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whimsical, or haunting artifacts on the shelves. Every sale of a pointy black hat or bag of candy matters — as does getting the tax right on those sales. In other words, ...

Oct. 17, 2019



For retailers, Halloween is often a harbinger of the upcoming holiday shopping season that officially starts the day after Thanksgiving (aka, Black Friday): Strong sales leading up to Halloween can indicate higher sales in the months ahead. Indeed,

some shoppers purchase holiday gifts for friends and family even as they shop for

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Consequently, sales tax compliance can be particularly challenging for businesses that sell into multiple states. And one of the most stellar examples of that complexity is the sales tax on candy.

In a candy-coated nutshell:

- Some states tax candy and other “food and food ingredients” the same
- Some states tax candy differently from other sales of food and food ingredients
- Some states don't tax candy at all

The taxability of candy is broken up by state below. Before ripping into that bag of treats, however, it's helpful to define the term “candy.”

What is candy?

Merriam Webster defines “candy” as “a confection made with sugar and often flavoring and filling.” Some states boil the definition down further.

The 24 states that are members of the Streamlined Sales and Use Tax Agreement (SST) define candy as “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.” However, “‘Candy’ shall not include any preparation containing flour and shall require no refrigeration.”

Because all 24 SST states have adopted the above definition for candy, they're identified in the lists below.

However, it's worth noting that some SST states *don't* tax candy that doesn't contain flour or require refrigeration differently from other food or candy-like sweets that do contain flour or require refrigeration (though some do). And some non-SST states *do* tax candy differently from other food.

Many states' sales tax laws reference "food and food ingredients" or "food for home

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- **Alabama:** Candy and other food products for human consumption are taxed at the full rate of state and local sales tax unless sold through a vending machine (vending machine sales are subject to a 3 percent state sales tax, plus various local rates). There have been attempts to exempt food/groceries at the both the state and local level as recently as this year, to no avail.
- **Hawaii:** Candy and other food are taxed at the general rate.
- **Idaho:** Candy and other food are taxed at the general rate.
- **Kansas** (SST member): Candy and other food and food ingredients are taxed at the general rate.
- **Mississippi:** Candy and other food are subject to the regular sales tax rate in Mississippi.
- **Missouri:** Candy and other food for home consumption are subject to a reduced state sales tax rate of 1.225 percent, plus applicable local sales tax.
- **Oklahoma** (SST member): Candy and other food and food ingredients are taxed at the regular rate. However, food sold through vending machines is exempt.
- **South Dakota** (SST member): Candy and other food are taxed at the regular rate.
- **Utah** (SST member): Candy and other food and food ingredients are taxed at a reduced rate of 3 percent (1.75 percent state tax, plus 1.25 percent local taxes). Lawmakers have attempted to exclude candy from the definition of food and food ingredients, which would subject it to the full rate of tax, but their efforts have been unsuccessful as of this writing.
- **Virginia:** Candy and other food and food ingredients are taxed at a reduced rate of 2.5 percent.

Candy isn't food and is taxed differently from "food and food ingredients"

Close to 20 states don't consider candy to be the same as other "food and food ingredients." Consequently, they don't treat it the same as food for tax purposes. Remember that SST states don't consider candy-like treats containing flour or requiring refrigeration to be "candy." Thus, while a Reese's Peanut Butter Cup may be

subject to sales tax, a Kit Kat bar or Twix bar would be exempt or taxed at a reduced

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applies.

- **Colorado:** Candy (including chewing gum) is generally subject to the full state sales tax rate, but grocery food items are generally exempt from state sales tax. Cities have the right to exempt or tax food for home consumption and food sold through vending machines. However, since candy isn't considered "food," it isn't eligible for a local exemption.
- **Connecticut:** Candy is generally taxed at the full rate. Vending machine sales of candy are taxable if priced at \$0.51 or more. Candy sold in educational institutions and certain health and care facilities is exempt, and grocery foods are generally exempt.
- **Florida:** Sales tax applies to most sales of candy, but grocery foods are generally exempt.
- **Illinois:** Candy is subject to the general rate; other grocery foods are subject to a reduced rate of **1 percent**.
- **Indiana** (SST member): Candy is generally taxed at the full rate, although baking chocolate and similar products intended for use in cooking are generally exempt (unless in the form of bars, drops, or pieces, and are sweetened). Other food and food ingredients are generally exempt. As of July 1, 2019, food sold through vending machines is taxable if generally taxed and exempt if generally exempt (all vending machine sales were taxable prior to that date).
- **Iowa** (SST member): Candy is taxed at the full rate; food and food ingredients are generally exempt.
- **Kentucky** (SST member): Candy is taxed at the full rate, as is food sold through vending machines; food and food ingredients are generally exempt.
- **Maine:** Candy is taxed at the general rate or at the higher rate for prepared food; grocery staples are generally exempt.
- **Maryland:** Candy is taxed at the general rate; other food for home consumption is generally exempt when sold by a grocery store or market.

- **Minnesota** (SST member): Candy is taxed at the regular rate; food and food ingredients are exempt.

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- **North Dakota** (SST member): Candy is subject to sales tax; food and food ingredients are exempt.

- **Rhode Island** (SST member): Candy is subject to sales tax; food and food ingredients are exempt.
- **Tennessee** (Associate SST member): Candy is subject to the full rate of tax (7 percent); food and food ingredients are taxed at a reduced rate of 4 percent.
- **Texas**: Candy is subject to the general rate of sales tax; food and food ingredients are generally exempt.
- **Wisconsin** (SST member): Candy is subject to sales tax; food and food ingredients are exempt.

Candy is necessary and exempt

Some states exempt food and food ingredients (or food for home consumption) because they consider it essential. And some of them include candy in that clustering.

- **Arizona**: Candy and grocery food sales are exempt.
- **California**: Candy and other food and food ingredients are generally exempt. However, tax applies to 33 percent of gross receipts from vending machine sales of candy. Bulk sales of candy through a coin-operated machine are exempt when sold for 25 cents or less (think gum-ball machines).
- **Georgia** (SST member): Candy and other food and food ingredients are exempt from state sales and use tax but subject to all local sales taxes except the special purpose local option sales tax (SPLOST) imposed in connection with equalized homestead option sales tax (EHOST).
- **Louisiana**: Candy and other food and food ingredients are generally exempt; however, local taxes may apply.
- **Massachusetts**: Candy and other food and food ingredients are exempt. There have been efforts to eliminate the exemption for candy and soft drinks in recent years, to no avail.

- [Michigan](#) (SST member): Candy and other food and food ingredients are exempt,

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- [Pennsylvania](#): Candy and other food and food ingredients are exempt.
- [South Carolina](#): Candy and other food and food ingredients are exempt from state sales tax, though local taxes may apply.
- [Vermont](#) (SST member): Candy and other food and food ingredients are exempt.
- [Washington](#) (SST member): Candy and other food and food ingredients are exempt.
- [West Virginia](#) (SST member): Candy and other food and food ingredients are exempt.
- [Wyoming](#) (SST member): Candy and other food and food ingredients are exempt.
- [District of Columbia](#): Candy and other food and food ingredients are exempt; however, candy and other snack foods sold through vending machines are taxed at a rate of 5.75 percent.

Feed the sweet tooth

About 90 percent of Americans are expected to buy candy for Halloween this year. Together, they'll spend \$2.6 billion on candy.

Sales Tax • Small Business

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