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exemption for food for home consumption.

**Gail Cole** • Apr. 10, 2024



By *Gail Cole*.

Like a number of foodstuffs, dairy products can be full fat, reduced fat, or 0% fat. Sales taxes on groceries operate in a sort of similar way. A few states go the full-fat route, applying the full state and local sales tax rate to groceries. Some states provide a

partial sales tax exemption — the sensible 1% or 2% milkfat choice. And in numerous

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will continue to apply to groceries after the state sales tax exemption takes effect.

## **Oklahoma adopts SST definitions for food-related terms**

In addition to establishing the partial sales tax exemption, HB 1955 defines “food and food ingredients” (aka, groceries), “candy,” and “soft drinks.”

Oklahoma is a member of the Streamlined Sales and Use Tax Agreement (SSUTA, or SST), which strives to simplify and reduce the burden of sales tax compliance for businesses. To that end, it created a uniform library of definitions for the major tax base, including the terms “candy,” “dietary supplements,” “food and food ingredients,” “prepared food,” and “soft drinks.”

Although Oklahoma has been a member of SST since 2005, Oklahoma law didn't provide a definition for these food-related products. With the enactment of HB 1955, it does.

**“Food and food ingredients”** are defined as “substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.”

HB 1955 specifies that “food and food ingredients” includes bottled water, candy, and soft drinks. However, “food and food ingredients” does not include:

- Alcoholic beverages
- Dietary supplements
- Marijuana, usable marijuana, or marijuana-infused products
- Prepared food
- Tobacco

Oklahoma has adopted the SST definitions for candy, dietary supplements, prepared

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vitamin; a mineral; an herb or other botanical; an amino acid; a dietary substance to supplement the diet by increasing the total dietary intake; or a concentrate, metabolite, constituent, extract, or combination of any ingredient described above.

To qualify as a dietary supplement, a product must be:

- “intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such form,” not represented as conventional food and not represented for use as a sole item of a meal or of the diet; and
- “required to be labeled as a dietary supplement, identifiable by the label and as required pursuant to Section 101.36 of Title 21 of the Code of Federal Regulations”

**“Prepared food” is:**

- Food that's heated by the seller or sold in a heated state
- Two or more food ingredients mixed or combined by the seller for sale as a single item
- Food sold with eating utensils provided by the seller (e.g., cups, glasses, forks, knives, plates, spoons, or straws)

**“Soft drinks”** are any nonalcoholic beverages containing natural or artificial sweeteners. Beverages containing the following ingredients are not “soft drinks” under the sales tax law: milk or milk products; soy, rice, oat, or similar milk substitutes; or beverages with greater than 50% of fruit or vegetable juice by volume.

Per the [Streamlined Sales and Use Tax Agreement](#), SST member states may include or exclude “bottled water,” “candy,” “dietary supplements,” and “soft drinks” from their definition of “food and food ingredients.” Oklahoma lawmakers decided to include bottled water, candy, and soft drinks but exclude dietary supplements and prepared food.

## Oklahoma temporarily restricts local taxes on food

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### Patience and persistence pays off

The Oklahoma Legislature has been [trying to eliminate the state sales tax on food](#) for years. What got the exemption over the line in 2024 is unclear, but it could be the rising cost of groceries. In [praising the enactment of HB 1955](#), state Senator Tom Woods said, Oklahoma families could save an average of \$700 per year as a result of the exemption, “providing much-needed relief in the face of inflationary pressures.”

The state sales tax exemption for food and food ingredients is scheduled to take effect in Oklahoma “sometime in August” 2024. As of this writing, the exact date hasn't been announced.

Sales Tax

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