TITLE 12 – DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 110—Sales/Use Tax-Exemptions

PROPOSED AMENDMENT

12 CSR 10-110.990 Tax- Sales on Food. The department is amending sections (2) and (3).

PURPOSE: This amendment clarifies when food is taxed at the reduced rate and provides better examples for the taxpayers.

PURPOSE: Section 144.014, RSMo provides for a reduced tax rate for certain sales of food. This rule explains when the reduced rate applies.

(2) Basic Application of Rule.

(A) Sales of food subject to the reduced rate include food that qualifies under the Federal Food Stamp Program. This includes food or food products for home consumption and seeds and plants for use in gardens to produce foods for personal consumption. Alcoholic beverages, tobacco, and hot food items ready for immediate consumption do not qualify for the reduced rate. Food items refrigerated [*or at room temperature]* qualify for the reduced rate, even if the purchaser elects to heat the item on the business' premises. Bakery items, even if still warm from baking, are qualified foods.

(B) A business whose gross receipts from sales of food and drink prepared by the business for immediate consumption, either on or off premises, are 80% or less of its total gross receipts must remit tax on its qualifying food sales at a reduced state tax rate of 1.225% plus any applicable local tax.

(C) Sales of qualifying food through vending machines are subject to the reduced tax rate.

(D) Sales of food at places of amusement, entertainment, or recreation are subject to the full sales tax rate. The only food items subject to the reduced food tax rate would be sales of qualifying food items sold through vending machines and qualifying food items sold in general stores located within campgrounds.

(3) Examples.

(A) A grocery store sells nonfood items and qualifying food items. The store will charge the regular tax rate on the nonfood items and the reduced tax rate on the qualifying food items.

(B) A vending machine company provides two vending machines to a business. One machine is for cold items and one machine keeps items hot. Only the cold items are eligible for the reduced tax rate. The hot items are subject to the regular tax rate.

(C) A convenience store sells burritos from its freezer. The convenience store provides a microwave so the purchaser can heat it. The sale of the burrito is taxed at the reduced rate because it is a qualifying food item.

(D) A vending machine company sells popcorn and soup in microwave pouches and containers. These items are sold at room temperature and are heated by the purchaser in a microwave provided in the vending area. These items are eligible for the reduced tax rate.

[(E) A fast food restaurant sells cold salads and cold soft drinks. These cold items represent approximately 10% of total gross receipts. Because the restaurant's total food sales of items prepared for immediate consumption are more than 80% of the total sales, the restaurant should charge the regular tax rate on all its food sales.

(F) A convenience store sells prepared cold sub sandwiches, ice cream and cold drinks. The store also prepares and sells hot dogs and chili. All items are sold "to go." The store should charge the reduced tax rate on the cold items, but should charge the regular tax rate on the hot items.

(G) A company sells pre-packaged ice cream bars made by an unrelated ice cream manufacturer to neighborhood families from trucks. The ice cream truck driver should charge the reduced rate of tax because the seller does not prepare the ice cream bars and are not consumed on the premises of the seller.

(H) An ice cream vendor sells soft cones and pre-packaged ice cream bars made by an unrelated ice cream manufacturer at a football game. The gross receipts from the sales of soft cones are less than 80% of the ice cream vendor's total gross receipts. None of the ice cream qualifies for the reduced rate because it is consumed on the premises.]

(E) A movie theater sells popcorn and other prepared snacks. As the popcorn and snacks are prepared for immediate consumption, the sales of the snacks are subject to the full rate even if consumed outside the theater.

(F) A doughnut store sells doughnuts and other prepared snacks. As the doughnuts and snacks are prepared for immediate consumption, and the restaurant's total food sales of items prepared for immediate consumption are more than eighty percent (80%) of the total sales, the sales of the snacks are subject to the full rate even if consumed outside the store.

(G) An airline provides meals to its travelers on longer flights. The meals are prepared and frozen prior to the flight. The flight attendants heat the food prior to serving. As the food was prepared for immediate consumption, and not for home consumption, the meals are subject to the full rate.

AUTHORITY: section 144.270, RSMo [1994] ***2016****.* Original rule filed June 29, 2000, effective Jan. 30, 2001. Amended: Filed Oct. 9, 2025.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legislative Office, 301 W. High Street, Room 218, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*