediate consumption without further significant preparation, whether for on or off premise consumption, shall not be excluded under clause (a), (b), or (c).

State	General Tax Treatment	Exception Related To Prepared Food
Michigan	Exempt food except:	<p>• Prepared food intended for immediate consumption - means a retail sale of 1 or more of the following:</p> <ul style="list-style-type: none"> a) Food or drink prepared and served for immediate consumption at or near the premises or ordinarily sold on a takeout basis for immediate consumption either on or off the premises. b) Food or drink furnished, prepared, or served for immediate consumption at a table, chair, or counter or from a tray, glass, dish, container, or other tableware. c) Food or drink arranged on a plate or platter, whether intended for individual or multiple servings and whether sold by the pound or by the serving; a sandwich, either hot or cold; or a combination of taxable and nontaxable items when sold as a plate or packaged as a meal, even though intended for more than 1 serving. d) Food that is cooked to the order of the purchaser, or that is cooked and maintained at a temperature higher than the surrounding air temperature before sale, or prepared food that is sold by the piece rather than by weight or measure. e) Carbonated beverages sold from a mobile facility or vending machine, or 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 mobile facility or vending machine, except milk, noncarbonated beverages containing 10% or more juice content, and fresh fruit. <p>Prepared food intended for immediate consumption does not include bakery products for off-premises consumption, such as doughnuts, pastry, bread, and cakes or meals eligible to be purchased with federal food stamps.</p>

State	General Tax Treatment	Exception Related To Prepared Food
Minnesota	Exempt food except:	<ul style="list-style-type: none"> • Food or drinks sold by the retailer for immediate consumption on the retailer's premises. • Food or drinks prepared by the retailer for immediate consumption either on or off the retailer's premises. • All food for immediate consumption sold from concession stands and vehicles. • Party trays. • All meals and single servings of packaged snack food sold in restaurants and bars. • Bakery products: <ul style="list-style-type: none"> a) prepared by the retailer for consumption on the retailer's premises; b) sold at a place that charges admission; c) sold from vending machines; or d) sold in single or individual servings from concession stands, vehicles, bars, and restaurants.
Mississippi	Tax food	
Missouri	Food eligible for food stamp purchase taxed at a reduced rate 1.225 except:	<ul style="list-style-type: none"> • Meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are regularly served to the public taxed at 4%. • The term "food" shall not include food or drink sold for consumption on or off the premises by a restaurant, delicatessen, cafe, or other eating establishment that derives more than 80% of its total gross receipts from food sales.
Nebraska	Exempt food that are eligible for purchasing with food stamps except:	<ul style="list-style-type: none"> • Meals other food prepared for immediate consumption on or off the premises of the retailer. • Other food prepared for immediate consumption on or off the premises of the retailer.
Nevada	Exempt food except:	<ul style="list-style-type: none"> • Prepared food intended for immediate consumption.

State	General Tax Treatment	Exception Related To Prepared Food
New Jersey	Exempt food sold for consumption off premises except:	<ul style="list-style-type: none"> • Sale of food and drink in or by restaurants, taverns, vending machines or other establishments or by caterers. • Food for consumption on the premises where sold. • A meal, or food prepared and ready to be eaten, of a kind obtainable in restaurants as the main course of a meal, including a sandwich, except where food other than sandwiches is sold in an unheated state and is of a type commonly sold in the same form and condition in food stores other than those which are principally engaged in selling prepared foods. • Food from caterers for off-premises consumption is taxable if the vendor (or any person whose services are arranged for by the vendor) serves, cooks, heats, or provides other services with respect to the food or drink.
New Mexico	Tax food	
New York	Exempt food except:	<ul style="list-style-type: none"> • Food and sold in or by restaurants, taverns or other or by caterers: <ol style="list-style-type: none"> a) in all instances where the sale is for consumption on the premises where sold; b) in those instances where the vendor or any person whose services are arranged for by the vendor, after the delivery of the food or drink by or on behalf of the vendor for consumption off the premises of the vendor, serves or assists in serving, cooks, heats or provides other services with respect to the food or drink.
North Carolina	Exempt food that are eligible for purchasing with food stamps	Nothing further.
North Dakota	Exempt food for off premises consumption	Food products prepared for immediate consumption on or near the premises of the retailer, even though they are sold on a "take out" or "to go" basis.
Ohio	Food for human consumption off the premises where sold	Constitutional.
Oklahoma	Tax food	

State	General Tax Treatment	Exception Related To Prepared Food
Pennsylvania	Exempt food except:	<ul style="list-style-type: none"> • 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.
Rhode Island	Exempt food except:	<ul style="list-style-type: none"> • Meals served on or off the premises of the retailer; or drinks or food furnished, prepared, or served for consumption at tables, chairs, or counters, or from trays, glasses, dishes, or other tableware provided by the retailer. • Meals and other food products ordinarily sold for immediate consumption on or off the premises of the retailer is a taxable sale even though the products are sold on a "take out" or "to go" order, and are actually packaged or wrapped and taken from the premises.
South Carolina	Tax food	
South Dakota	Tax food	
Tennessee	Tax food	
Texas	Exempt food except:	<ul style="list-style-type: none"> • Foods and drinks (which include meals, milk and milk products, fruit and fruit products, sandwiches, salads, processed meats and seafoods, vegetable juices, ice cream in cones or small cups) served, prepared, or sold ready for immediate consumption in or by restaurants, lunch counters, cafeterias, vending machines, hotels, or like places of business or sold ready for immediate consumption from pushcarts, motor vehicles, or any other form of vehicle.
Utah	Tax food	
Vermont	Exempt food for off premises consumption	Nothing further.
Virginia	Tax food	

State	General Tax Treatment	Exception Related To Prepared Food
Washington	Exempt food except:	<ul style="list-style-type: none"> • Food products 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 such products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer. • 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. • Food products when sold by the retail vendor, which by law must be handled on the vendor's premises by a person with a food and beverage service worker's permit under RCW 69.06.010, including but not be limited to sandwiches prepared or chicken cooked on the premises, deli trays, home-delivered pizzas or meals, and salad bars but excluding: <ol style="list-style-type: none"> a) Raw meat prepared by persons who slaughter animals, including fish and fowl, or dress or wrap slaughtered raw meat such as fish mongers, butchers, or meat wrappers; b) Meat and cheese sliced and/or wrapped, in any quantity determined by the buyer, sold by vendors such as meat markets, delicatessens, and grocery stores; c) Bakeries which only sell baked goods; d) Combination bakery businesses, as prescribed by rule of the department, to the extent that sales of baked goods are separately accounted for and the baked goods claimed for exemption are not sold as part of meals or with beverages in unsealed containers; or e) Bulk food products sold from bins or barrels, including but not limited to flour, fruits, vegetables, sugar, salt, candy, chips, and cocoa.
West Virginia	Tax food	
Wisconsin	Exempt food except:	<ul style="list-style-type: none"> • Food and beverages for on premises consumption. • Meals. • Sandwiches. • Heated food and beverages.
Wyoming	Tax food	

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STREAMLINED SALES TAX PROJECT

VENDING ISSUE PAPER

Issues:

1. Should the taxation of sales of tangible personal property through vending machines be different than other methods of retailing?
2. Should any caps or threshold limitations in any agreement apply to vending receipts?
3. Should the Streamlined Sales Tax project define "vending machine?"
4. Should vending sales retain existing treatment?

Discussion:

The Streamlined Sales and Use Tax Agreement (as approved on December 22, 2000, and amended on January 24, 2001) provides that "food sold through vending machines" may be used as an exception to the exemption for "food and food ingredients" if a state so chooses. This was provided due to the varying treatment of vending receipts in states and the need to minimize revenue impacts.

The National Automated Merchandising Association has voiced its concerns regarding these and other provisions of the Agreement through letters to the Co-Chairs of the Steering Committee of the Streamlined Sales Tax Project and the Co-Chairs of the NCSL Executive Committee Task Force on State and Local

Taxation of Telecommunications and Electronic Commerce. The Association has informed the Project that its large, multi-state vending and food service companies are not seeking uniform sales tax laws for vending machine sales.

The Association has questioned whether the sales of tangible personal property through vending machines should receive different treatment than other methods of retailing. In a recent July 24, 2001 letter, the Association has specifically asked that the reference to Section 312(D)(3)(a) of the Agreement (referencing "food sold through vending machines") be removed from the Agreement.

The Association also raised concerns regarding that the application of the Agreement's provisions regarding sales tax thresholds and multiple sales tax rates that are applied to vending machine sales in various states. In the July 24, 2001 letter mentioned above, the Association has informed the Project that it opposes Section 308(a)(3) of the Agreement eliminating caps and thresholds after December 31, 2005.

Vending Machine or Bulk Vending Machine Definition

Most states do not have a specific definition of "vending machine." Some states do have a definition of vending machines or something similar like "coin-operated devices." Some states also define "bulk vending machines" so that different tax treatments can be afforded sales from those machines. Attached is a chart setting out the participating states and whether each state has a definition for vending machines or bulk vending machines.¹

Due to the technological advances of debit cards, electronic credit card readers, and even the potential of payments being made over the Internet, some of the current existing definitions may not cover sales involving these types of payments.

In addition, new items are being sold in what may be considered vending machines that were not contemplated when these statutory definitions were created (phone cards for example).

Different Methods of Taxation of Vending Machine Sales

There are various methods that the participating states currently use to tax sales made through vending machines.

These methods may be grouped into the following categories:

¹ This report deals with vending machines that dispense tangible personal property and does not include other coin operated devices such as amusement devices or pay telephones etc. when no tangible personal property is dispensed.

1. Normal Retail Sale

- Sales made through vending machines are taxed in the same manner as other retail sales for sales tax purposes.

2. Tax on Cost of Merchandise

- Tax is imposed on the cost price of merchandise sold through vending machines (cost price may be a percentage used to approximate retail price – such as sales tax is imposed on 135% or 150% of cost price).

3. License Fees or Decal Fees in Lieu of Sales Tax

- License fees or decal fees are imposed in lieu of sales tax on the gross receipts from vending machine sales.

4. Vending Tax in Lieu of Sales Tax

- A separate tax other than a sales tax may be imposed on the items sold through vending machines.

5. Exclude Sales Below a Certain Threshold

- Sales of items through vending machines with sales prices below a certain threshold (1 cent or 25 cents, etc.) are exempt from sales tax.

6. Certain Items or Types of Items Are Exempt or at a Lower Tax Rate

- Sales of certain items, such as food, are exempt from sales tax or are taxed at a lower (or higher) sales tax rate than other general merchandise.

Issue 1, Vending machines versus other methods of retailing food

Alternatives:

a) Retain Section 312(D)(3)(a) of the Agreement referencing “food sold through vending machines.” This provision is similar to how a number of states currently tax sales of food through vending machines differently than other retail methods. Some states tax sales of tangible personal property in vending machines and restaurants differently than other retailing methods. This alternative will minimize revenue impacts to the states and provide states with flexibility.

b) Eliminate 312(D)(3)(a) of the Agreement referencing "food sold through vending machines." This alternative will tax sales of food in the same manner regardless of whether the sale was made through a vending machine or in some other manner. This alternative is consistent with the Agreement's underlying methodology for determining which sales of food may be made taxable (foods prepared by the retailer) and which foods may be made exempt.

Issue 2, Caps and thresholds

Alternatives:

a) Retain the prohibition against caps and thresholds of Section 308(a)(3) applicable to all types of sales including sales made through the use of vending machines. The cap and threshold limitation is aimed at reducing situations where retailers must cap the application of tax on individual transactions. Sales made through the use of vending machines would be treated uniformly and would not be treated differently than any other type of sales.

b) Exclude vending machine sales from the caps and thresholds prohibition of Section 308(a)(3). Providing an exception to the caps and threshold limitations for vending machine sales would not appear to place a burden on multi-state retailers. Sales through the use of vending machines are unique in that separate charges for tax are impracticable and the retailers themselves have lobbied for such varied treatment. Providing such an exemption would not result in changes to the tax base and would be supported by the industry.

Issue 3, Definition of Vending Machine

Alternatives:

a) No definition of vending machine be included in the Agreement. By not requiring a definition of vending machine in the Agreement at this time, the states would not be required to treat sales through the use of vending machines in a uniform manner unless that treatment conflicted with another provision of the Agreement.

b) Provide a definition of vending machine in the Agreement. If a definition of vending machine is provided in the Agreement, then the states have the choice of either taxing or exempting items sold through vending machines. States could also exempt all sales from vending machines and then impose either an alternate form of tax or licensing requirement on the operators of the vending machines.

Issue 4, Possible addition to agreement

Suggestion:

- a) Add at the end of Section 312, (Uniform Definitions) Paragraph A:
"Furthermore, notwithstanding the foregoing requirements of this subsection or any other provision of this Agreement, a State may maintain its tax treatment of sales made through vending machines in the same manner as exists on the effective date of this Agreement."
- b) Under this provision, member states would be allowed, but not required, to continue indefinitely their current tax treatment of vending machine sales. If a member state, at anytime in the future, determined that its vending exemption was no longer warranted, it could repeal the exemption and tax vending machine food like all other prepared food.

Impact of SSTP Definition

Current Treatment

Definition

State

State	Definition	Current Treatment	Impact of SSTP Definition
Alabama	None found	Taxes food and food products, not including beverages other than coffee, milk, milk products, and substitutes therefor, at 3% of cost.	
Arkansas	Vending device "means any machine or manual device which dispenses tangible personal property after a coin or other thing of value is inserted. The term "vending device" shall not include devices used exclusively for the purpose of selling cigarettes, newspapers, magazines or postage stamps." Reg. § 1995-2.	General merchandise rate 4%. Owners of vending machines have 3 options: (1) pay sales/use tax on the purchase of the products going into the vending machines; or (2) pay a vending device decal fee and then purchase the items tax exempt as a sale for resale; or (3) purchase items tax exempt as a sale for resale and then pay a vending tax of 5.5% in lieu of sales tax.	
Connecticut		Exempts sales of any items for fifty cents or less from vending machines; or sales of food products, as defined in subsection (23) of Section 12-412, sold through coin operating vending machines. Section 12-412(27)	
Idaho	No statutory definition for "vending machine."	The sales price of tangible personal property when sold through a vending machine for more than \$.11 and less than \$1.01 is deemed to be sold at 117% of the cost of the merchandise paid by the owner of the machine. There is no exemption for sales of food.	

<p>Illinois</p>	<p>none – vending machines "Bulk vending machine" defined as a nonelectrically operated vending machine, containing unsorted confections, nuts or other merchandise which, when a coin of a denomination not larger than one cent is inserted, are dispensed in equal portions, at random and without selection by the customer.</p>	<p>Low rate of tax of 1% applied to all food sold through vending machines except soft drinks and hot food products (taxed at 6.25%). No tax is applied to sales from bulk vending machines.</p>	
<p>Indiana</p>	<p>"Vending machine – coin or currency operated device which is used to sell tangible personal property without requiring the vendor's physical attention at the time of sale."</p>	<p>All sales (including food) are subject to tax when sold through a vending machine except when operated by certain exempt organizations.</p>	
<p>Iowa</p>	<p>Food & Consumer Safety provisions - "Vending machine means a food establishment which is a self-service device that, upon insertion of a coin, paper currency, token, card or key, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between vending operations."</p>	<p>Food sold through vending machines are subject to tax if sold for consumption on premises of retailer or if prepared by retailer for immediate consumption off premises. Candy, candy-coated items, candy products, and soft drinks are subject to tax when sold from a vending machine.</p>	
<p>Kansas</p>	<p>None found</p>	<p>Sales from vending machines treated as retail sales.</p>	
<p>Kentucky</p>	<p>Bulk vending machine "means a vending machine containing unsorted merchandise which,</p>	<p>Gross receipts from sale of tangible personal property sold through coin-operated bulk vending machines, if the</p>	

	upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer." § 139.470.	sale amounts to fifty cents (\$0.50) or less are exempt from sales and use tax. (KRS 139.470) Bulk vending machine "means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer." § 139.470 Exempts food, but taxes food sold from vending machines and nonmechanical self-service vending systems. (KRS 139.485)	
Louisiana	None found	Tax is charged on items purchased for resale by vending machine operators.	
Maine	None found	"Retail sale" includes the sale of products for internal human consumption to a person for resale through coin-operated vending machines when sold to a retailer whose gross receipts from the retail sale of tangible personal property derived through sales from vending machines are more than 50% of the retailer's gross receipts.	
Maryland	None found	Provides that sales and use tax is computed on "if retail sales of tangible personal property or a taxable service are made through vending or other self-service machines, 95.25% of the gross receipts from the retail sales.	
Michigan	None found	Taxes all sales of tangible personal property sold through	

			<p>vending machines except through a nonelectrically operated vending machine where the consideration is 10 cents or less. Also exempt from tax are food items which essentially are all food items sold through vending machines except if they are heated above 75 degrees F or cooled below 65 degrees F, however with a special exclusion for milk, nonalcoholic beverages in a sealed container and fresh fruit. Taxpayers may choose to pay tax on actual gross receipts or pay tax on 45% of the proceeds of taxable or nontaxable sales, other than sales of carbonated beverages.</p> <p>Food is taxable if sold from vending machines.</p>	
Minnesota	<p>"Vending machines are any coin-operated devices dispensing food, drinks, or tangible personal property or providing amusement. Reg. § 8130.2300.</p> <p>None found</p>		<p>Taxed at 8% on cost price of food for human consumption to full service vending machine operators to be sold at vending machines not connected with any taxable business. General rate 7%.</p> <p>Sales of tangible personal property, other than photocopies, cigarettes, cigars, or other tobacco-related products, by a vendor through a vending machine are retail sales taxed at 135% of cost price of the items sold.</p>	
Mississippi				
Missouri	<p>Vending machine is defined as "a coin or currency operated device which is used to sell tangible personal property without requiring the vendor's physical attention at the time of sale."</p>			

Nebraska	A coin-operated machine is defined to "include all machines where coins or substitutes for coins are inserted to render the machine operable."	All sales taxable from vending machines. Food sold from vending machines is taxable.	
New Jersey	None found	Exemption for items sold for 25 cents or less. Vending machines that dispense food and beverages are taxed on the wholesale price of the food and beverages computed as 70% of the selling price, except for sales of milk, which shall not be taxed.	
Nevada	None found	Sales from vending machines treated as retail sales.	
North Carolina	None found	Items sold from vending machines for 1 cent are exempt. "Sales price" or amount subject to tax depends on items sold - closed-container soft drinks and tobacco products taxed at 100% of sale price, all other items taxed at 50% of sale price.	
North Dakota	None found	All items taxable if the selling price exceeds 15 cents.	
Ohio	None found	All sales from vending machines are treated as retail sales except coin operated car wash and vacuum. Sales of food from vending machines are only taxed to the extent they are for on premises consumption. Premises is a defined term that "includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real	

		<p>property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person."</p> <p>Since Ohio's tax is collected based on brackets, persons selling via vending machines can enter into agreements to pay effective tax rates based on a study of their price structure relative to the brackets and their % of taxable sales.</p>	
<p>Oklahoma</p>	<p>Coin-operated vending device "means any and all machines or devices which, upon the payment or insertion of a coin, token or similar object, dispenses tangible personal property, including but not limited to cigarettes, candies, gum, cold drinks, hot drinks, sandwiches, or chips. It shall not mean vending machines or devices used exclusively for the purpose of selling services, such as pay telephone booths, parking meters, gas and electric meters or other distribution of needful service."</p> <p>Coin-operated bulk vending device "means a machine or device which, upon the payment or insertion of a coin, token or similar object dispenses to the purchaser ballpoint pens,</p>	<p>Annual fee charge instead of sales tax on merchandise. Fee is dependent upon price of items sold by machine 25 cents and over - \$50, less than 25 cents - \$10. Bulk vending machines, 25 cents or more - \$5 to \$15, under 25 cents - \$2.</p>	

	combs, cigarette lighters, prophylactics, filled capsules, peanuts, gum balls, mints, perfume or novelties.” None found			
Rhode Island			All sales from vending machines treated as retail sales. Foods sold through vending machines are taxable as “meals.”	
South Carolina	None found		Other than for sales of cigarettes and soft drinks in closed containers, tax is incurred on the cost price of the items sold.	
South Dakota	None found		All sales from vending machines treated as retail sales.	
Tennessee	None found		Dealers that make sales through vending machines may elect to pay the gross receipts tax of 1.5% thereon in lieu of sales tax (8.25%) on items other than tobacco products. The gross receipts for tobacco products is 2.5%. Paying the gross receipts tax instead of sales tax is limited to an individual sales transaction that is \$5.00 or less. Items that are vended that are more than \$5.00 are subject to sales tax.	
Texas	None found		All sales from vending machines treated as retail sales. Sales of food & drinks by vending machines are subject to tax.	
Utah	None found		All sales from vending machines treated as retail sales. Sales of food, beverages, and dairy products for \$1 or less may be alternately taxed at 150% of cost.	

Vermont	None found	All sales from vending machines treated as retail sales. Sales of food from vending machines are taxed the same other sales of food (tax imposed on heated foods, non-prepackaged food, and food sold in restaurants).	
Washington	Vending machines "mean machines which, through the insertion of a coin will return to the patron a predetermined specific article of merchandise or provide facilities for installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers. It includes machines which vend photographs, toilet articles, cigarettes and confections as well as machines which provide laundry and cleaning services."	Sales from vending machines that are made exclusively in amounts less than the minimum sale on which a 1¢ tax may be collected from the purchaser, and the kind of merchandise sold through such machines is not sold by the operator over the counter or other than through vending machines at that location, the selling price for purposes of the retail sales tax shall be 60% of the gross receipts of the vending machines through which such sales are made. Sales of any food products dispensed by vending machines are subject to sales tax under a formula which requires the tax to be reported and paid by the vending machine owner or operator upon fifty-seven percent of the gross receipts from such machines. However, sales tax must be reported and paid upon one hundred percent of the gross receipts of vending machines which dispense hot prepared food products, e.g., hot coffee, soups, tea, chocolate, etc.	
West Virginia	None found	Sales of food by vending machines are	

Wisconsin	None found	<p>subject to tax regardless of where the machine is located.</p> <p>The total gross receipts from sales of food and beverages through vending machines shall be presumed derived from on-premise consumption and therefore taxable, unless the operator has records showing the portion of gross receipts from sales made for off-premise consumption involving exempt food.</p> <p>Effective July 1, 2001, sales from a vending machine are deemed to be for off-premises consumption (vending sales will be just like sales from a grocery store sales - all sales of food and beverages from vending machines will be exempt except for the following:</p> <ul style="list-style-type: none"> a. Meals and sandwiches, whether heated or not. b. Heated food or heated beverages. c. Soda fountain items such as sundaes, milk shakes, malts, ice cream cones and sodas. d. Candy, chewing gum, lozenges, popcorn and confections. e. Medicines, tonics, vitamins and medicinal preparations in any form. f. Fermented malt beverages as defined in s. 125.02. g. Intoxicating liquors h. Soda water beverages as defined in 	
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Wyoming	None found	s. 97.29(1)(i), bases, concentrates and powders intended to be reconstituted by consumers to produce soft drinks, and fruit drinks and ades not defined as fruit juices in s. 97.02 (27), 1967 stats.	
		All sales (except sales of postage stamps) from vending machines treated as retail sales.	

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STREAMLINED SALES TAX PROJECT

CANDY ISSUE PAPER

Issue:

Create a uniform definition of "candy." that is acceptable to both state governments and industry while simplifying compliance with tax laws.

Discussion:

The Tax Base working group of the Streamlined Sales Tax Project (SSTP) has the goal of providing uniform definitions of taxable items for the new sales tax system. The purpose is to ease the burden on those involved in interstate commerce by minimizing the complexities inherent in the current system. The group intends to develop definitions that will allow all states to support and adopt a new system.

To achieve this streamlining, the group proposes to develop uniform definitions without making determinations about the taxability of those items when possible. Uniform definitions would lay the groundwork for further uniformity and simplification while giving each state the flexibility they will need for implementation. This approach should also minimize some of the difficulties anticipated with transition to a new system.

The scope for the working group was to focus on those items for which the states' definitions lack clarity and consistency, or where a uniform definition was specifically requested. Early group discussions centered on what should or should not be considered while formulating definitions. Some thought was given

to defining terms only considering simplification and uniformity without regard to any impact of the proposed changes. After further discussion, however, the group decided that it would have to consider the concerns of all parties affected by these definitions, weighing all substantive factors in order to create an acceptable proposal. The factors would often include the effects proposed changes would have on individual state tax revenues, both positive and negative; the effects on related industries; the effect on the wholesale and retail distribution chain and consumers. Early consideration of these factors led the group to focus on standard definitions, not standard taxation rules.

One of the major topic areas the group chose to focus on was food and, within that, candy was an item states taxed differently and any tax base selected as a uniform standard for all states to follow would affect many states in different ways. There would be revenue winners and losers where ever the line is drawn. Of course, states could redefine the proposed tax base around their tax rates or other elements in their care or regulation. To the extent states made such modifications, the impact of a uniform tax base would be diluted.

Industry, as represented by groups like the National Confectioners Association, the Grocery Manufactures of America and the Don't Tax the Food Coalition, requested that candy not be singled out as a unique taxable item. Their belief is that separating "candy" from the commonly understood "food" and "food products" group runs directly counter to the goal of simplifying the burden of tax compliance. However, this group recognizes this opportunity to develop standard definitions to ease the compliance burden and accomplish our goal of streamlining this portion of the sales tax process.

The Streamlined Sales and Use Tax Agreement (Agreement) as approved on December 22, 2000 (and amended on January 24, 2001) provides this definition of 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 shall not include any preparation containing flour and shall require no refrigeration.

Alternatives:

- 1). Provide no definition for candy and allow it to be taxed as part of food or food products.
- 2) Amend the proposed definition with some other variation of ingredients.

Effect on States: (Detail of what will happen in each of the participating states and nonparticipating states when available) See attached Matrix.

Streamlined Sales Tax Project: Candy (MatrixB)

State/info provided by	Candy definition	Taxability	State law regulating candy taxability	Fiscal notes/projected revenue impact for candy
Arkansas Mary Cameron	Candy is not defined in Arkansas	Yes	N/A	N/A
Connecticut Joe Thomas	No definition.	Yes.	Ch. 219, Section 12-412(13) - this section exempts "food products" which includes "...sugar and sugar products other than candy and confectionery." Sales of tangible personal property are included within the definition of "sale" found in Idaho Code § 63-3612. Tax is imposed on retail sales by Idaho Code § 63-3619. There are no statutes or administrative rules dealing specifically with sales of candy.	N/A
Idaho Jim Husted	The Idaho Sales Tax Act does not provide an exemption for sales of food. For this reason the act does not include a definition of "food" or "candy" or "soft drinks."	Yes, sales of candy are taxable in Idaho.		Idaho has not developed a fiscal note or revenue impact statement on this issue.
Illinois Terry Charlton	Illinois has no definition for candy	Yes, all food is taxed in Illinois.		
Indiana Steven A. Englert	The Department has issued no specific definition of "candy". The Indiana statute designates the terms "... (1) Candy, confectionery, and chewing gum..." among a list of others as specifically excluded from the nontaxable category, "food for human consumption".	Yes	IC 6-2.5-5-20. [T]he term "Food for human consumption" does not include... (1) Candy, confectionery, and chewing gum;... Rule 45 IAC 2.2-5-4 and Information Bulletin #29 (7/94). Combinations of exempt food items, e.g., fruit, nuts, popcorn, with taxable food items, e.g., chocolate, sugar, honey, are not exempt unless sold for cooking purposes. The method of packaging and distribution is considered in determining the primary use of the preparations sold. Advisory Letter , Jan. 7, 2000. "The term 'cooking'... (means)... the preparation of food for eating by applying heat." Kwatnagz , (Ind. App. 1983). "[C]ookies, potato chips..." are not confectionery items and are therefore exempt from Sales Tax. Letter of Findings 87-0213 . "[F]ruit roll-ups and fruit bars... are not intended to be sold as candy products". "Honey-roasted nuts" do not contain... any sufficient amount of honey to consider the nuts... a taxable confectionery item.	None
Michigan Dale Vettel	No definition.	No	N/A	N/A
North Dakota Gary Anderson	Primarily on how the product is marketed and package will most often determine if the product is identified as candy.	Yes, North Dakota currently taxes candy and chewing gum.	NDCC 57:39-2-04.1	North Dakota has not developed a fiscal note or revenue impact statement to address definition.

<p>Ohio Bill Riesenberger</p>	<p>There is no definition of candy in the Ohio sales tax code.</p>	<p>Candy is considered food and is exempt when purchased for consumption off the premises where sold</p>	<p>"Food" is defined in the final paragraph of section 5739.02(B) of the Ohio Revised Code (Attached). Ohio Revised Code, Section 5739.02 As used in this section, except in division (B)(16) of this section, "food" includes cereals and cereal products, milk and milk products including ice cream, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruits, fruit products, and pure fruit juices, condiments, sugar and sugar products, coffee and coffee substitutes, tea, and cocoa and cocoa products. It does not include: spirituous or malt liquors; soft drinks; sodas and beverages that are ordinarily dispensed at bars and soda fountains or in connection therewith, other than coffee, tea, and cocoa; root beer and root beer extracts; malt and malt extracts; mineral oils, cod liver oils, and halibut liver oil; medicines, including tonics, vitamin preparations, and other products sold primarily for their medicinal properties; and water, including mineral, bottled, and carbonated waters, and ice.</p>	<p>No revenue estimate has been done.</p>
<p>South Carolina Rick Handel</p>	<p>No</p>	<p>Yes</p>	<p>N/A</p>	<p>N/A</p>

<p>South Dakota Scott Peterson/ Jane A. Page</p>	<p>SD sales tax statutes do not define food, candy, or soft drinks. Candy and other food items are tangible personal property taxed under SDCL 10-45-2.</p>	<p>Yes, as food.</p>	<p>§ 10-45-14.7. Exemption of authorized purchases made with food stamps. There are hereby specifically exempted from the tax imposed by this chapter the gross receipts resulting from authorized purchases made with food stamps under the provision of the Food Stamp Act of 1977 (PL 95-113). Source: SL 1987, ch 106, § 1. Annotations Federal References. Food Stamp Act of 1977 (PL 95-113), 7 U.S.C., §§ 3292, 3319 (a)-(d). § 10-45-14.8. Exemption of authorized purchases of food. There are hereby specifically exempted from the tax imposed by this chapter the gross receipts resulting from authorized purchases of food made under Section 17(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)). Source: SL 1987, ch 106, § 3. § 10-52-2.5. Mandatory and optional exemption of certain food sales. The gross receipts from selling food, as defined by the Food Stamp Act of 1977 (P.L. 95-113), codified at 7 U.S.C. § 2012(g), as amended through January 1, 1983, in rules promulgated pursuant thereto, are exempt from the provisions of this chapter and from the tax imposed by it if the tax rate imposed by a municipality through the provisions of § 10-52-2 is in excess of one percent. The provisions of this section do not apply to municipalities qualifying under § 10-52-2.1 unless such municipalities increase their existing non-ad valorem tax and the new rate is in excess of one percent. A municipality may, by local option, exempt food, as defined by the Food Stamp Act of 1977 (P.L. 95-113), codified at 7 U.S.C. § 2012(g), as amended through January 1, 1983, from the tax imposed by § 10-52-2 if the tax rate is one percent or less. A municipality with a tax rate in excess of one percent on January 1, 1983, pursuant to § 10-52-2.1, may, by local option, exempt food, as defined by the Food Stamp Act of 1977 (P.L. 95-113), codified at 7 U.S.C. § 2012(g), as amended through January 1, 1983, from the tax. Source: SL 1983, ch 101, § 3.</p>	<p>The definition has no economic impact in South Dakota.</p>
<p>Tennessee Jack Kopald</p>	<p>Not defined</p>	<p>Tennessee does tax candy.</p>	<p>Tennessee provides no exemption for candy or soft drinks. We do give vending machine sales an option of paying 1.5% of gross receipts rather than collecting and remitting the full state plus local rate.</p>	<p>None for candy specifically.</p>
<p>Texas Bryant Lomax</p>	<p>Texas defines candy by administrative rule 3.293 (a). (3) Candy - Confections such as candy bars, chewing gum, or candy kisses, but does not include products used exclusively for cooking, such as chocolate bits.</p>	<p>Texas does impose ales tax on candy</p>	<p>Section 151.009 "Tangible Personal Property" means personal property that can be seen, weighed, measured, felt, or touched or that is perceptible to the senses in any manner, and, for the purposes of this chapter, the term include a computer program and a telephone prepaid calling card.</p>	<p>There would be no revenue impact.</p>
<p>Utah Craig Sandberg</p>	<p>Utah does not define candy.</p>	<p>Utah taxes all food sales, including candy.</p>	<p>Utah has no special statutes regarding the taxability of candy. Candy is treated as any other sale of tangible personal property under 59-12-103(1)(a).</p>	<p>There would be no revenue impact.</p>

Washington Greg Potegal	Washington does not define candy.	Response: Washington does not tax candy.	Response: RCW 82.08.0293 is the statute, which exempts food products from sales tax. It includes, in subsection (1), within the definition of food products, "sugar and sugar products." Statute in full in the bottom of the document. No estimate was made.
Wisconsin Vicki Gibbons	Not defined.	Tax is imposed on candy, chewing gum, and confections.	(sec. 77.54(20)(c)2.d, Wis. Stats. (1999-00))... 2. The gross receipts from sales by any person, organization or establishment of the following items for off-premises consumption are taxable: a. Meals and sandwiches, whether heated or not. b. Heated food or heated beverages. c. Soda fountain items such as sundaes, milk shakes, malts, ice cream cones and sodas. d. Candy, chewing gum, lozenges, popcorn and confections. None for candy specifically. Also see Tax 11.51, Wis. Adm. Code (October 1999 Register)

1. **RCW 82.08.0293 Exemptions--Sales of food products for human consumption.** (1) The tax levied by RCW 82.08.020 shall not apply to sales of food products for human consumption.

"Food products" include cereals and cereal products, oleomargarine, meat and meat products including livestock sold for personal consumption, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

"Food products" include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

"Food products" include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

"Food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

(2) The exemption of "food products" provided for in subsection (1) of this section shall not apply: (a) 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 such products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (b) 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, or (c) to a food product, when sold by the retail vendor, which by law must be handled on the vendor's premises by a person with a food and beverage service worker's permit under RCW 69.06.010, including but not be limited to sandwiches prepared or chicken cooked on the premises, deli trays, home-delivered pizzas or meals, and salad bars but excluding:

- (i) Raw meat prepared by persons who slaughter animals, including fish and fowl, or dress or wrap slaughtered raw meat such as fishmongers, butchers, or meat wrappers;
- (ii) Meat and cheese sliced and/or wrapped, in any quantity determined by the buyer, sold by vendors such as meat markets, delicatessens, and grocery stores;
- (iii) Bakeries which only sell baked goods;
- (iv) Combination bakery businesses, as prescribed by rule of the department, to the extent that sales of baked goods are separately accounted for and the baked goods claimed for exemption are not sold as part of meals or with beverages in unsealed containers; or
- (v) Bulk food products sold from bins or barrels, including but not limited to flour, fruits, vegetables, sugar, salt, candy, chips, and cocoa.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food products" provided in this section shall apply to food products, which are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW 74.38.040(6); or

(b) Which are provided to senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW.

(4) Subsection (1) of this section notwithstanding, the retail sale of food products is subject to sales tax under RCW 82.08.020 if the food products are sold through a vending machine, and in this case the selling price for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

This subsection does not apply to hot prepared food products, other than food products, which are heated after they have been dispensed from the vending machine.

For tax collected under this subsection, the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived. [1988 c 103 1; 1986 c 182 1; 1985 c 104 1; 1982 1st ex.s. c 35 33.]

NOTES:

Effective date—1988 c 103: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 1, 1988." [1988 c 103 4.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020

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STREAMLINED SALES TAX PROJECT

SOFT DRINKS ISSUE PAPER

Issue:

Create a uniform definition of "soft drink." that is acceptable to both state governments and industry while simplifying compliance with tax laws.

Discussion:

The Tax Base working group of the Streamlined Sales Tax Project (SSTP) has the goal of providing uniform definitions of taxable items for the new sales tax system. The purpose is to ease the burden on those involved in interstate commerce by minimizing the complexities inherent in the current system. The group intends to develop definitions that will allow all states to support and adopt a new system.

To achieve this streamlining, the group proposes to develop uniform definitions without making determinations about the taxability of those items when possible. Uniform definitions would lay the groundwork for further uniformity and simplification while giving each state the flexibility they will need for implementation. This approach should also minimize some of the difficulties anticipated with transition to a new system.

The scope for the working group was to focus on those items for which the states' definitions lack clarity and consistency, or where a uniform definition was specifically requested. Early group discussions centered on what should or should not be considered while formulating definitions. Some thought was given to defining terms only considering simplification and uniformity without regard to

any impact of the proposed changes. After further discussion, however, the group decided that it would have to consider the concerns of all parties affected by these definitions, weighing all substantive factors in order to create an acceptable proposal. The factors would often include the effects proposed changes would have on individual state tax revenues, both positive and negative; the effects on related industries; the effect on the wholesale and retail distribution chain and consumers. Early consideration of these factors led the group to focus on standard definitions, not standard taxation rules.

One of the major topic areas the group chose to focus on was food and, within that, the subset of beverages. How beverages are defined and taxed across the country serves as one of the better illustrations of the need for uniformity and simplicity. The variations among beverage definitions have led to variations in the way they are taxed, by states and some local entities; this complexity has historically created difficulties for those who participate in interstate commerce. (See Matrix A attached).

The inconsistencies with beverage definitions start with the sub-categories -- juices, water, alcoholic, milk products, and soft drinks, since most states have a different approach to each category. Some of the differences are illustrated in the attached matrix along with the varying treatment for sales in all states. (The matrix does not cover taxation at the local level, which would increase the number of inconsistencies to the state tax.) For definitions of soft drinks, there is virtually no standardization among the states.

Because of the many different approaches to soft drink taxation, any tax base selected as a uniform standard for all states to follow would affect many states in different ways. There would be revenue winners and losers where ever the line is drawn. Of course, states could redefine the proposed tax base around their tax rates or other elements in their care or regulation. To the extent states made such modifications, the impact of a uniform tax base would be diluted.

Industry, as represented by the National Soft Drink Association (NSDA), requested that soft drinks not be singled out as a unique taxable item. Their belief is that separating "soft drinks" from the commonly understood "food" and "food products" group runs directly counter to the goal of simplifying the burden of tax compliance. However, this group recognizes this opportunity to develop standard definitions to ease the compliance burden and accomplish our goal of streamlining this portion of the sales tax process.

The Streamlined Sales and Use Tax Agreement (Agreement) as approved on December 22, 2000 (and amended on January 24, 2001) provides this definition of soft drinks:

"Soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain:

1. milk or milk products;
2. soy, rice, or similar milk substitutes; or
3. greater than fifty percent of vegetable or fruit juice by volume.

Alternatives:

- 1). Provide no definition for soft drinks and allow them to be taxed as part of food or food products.
- 2) Amend the proposed definition with some other variation of ingredients.

Effect on States: (Detail of what will happen in each of the participating states and nonparticipating states when available) See attached Matrix B.

Streamlined Sales Tax Project: Soft Drinks (Matrix B)

State/info provided by	State law regulating soft drinks taxability	Fiscal notes/projected rev. impact for soft drinks
<p>Arkansas Mary Cameron</p>	<p>Soft drinks are subject to sales and use tax under the general provisions of Ark. Code Ann. § 26-52-301 (taxed as "tangible personal property"). In addition, Arkansas has a Soft Drink Tax that is levied on distributors, manufacturers, and wholesale dealers. This special tax is located at Ark. Code Ann. § 26-57-901, et seq.</p>	<p>N/A</p>
<p>Connecticut Joe Thomas</p>	<p>Ch. 219, Section 12-412(13) - this section exempts "food products" but states "Food products do not include.....soft drinks, sodas or beverages such as are ordinarily dispensed at bars and soda fountains..."</p>	<p>N/A</p>
<p>Idaho Jim Husted</p>	<p>Sales of tangible personal property are included within the definition of "sale" found in Idaho Code § 63-3612. Tax is imposed on retail sales by Idaho Code § 63-3619. There are no statutes or administrative rules dealing specifically with sales of soft drinks.</p>	<p>Idaho has not developed a fiscal note or revenue impact statement on this issue.</p>
<p>Illinois Terry Charlton</p>	<p>Soft drinks in Illinois are taxable (at the full tax rate 6.25% instead of the reduced rate on food of 1%). (35 ILCS 120/2-10) Sec. 2-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of gross receipts from sales of tangible personal property made in the course of business. With respect to food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, the tax is imposed at the rate of 1%. For the purposes of this Section, the term "soft drinks" means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container, regardless of size. "Soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act, or drinks containing 50% or more natural fruit or vegetable juice. Notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. (Source: P.A. 90-605, eff. 6-30-98; 90-606, eff. 6-30-98; 91-51, eff. 6-30-99; 91-872, eff. 7-1-00.)</p>	
<p>Indiana Steven A. Englert</p>	<p>IC 6-2.5-5-20. [T]he term "Food for human consumption" does not include:... (4) Soft drinks, sodas, and other similar beverages.... (11) Food sold through a vending machine... Rule 45 IAC 2.2-5-42 and Information Bulletin #29 (7/94). All "soft drinks" containing carbonated water are taxable. Non-carbonated drinks are taxable if sold in individual serving bottles or cans. The term "soft drink" does not include any size non-carbonated drink containing any amount of natural fruit or vegetable juice. All beverages sold through a vending machine are taxable.</p>	<p>None</p>
<p>Iowa Carl A. Castelda</p>		
<p>Michigan Dale Vettei</p>	<p>N/A</p>	<p>N/A</p>

State/Info provided by	State law regulating soft drinks taxability	Fiscal notes/projected rev. impact for soft drinks
New Jersey Denise M. Lambert	N.J.S.A. 54:32B-8.2 (subject to tax if "carbonated"). Policy is to exempt if "naturally carbonated", e.g. Perrier, as opposed to artificially carbonated, e.g. soda)	The Division estimates a \$12 M increase in sales tax revenue if the proposed definition of soft drinks is adopted. This increase will be derived from taxing formerly exempt non-carbonated beverages which contain less than 50% fruit or vegetable juice, such as Snapple, Gatorade, and the like.
North Dakota Gary Anderson	NDCC 57-39.2-04.1	North Dakota has not developed a fiscal note or revenue impact statement to address definition.
Ohio Bill Riesenberger	Soft drinks are excluded from the definition of "food" in section 5739.02(B) of the Ohio Revised Code. Sales of soft drinks are subject to Ohio's sales tax regardless of where consumed.	We have not done a revenue estimate specifically related to the Streamlined Project definition of soft drinks.
South Carolina Rick Handel	N/A	N/A
South Dakota Scott Peterson/ Jane A. Page	<p>No specific regulation or statute defines soft drinks. Relevant statutes are same for candy and soft drinks.</p> <p>§ 10-45-14.7. Exemption of authorized purchases made with food stamps. There are hereby specifically exempted from the tax imposed by this chapter the gross receipts resulting from authorized purchases made with food stamps under the provision of the Food Stamp Act of 1977 (PL 95-113).</p> <p>Source: SL 1987, ch 106, § 1.</p> <p>Annotations Federal References.</p> <p>Food Stamp Act of 1977 (PL 95-113), 7 U.S.C., §§ 3292, 3319 (a)-(d).</p> <p>§ 10-45-14.8. Exemption of authorized purchases of food. There are hereby specifically exempted from the tax imposed by this chapter the gross receipts resulting from authorized purchases of food made under Section 17(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)).</p> <p>Source: SL 1987, ch 106, § 3.</p> <p>§ 10-52-2.5. Mandatory and optional exemption of certain food sales. The gross receipts from selling food, as defined by the Food Stamp Act of 1977 (P.L. 95-113), codified at 7 U.S.C. § 2012(g), as amended through January 1, 1983, in rules promulgated pursuant thereto, are exempt from the provisions of this chapter and from the tax imposed by it if the tax rate imposed by a municipality through the provisions of § 10-52-2.1 is in excess of one percent. The provisions of this section do not apply to municipalities qualifying under § 10-52-2.1 unless such municipalities increase their existing non-ad valorem tax and the new rate is in excess of one percent. A municipality may, by local option, exempt food, as defined by the Food Stamp Act of 1977 (P.L. 95-113), codified at 7 U.S.C. § 2012(g), as amended through January 1, 1983, from the tax imposed by § 10-52-2 if the tax rate is one percent or less. A municipality with a tax rate in excess of one percent on January 1, 1983, pursuant to § 10-52-2.1, may, by local option, exempt food, as defined by the Food Stamp Act of 1977 (P.L. 95-113), codified at 7 U.S.C. § 2012(g), as amended through January 1, 1983, from the tax.</p> <p>Source: SL 1983, ch 101, § 3.</p>	The definition has no economic impact in South Dakota.
Tennessee Jack Kopald Texas Bryant Lomax	Tennessee provides no exemption for soft drinks. We do give vending machine sales an option of paying 1.5% of gross receipts rather than collecting and remitting the full state plus local rate. Section 151.009 "Tangible Personal Property" means personal property that can be seen, weighed, measured, felt, or touched or that is perceptible to the senses in any manner, and, for the purposes of this chapter, the term include a computer program and a telephone prepaid calling card.	No specific estimate prepared.

Utah Craig Sandberg	Utah has no special statutes regarding the taxability of soft drinks. Soft drinks are treated as any other sale of tangible personal property under 59-12-103(1)(a).	There would be no revenue impact.
Washington Greg Potegal	RCW 82.08.0293, above, excludes, in subsection (1), "carbonated beverages" from the definition of food products. Statute in full in the bottom of the document ¹ .	If Washington exempted soft drinks, as defined by the Project, the loss would be \$42.34 million to the state and \$12.38 million to local governments for Fiscal Year 2002. If Washington taxed soft drinks, as defined by the Project, the gain would be \$6.03 million to the state and \$1.76 million to local governments for Fiscal Year 2002.
Wisconsin Vicki Gibbons	Food and beverages exempt from tax do not include soda water beverages as defined in s. 97.29 (1)(i), bases, concentrates and powders intended to be reconstituted by consumers to produce soft drinks, and fruit drinks and ades not defined as fruit juices in s. 97.02 (27), 1967 stats. (sec. 77.54(20)(b), Wis. Stats. (1999-00) http://folio.legis.state.wi.us/cgi-bin/om_jsapi.dll?clientID=77136&infobase=stats.info&l1=77.54%2820%29%288%29&jump=77.54%2820%29%28b%29&software=Browse_Frame_Pg	None for soft drinks specifically.

1. **RCW 82.08.0293 Exemptions--Sales of food products for human consumption.** (1) The tax levied by RCW 82.08.020 shall not apply to sales of food products for human consumption.

"Food products" include cereals and cereal products, oleomargarine, meat and meat products including livestock sold for personal consumption, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

"Food products" include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

"Food products" include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

"Food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

(2) The exemption of "food products" provided for in subsection (1) of this section shall not apply: (a) 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 such products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (b) 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, or (c) to a food product, when sold by the retail vendor, which by law must be handled on the vendor's premises by a person with a food and beverage service worker's permit under RCW 69.06.010, including but not be limited to sandwiches prepared or chicken cooked on the premises, deli trays, home-delivered pizzas or meals, and salad bars but excluding:

- (i) Raw meat prepared by persons who slaughter animals, including fish and fowl, or dress or wrap slaughtered raw meat such as fishmongers, butchers, or meat wrappers;
- (ii) Meat and cheese sliced and/or wrapped, in any quantity determined by the buyer, sold by vendors such as meat markets, delicatessens, and grocery stores;
- (iii) Bakeries which only sell baked goods;
- (iv) Combination bakery businesses, as prescribed by rule of the department, to the extent that sales of baked goods are separately accounted for and the baked goods claimed for exemption are not sold as part of meals or with beverages in unsealed containers; or
- (v) Bulk food products sold from bins or barrels, including but not limited to flour, fruits, vegetables, sugar, salt, candy, chips, and cocoa.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food products" provided in this section shall apply to food products, which are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW 74.38.040(6); or

(b) Which are provided to senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW.

(4) Subsection (1) of this section notwithstanding, the retail sale of food products is subject to sales tax under RCW 82.08.020 if the food products are sold through a vending machine, and in this case the selling price for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

This subsection does not apply to hot prepared food products, other than food products, which are heated after they have been dispensed from the vending machine.

For tax collected under this subsection, the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived. [1988 c 103 1; 1986 c 182 1; 1985 c 104 1; 1982 1st ex.s.

c 35 33.]

NOTES:


Effective date--1988 c 103: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 1, 1988." [1988 c 103 4.]

Severability--Effective dates--1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Multiple Points of Use Form

Draft Document Not For Publication But For Discussion Purposes Only

– Nothing contained herein represents a final position or opinion of the Streamlined Sales Tax Project, any of the participating or observing states, or any member of their staff. Readers should neither rely on any information herein nor make any inferences about final project positions or positions of participating or observing states or their members from the statements contained herein as this is a draft only and may change in response to comments and input from the public or private sector.

		Form UEC-1 SP# XXXX (Revised 5-01)		Multiple Points of Use Exemption Certificate			
Purchaser's Federal ID Number		Purchaser's State Identification Number		State		Date	
Purchaser's Legal Name							
Doing Business As (DBA)							
Purchaser's Address (Not P.O. Box Number)				City	State	Zip	
Authorized Signature					Date		
Print Name			Title		Telephone Number		
<input type="checkbox"/> Blanket <input type="checkbox"/> Single Purchase							
General description of digital good(s) or service(s) purchased from seller: _____							
✂ Cut Here							
Information Regarding Multiple Points of Use Exemption Certificates							
Multiple Points of Use authorization may not be used for purchase of utilities, motor vehicles, watercraft, aircraft, telecommunications, or advertising services.							
Multiple Points of Use Exemption Certificates are issued only when the following conditions are established:							
1. The purchased digital good(s) or service(s) will be concurrently available for use in more than one jurisdiction.							
2. The purchaser is not a holder of a state issued direct pay permit.							
3. Adequate records will be maintained by the purchaser showing the ultimate destination and use of the digital good(s) or service(s) purchased under the authorization of the Multiple Points of Use Exemption Certificate.							
4. The purchaser agrees to pay tax to appropriate jurisdiction.							
5. Blanket certificates are valid for a period of one year from the date of signing.							
6. If the purchaser does not issue this certificate to the seller, then the seller is required to collect the tax for the state from where the digital good was first available for transmission by the seller or where the service was performed.							

SSTP Bad Debt Questionnaire 3-2001

Does your state provide vendors with an allowance for taxes paid on sales that have become bad debts?

AR Yes. See Ark. Code Ann. § 26-52-309

Does your state permit third party purchasers of obligations to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?

No. Pursuant to Ark. Code Ann. § 26-52-309(b)(3), bad debts do not include debts that are sold or assigned to third parties for collection.

Does your state allow any other parties (i.e. credit providers to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?

No. See Ark. Code Ann. § 26-52-309(b)(3).

Does your state define bad debts by reference to the federal definition in Internal Revenue Code section 166? If not, what definition is used?

Arkansas law does not reference the specific federal statute but it does reference that bad debts are debts that have been legally taken for federal income tax purposes. Pursuant to Ark. Code Ann. § 26-52-309(b), "bad debt" means any portion of a debt for an amount that a taxpayer has reported as taxable which the taxpayer legally claims as a bad debt deduction for federal income tax purposes. It includes worthless checks, worthless credit card payments and uncollectible credit accounts. It does not include financing charges or interest, uncollectible amounts on property that remain in the possession of the taxpayer or vendor until the full purchase price is paid, expenses incurred in attempting to collect any debt, debts sold or assigned to third parties for collection, and repossessed property. In addition, Ark. Code Ann. § 26-52-309(d) states that "bad debts must be deducted within three years of the date of the sale for which the debt was incurred."

CT Yes

No

No

Yes

GA Yes, see the attached statute OCGA § 48-8-45 (c).

No

No

Yes, but it's limited to only assignees of credit card debt (without recourse) who report sales taxes to the State on an accrual basis. See OCGA 48-8-45 ©.

If a party that has claimed a bad debt subsequently makes a recovery of a portion of the debt, does your state require reimbursement of tax for the bad debt allowance? If so, do you apply amounts recovered to tax first, proportionally to tax and principal first, or proportionally to tax, principal, interest and collection costs?

Does your state require interest be paid on reimbursed tax amounts?

No

If your state allows filing of refunds for tax paid on bad debts, does your state pay interest on the refunds?

No. Pursuant to Ark. Code Ann. § 26-52-309(a), "(a) any deduction taken or refund paid which is attributed to bad debts shall not include interest."

Yes-Arkansas law states that "if a deduction is taken for a bad debt and the taxpayer subsequently collects the debt in whole or in part, the tax on the amount so collected shall be paid and reported on the next return due after the collection." See Ark.Code Ann. §

YES, PROPORTIONALLY TO TAX AND PRINCIPAL FIRST

No

Yes we require the tax to be re-paid to the state, but we treat it as a new sale so there is no additional interest or collection cost required by the State.

No

We do not allow refunds to be paid on these bad debts, only a deduction to current taxes due.

<p>Does your state provide vendors with an allowance for taxes paid on sales that become bad debts?</p>	<p>Does your state permit third party purchasers of obligations to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?</p>	<p>Does your state allow any other parties (i.e. credit providers to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?</p>	<p>Does your state define bad debts by reference to the federal definition in Internal Revenue Code section 166? If not, what definition is used?</p>	<p>If your state allows filing of refunds for tax paid on bad debts, does your state pay interest on the refunds?</p>	<p>If a party that has claimed a bad debt subsequently makes a recovery of a portion of the debt, does your state require reimbursement of tax for the bad debt allowance? If so, do you apply amounts recovered to tax first, proportionally to tax and principal first, or proportionally to tax, principal, interest and collection costs?</p>	<p>Does your state require interest be paid on reimbursed tax amounts?</p>
<p>LA</p>	<p>No (This issue is under protest with a credit card company.)</p>	<p>No. Only retailers making the sale can claim the bad debt deduction.</p>	<p>Our statute provides that the deduction can be taken only if it is actually charged off for federal income tax purposes. Our statute and rules do not reference IRC 166 but that is the foundation for the deduction.</p>	<p>Yes. We do require reimbursement of the tax if the bad debt is recovered. We would indirectly apply the recovery to tax. We would not prorate. The recovery is added back to gross receipts on the return or shown as an adjustment to gross receipts on the return as such there would not be an interest charge.</p>	<p>If the adjustment is taken timely on a return there is no interest. If the adjustment is not taken timely and an amended return is filed or it is discovered in audit interest would be charged.</p>	<p>If the recovered bad debts are reported in the tax period that they occurred, then there would not be any interest due.</p>
<p>IN</p>	<p>Yes. The bad debts must have resulted from transactions where sales tax was not collected from the purchaser; the bad debt resulted from transactions where sales tax was previously paid to the Department, and the bad debts were written off as uncollectible for Federal Tax purposes</p>	<p>No (by Administrative Interpretation)</p>	<p>Our code definition is "uncollectible debt for Federal tax purposes". Various administrative hearings have referred to IRC 166 as support.</p>	<p>Taxpayers may deduct as an adjustment to the sales tax return or file a claim for refund. If we process claim for refund within 90 days of receipt no interest is paid. Interest is paid if we exceed 90 days to process.</p>	<p>If the recovered bad debts are reported in the tax period that they occurred, then there would not be any interest due.</p>	<p>If the recovered amount is not reported as a new sale on the return for the period when the recovery is made, interest will be computed on the unreported amount from the filing deadline of the return for that period.</p>
<p>KY</p>	<p>Yes</p>	<p>No</p>	<p>No. The retailer may deduct as a bad debt, the amount found worthless and charged off for income tax purposes.</p>	<p>Yes. Interest shall begin to accrue 60 days after the due date of the return or the date the tax was paid, whichever is later, and in no case shall interest be paid in an amount less than \$5.00. KRS 131.183.</p>	<p>Yes. If any such accounts are thereafter collected, in whole or in part, the retailer shall report and pay the tax on the amount so collected in the first return filed after the collection is made. The amount recovered is for the tax only.</p>	<p>No</p>
<p>LA</p>	<p>Yes. vendors can receive refunds of taxes remitted on bad debts through the filing of refund claims with the Louisiana Department of Revenue.</p>	<p>No</p>	<p>Yes. The interest is computed from the date of the filing of the federal income tax return on which the bad debt was deducted.</p>	<p>The entire amount recovered is required to be reported as a new sale on the dealer's sales tax return filed for the period in which the recovery was made.</p>	<p>If the recovered amount is not reported as a new sale on the return for the period when the recovery is made, interest will be computed on the unreported amount from the filing deadline of the return for that period.</p>	<p>No</p>

State Name	Does your state provide vendors with an allowance for taxes paid on sales that become bad debts?	Does your state permit third party purchasers of obligations to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?	Does your state allow any other parties (i.e. credit providers to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?	Does your state define bad debts by reference to the federal definition in Internal Revenue Code section 166? If not, what definition is used?	After 45 days of receipt of a claim for refund, does your state pay interest on the refunds?	If a party that has claimed a bad debt subsequently makes a recovery of a portion of the debt, does your state require reimbursement of tax for the bad debt allowance? If so, do you apply amounts recovered to tax first, proportionally to tax and principal first, or proportionally to tax, principal, interest and collection costs?	Does your state require interest be paid on reimbursed tax amounts?
MD	Yes	No	No	Yes	No	Maryland does require reimbursement for recoveries on bad debts written off for sales and use tax purposes. Partial recoveries should be applied proportionately to tax, principal and interest. The Comptroller's regulation on the subject does not address collection costs, but it may be inferred from the requirement to treat the amount "recovered" as sales subject to tax that the out-of-pocket costs of collection may be excluded from the calculation.	No
MI	Yes	NO-BY SPECIFIC STATUTORY EXCLUSION	No	Yes	AFTER 45 DAYS OF RECEIPT OF A CLAIM FOR REFUND	Yes, Minnesota requires reimbursement. Our rule requires that the amount collected must be included and paid on the first return filed after collection. However, our current law and rule do not provide the taxpayer with guidance on how to apply the partial recovery of the debt after it has been written off between tax, penalty and interest.	No
MN	Yes	No	No	Rule 8130.7480 states: "Uncollectible debts will be recognized as a deduction for sales tax purposes only when given recognition by a direct charge-off for federal income tax purposes, or if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles."	We allow vendors to take credit for bad debts on current returns. In those situations, no interest is paid. However, if the vendor files an amended return, or a claim for refund, interest would be paid.	Yes, Minnesota requires reimbursement. Our rule requires that the amount collected must be included and paid on the first return filed after collection. However, our current law and rule do not provide the taxpayer with guidance on how to apply the partial recovery of the debt after it has been written off between tax, penalty and interest.	No, not if timely filed on the return, as mentioned in 6 above. If the taxpayer files an amended return, or an assessment is made, interest would be assessed.
MO	Yes	No	No	Yes, we follow the federal guidelines.	Yes	Yes, recovered portion of debt would be applied to tax due.	No, if the original payment was received in a timely manner.
NC	Yes	No	No	The term "bad debt" is not defined in the statute. The exemption provides for a deduction of worthless accounts actually charged off for income tax purposes.	Interest is not paid when the deduction is taken for the period in which the worthless account was charged off for income tax purposes. If a taxpayer fails to take a deduction in the period which the charge off occurred, the taxpayer could file an amended return for that period and any applicable interest would be paid based on the reduction in tax for that period.	A taxpayer is required to reimburse the State for amounts recovered for which a deduction was taken. If the taxpayer's records show that the recovery was applied to various charges, the reimbursement to the State would be applied in a similar manner. If the taxpayer's records do not show how the recovery was applied, the reimbursement is applied against the principal.	The reimbursement should be reported for the period in which recovery was made and no additional interest is due. If the taxpayer failed to pay the amount recovered in the proper period, interest would be due based on when it was finally paid.

State Name	Does your state provide vendors with an allowance for taxes paid on sales that have become bad debts?	Does your state permit third party purchasers of obligations to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?	Does your state allow any other parties (i.e. credit providers to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?	Does your state define bad debts by reference to the federal definition in Internal Revenue Code section 166? If not, what definition is used?	If your state allows filing of refunds for tax paid on bad debts, does your state pay interest on the refunds?	If a party that has claimed a bad debt subsequently makes a recovery of a portion of the debt, does your state require reimbursement of tax for the bad debt allowance? If so, do you apply amounts recovered to tax first, proportionally to tax and principal first, or proportionally to tax, principal, interest and collection costs?	Does your state require interest be paid on reimbursed tax amounts?
ND	Yes	No, except where the vendor fails to remit the appropriate amount of tax in a timely manner (with the first return filed after the collection/recovery of the purchase price or portion thereof).	No, the bad debt must be claimed by the retailer remitting the tax.	Bad Debts is not defined in the sales tax statutes. The provision for bad debts is found in North Dakota Century Code Section 57-39.2-05(1) and states "Taxes paid on gross receipts represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon subsequent payment of the tax herein provided; provided, that if such accounts are hereafter collected by the retailer, a tax must be paid upon the amount so collected."	Generally, a credit is allowed for bad debts on subsequent returns. Therefore, interest does not apply because the current sales tax liability is reduced rather than issuing a refund. However, if a credit cannot be used (for example, the retailer claiming the bad debt goes out of business), a refund would be issued and interest would be paid on the tax refunded.	Yes, North Dakota requires reimbursement of the tax if subsequently recovered. Amounts recovered would be applied proportionally to tax and principal first.	The recovered amounts should be reported for the tax period of collection. If the recovered amount is reported and remitted to the state in the period of collection, no interest is due.
NE	Yes	No	No	Yes	No	Yes. Recovered amounts are applied proportionally to tax and principal.	No
NJ	Yes (See #6)	No	No	No. " . . . the account receivable has proven to be worthless and uncollectible . . ." This definition is by regulation.	Interest on refunds becomes payable six months after the application for refund is made (N.J.A.C. 18:27-5.9).	Yes. The first dollar collected is applied to tax. The application of the first dollar to tax also is true in making a determination of the amount that may be claimed as a bad debt.	Only to the extent described in #5
NV	Yes	NO by statute - NRS 372.365	NO by statute - NRS 372.365 (5)	NO by statute - NRS 372.365 (5)	NO	YES, Tax first	NO, unless tax is not paid with the first return filed with the Department after the retailer made the collection.
OH	Yes	No, currently in litigation.	No	Yes	Bad debts are deducted on return bad debts charged off as uncollectible in that return period. Refunds are allowed if not claimed. Interest is paid.	Yes, proportionally to tax and principal.	Not if reported on return for period in which money is recovered. Yes, if assessed.
OK	Yes	No	No	Yes	No	Yes. We have no current policy on how recovered amounts are applied.	No

State Name	Does your state provide vendors with an allowance for taxes paid on sales that become bad debts?	Does your state permit third party purchasers of debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?	Does your state allow any other parties (i.e. credit providers) to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?	Does your state define bad debts by reference to the federal definition in Internal Revenue Code section 166? If not, what definition is used?	If your state allows filing of refunds for tax paid on bad debts, does your state pay interest on the refunds?	If a party that has claimed a bad debt subsequently makes a recovery of a portion of the debt, does your state require reimbursement of tax for the bad debt allowance? If so, do you apply amounts recovered to tax first, proportionally to tax and principal first, or proportionally to tax, principal, interest and collection costs?	Does your state require interest be paid on reimbursed tax amounts?
PA	Yes, if all of the following apply: 1) The purchaser fails to pay the vendor the total purchase price. 2) The purchase price is written off, either in whole or in part, as a bad debt on the vendor's books or records. 3) The bad debt has been deducted for Federal income tax purposes under section 166 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 S.C. §166.) A vendor must file a petition for refund of sales tax paid with the Pennsylvania Department of Revenue, Board of Appeals, within the prescribed time limitations under section 3003.1 of Pennsylvania's Tax Reform code of 1971, Act of March 4, 1971, P.L. 6, No. 2, as amended. 72 PS § 1003.1. No deduction or credit may be taken for the bad debt on any return filed with the Department.	A taxpayer may assign its rights, under Pennsylvania statutory law, provided the assignee is an affiliated entity. 72 P.S. § 7247.1. An affiliated entity is defined as a corporation that is part of the same affiliated group as the taxpayer, as defined by section 1504(a)(1) of the Internal Revenue Code.	No. As indicated in the previous response, Pennsylvania statutory law only allows assignments to affiliated entities. Note, a vendor could assign a credit card company its right to petition and receive a bad debt refund attributed to bad debt where the credit card company issuing credit cards to the retailer's customers is unrelated to the retailer (no assignment is allowed in this case). See also, PA Sales and Use Tax Ruling, No. SUT-00-016: Bad Debts (August 23, 2000).	Yes	No	Yes (the vendor must remit the proportional tax). Any recovered amounts (purchase price) must first be applied to the reimbursement of tax in its entirety.	No, except where the vendor fails to remit the appropriate amount of tax in a timely manner (with the first return filed after the collection/recovery of the purchase price or portion thereof).

State Name	Does your state provide vendors with an allowance for taxes paid on sales that have become bad debts?	Does your state permit third party purchasers of obligations to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?	Does your state allow any other parties (i.e. credit providers to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?	Does your state define bad debts by reference to the federal definition in Internal Revenue Code section 166? If not, what definition is used?	If your state allows filing of refunds for tax paid on bad debts, does your state pay interest on the refunds?	If a party that has claimed a bad debt subsequently makes a recovery of a portion of the debt, does your state require reimbursement of tax for the bad debt allowance? If so, do you apply amounts recovered to tax first, proportionally to tax and principal first, or proportionally to tax, principal, interest and collection costs?	No	Yes	Yes	Proportionally to tax and principal first.	Does your state require interest be paid on reimbursed tax amounts?
RI	Yes	Only if interest was paid on	No	Yes	Not from the date of payment; only from the date of the sales tax return after the charge off when the deduction should have been taken.	Not from the date the deduction was taken. Only from the date of the sales and use tax return when the amount should have been reported as paid.	No	Yes	Proportionally to tax and principal first.	a refund.	Does your state require interest be paid on reimbursed tax amounts?
SC	Yes	No	No	Yes	Not from the date of payment; only from the date of the sales tax return after the charge off when the deduction should have been taken.	Not from the date the deduction was taken. Only from the date of the sales and use tax return when the amount should have been reported as paid.	No	Yes	Proportionally to tax and principal first.	a refund.	Does your state require interest be paid on reimbursed tax amounts?
SD	Yes	No	No	WE DON'T HAVE A DEFINITION OF BAD DEBT. A BAD DEBT DEDUCTION CANNOT BE TAKEN UNTIL IT HAS BEEN WRITTEN OFF FOR FEDERAL INCOME TAX PURPOSES.	No	No	Yes	WE REQUIRE THAT RECOVERED AMOUNTS ARE APPLIED PROPORTIONALLY.	Our statute says, if the amounts charged off are thereafter in whole or in part paid to the dealer, the amounts so paid shall be included in the first return filed after such collection and the tax paid accordingly." When the bad debt is claimed, the taxpayer reduces its gross sales by the amount of the bad debt, but the reduction may not include the tax paid on that amount. When part of the bad debt is later collected, the taxpayer must add this to gross sales and pay tax on that amount.	Our statute says, if the amounts charged off are thereafter in whole or in part paid to the dealer, the amounts so paid shall be included in the first return filed after such collection and the tax paid accordingly." When the bad debt is claimed, the taxpayer reduces its gross sales by the amount of the bad debt, but the reduction may not include the tax paid on that amount. When part of the bad debt is later collected, the taxpayer must add this to gross sales and pay tax on that amount.	Does your state require interest be paid on reimbursed tax amounts?
TN	Yes	No	No	Our statute says "found to be worthless and are actually charged off for federal income tax purposes . . ."	Our statute provides for a credit, not a refund.	Our statute provides for a credit, not a refund.	No	Yes	Proportionally to tax and principal first.	a refund.	Does your state require interest be paid on reimbursed tax amounts?
TX	Yes	Yes, by statute. (Tax Code Sec. 151.426)	Yes, certain credit providers that extend credit to purchasers under a retailer's private label credit agreement, and assignees or affiliates of such credit provider.	The term is not defined but the debt must be actually charged off for federal income tax purposes or must be an unpaid amount when a taxable item that was sold under a conditional sales contract is repossessed.	Yes, but interest begins to accrue 60 days after the account is determined to be uncollectible and entered into the books as a bad debt.	Yes, but interest begins to accrue 60 days after the account is determined to be uncollectible and entered into the books as a bad debt.	No	Yes	Proportionally to tax and principal first.	a refund.	Does your state require interest be paid on reimbursed tax amounts?

<p>Does your state provide vendors with an allowance for taxes paid on sales that have become bad debts?</p>	<p>Yes. Credit is allowed for sales taxes paid on that portion of an account determined to be worthless and actually charged off for income tax purposes (Utah Code Annotated 59-12-107 (8)).</p>	<p>Does your state allow any other parties (i.e. credit providers) to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?</p>	<p>No. Utah State Tax Commission Administrative Rule R865-195-20 (6) even limits credit for tax on repossessions to the selling dealer or vendor.</p>	<p>Does your state define bad debts by reference to the federal definition in Internal Revenue Code section 166? If not, what definition is used?</p>	<p>No. The definition used is similar to that of IRC 166, but as noted in the answer to Question 1, credit is allowed for sales taxes paid on that portion of an account determined to be worthless and actually charged off for income tax purposes. The term "bad debt" is not found in the statutory language, but is encountered in the implementing rule cited in the answer to question 3. Again, in the rule, the same underlying definition is used as in the statutory language, with no reference to IRC Section 166.</p>
<p>Does your state require interest be paid on reimbursed amounts?</p>	<p>No. Internal policy does not require remittance of interest on the reimbursed tax amounts, as long as the payment of tax due was timely.</p>	<p>If a party that has claimed a bad debt subsequently makes a recovery of a portion of the debt, does your state require reimbursement of tax for the bad debt allowance? If so, do you apply amounts recovered to tax first, proportionally to tax and principal first, or proportionally to tax, principal, interest and collection costs?</p>	<p>Yes, but according to internal policy, only from the date that the debt actually became worthless and was charged off for income tax purposes. Costs of collection are recovered. Amounts recovered are applied proportionally to the taxable amounts and tax. Costs of collection are not required to be paid.</p>	<p>Does your state allow filing of refunds for tax paid on bad debts, does your state pay interest on the refunds?</p>	<p>Yes. Proportional to tax and principal.</p>
<p>Does your state allow party purchasers of obligations to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?</p>	<p>No. Vermont allows a credit or a refund to be taken for actual bad debts.</p>	<p>Does your state permit third party purchasers of obligations to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?</p>	<p>No. See question 2.</p>	<p>Does your state allow filing of refunds for tax paid on bad debts, does your state pay interest on the refunds?</p>	<p>Yes. The payment is applied to tax first.</p>
<p>Does your state require interest be paid on reimbursed amounts?</p>	<p>Yes. By virtue of a case, Puget Sound National Bank v. The Department of Revenue, 123 Wn. 2d 284 (1994).</p>	<p>Does your state define bad debts by reference to the federal definition in Internal Revenue Code section 166? If not, what definition is used?</p>	<p>Bad debts are those "which are deductible as worthless for federal income tax purposes." RCW 82.08.037.</p>	<p>Does your state allow filing of refunds for tax paid on bad debts, does your state pay interest on the refunds?</p>	<p>Yes. Sections 77.52(6) and 77.53(4), Wis. Stats., and sec. Tax 11.30(2)(b), Wis. Adm. Code. There is no statutory or administrative provision that provides how a recovery should be applied.</p>
<p>Does your state require interest be paid on reimbursed amounts?</p>	<p>No, however, the issue is currently being litigated before the Wisconsin Tax Appeals Commission.</p>	<p>Does your state define bad debts by reference to the federal definition in Internal Revenue Code section 166? If not, what definition is used?</p>	<p>The statute states that for the bad debt to be deductible, the account must be found worthless for income or franchise tax purposes, but does not cite a particular section.</p>	<p>Does your state allow filing of refunds for tax paid on bad debts, does your state pay interest on the refunds?</p>	<p>No, the recovery is reported on the sales and use tax return for the period in which the recovery is made. However, if the taxpayer failed to report the recovery in the proper period and as a result tax is due for that prior period, interest would be imposed on the tax resulting from that recovery the same as any other determination of tax due.</p>

If a party that has claimed a bad debt subsequently makes a recovery of a portion of the debt, does your state require reimbursement of tax for the bad debt allowance? If so, do you apply amounts recovered to tax first, proportionally to tax and principal first, or proportionally to tax, principal, interest and collection costs?

Does your state require interest be paid on reimbursed tax amounts?

No

Yes. Proportionally to tax and principal recovered.

If your state allows filing of refunds for tax paid on bad debts, does your state pay interest on the refunds?

No

Does your state define bad debts by reference to the federal definition in Internal Revenue Code section 166? If not, what definition is used?

Not specifically defined. Taxes paid on gross receipts represented by accounts found to be worthless may be credited against subsequent liability of the vendor.

Does your state allow any other parties (i.e. credit providers) to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?

No

Does your state permit third party purchasers of obligations to claim a bad debt allowance? If so, is this by statute, administrative interpretation, or judicial decision?

No

Does your state provide vendors with an allowance for taxes paid on sales that have become bad debts?

Yes

State Name

WY