

DISPOSABLE PACKAGING AND WRAPPING PRODUCTS

Sales Tax Application When Purchased For Use In Restaurants,
Diners, fast Food Operations and Similar Establishments

The following is the Department's policy on the taxability of disposable packaging and wrapping products purchased for use by establishments which sell prepared food and drink.

Disposable packaging and wrapping products which are purchased for use in restaurants, diners, fast food operations, vending machine operations, and similar establishments are exempt from sales and use tax when they support or encompass food or drink (for on or off premises consumption) and are transferred to the customer with the food or drink. Such products may be purchased for resale with the use of a properly completed Resale Certificate, Form ST-120, pursuant to section 1101(b)(4)(i) of the tax law.

Specific examples of exempt and taxable disposable products are listed below:

EXEMPT

Bags (e.g., carry-out, doggie, waxed, poly, french fry)
Boxes (e.g., pizza, chinese food, cake, styrofoam, carry-out)
Buckets (e.g., chicken, ribs, spaghetti, meatballs, chili)
Cartons (e.g., salad, cake, pizza, french fry, ice cream, pie)
Containers (e.g., sundae, hamburger, chinese food, salad, frankfurter)
Cups (e.g., hot or cold beverages, ice cream, popcorn, fruit, souffle,
sundae, french fry)
Lids (e.g., cup, container)
Plates (e.g., styrofoam, paper, aluminum foil, compartment)
Sleeves (e.g., french fry, pie)
Trays (e.g., carry--out)
Wrappers or wrapping (e.g., waxpaper, foil, poly, paper)

TAXABLE

Bibs (e.g., adult, children)
Napkins
Placemats, doilies, coasters
Spoons, knives, forks
Stirrers (e.g., cocktail, coffee)
Straws (e.g., bulk, wrapped)
Tablecloths
Toothpicks

These lists are not all inclusive, but should act as a guide to the taxable status of individual purchases.