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## Candy and Confectionery

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### Introduction

Most sales of candy and confectionery are subject to sales tax. This bulletin outlines items that are considered candy and confectionery for sales tax purposes, as well as items that are not.

### Candy and confectionery

*Candy and confectionery* includes candy of all types, and similar products that are regarded as candy or confectionery based on their normal use or marketing. *Candy and confectionery* also generally includes preparations of fruits, nuts, popcorn, or other products in combination with chocolate, sugar, honey, candy, etc. Some examples of candy and confectionery include (**note:** any brand name product shown in italics is included as an example and is not to be construed as an endorsement of the product):

- candy bars;
- chocolates;
- fruit, nuts, and popcorn covered with caramel, chocolate, honey, sprinkles, or other similar coatings;
- honey-roasted nuts;
- chewing gum;
- fudge;
- maple sugar candy;
- candy or chocolate covered marshmallows in decorative shapes (for example, *Peeps®*);
- mints;
- peanut brittle;
- cotton candy;
- licorice;
- dietetic candy; and
- candied apples.

### Products that are not considered candy and confectionery

Candy and confectionery does not include:

- baked goods, including cupcakes, cookies, pretzels, donuts, and pastries, or any similar products such as granola or cereal bars;
- baking or cooking ingredients, such as candied fruitcake ingredients, chocolate chips or bars, and marshmallows of any size (other than the candy or chocolate covered marshmallows described above);
- maple sugar products, unless labeled *candy* or *confection* or advertised as *candy*; and
- dried fruit, including *Craisins®*, *Fruit Roll-Ups®*, or other similar snacks (unless coated or covered in candy, etc., as described above).

## Packaging and marketing can determine tax status

In determining whether a product is taxable as candy or confectionery, or exempt as food, a number of factors are considered, including how the product is labeled, packaged, advertised, displayed, and sold. For example, pure maple sugar products are exempt as food unless displayed, labeled, or advertised as candy or confectionery. They are not candy merely because they are molded in the shape of a maple leaf or sold in individual quantities.

## Candy purchased with coupons and food stamps

For information about sales tax on candy and other taxable foods purchased with coupons or food stamps, see Tax Bulletin [Coupons and Food Stamps \(TB-ST-140\)](#).

## Exempt sales

Sales of candy and confectionery are not taxable if:

- the purchaser is exempt from sales tax and gives the seller a properly completed exemption certificate, or
- the candy or confectionery is sold from a vending machine for \$1.50 or less.

## Purchases for resale

Candy and confectionery may be purchased for resale without payment of tax provided the purchaser gives the seller a properly completed [Form ST-120, Resale Certificate](#). Sales tax is collected when the product is resold at retail.

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

## References and other useful information

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

**Regulations:** Section 528.2

**Memoranda:** [TSB-M-14\(7\)S](#), *Increase in the Exemption for Vending Machine Sales of Certain Food and Drink*

**Publications:** [Publication 750](#), *A Guide to Sales Tax in New York State*

**Bulletins:**

[Beverages Sold by Food Stores, Beverage Centers, and Similar Establishments \(TB-ST-65\)](#)

[Coupons and Food Stamps \(TB-ST-140\)](#)

[Food and Beverages Sold from Vending Machines \(TB-ST-280\)](#)

[Food and Food Products Sold by Food Stores and Similar Establishments \(TB-ST-283\)](#)

[Listings of Taxable and Exempt Foods and Beverages Sold by Food Stores and Similar Establishments \(TB-ST-525\)](#)

[Recordkeeping Requirements for Sales Tax Vendors \(TB-ST-770\)](#)