



*This publication provides general information and is not meant to be a substitute for tax laws or regulations.*

Prepared food is subject to Sales Tax at the regular rate of 6%, while food and food ingredients are not taxed.

**Prepared Food Items include:**

- Two or more food ingredients that are mixed or combined by the seller and then sold as a single food item—heated food sold in combination with unheated food is taxable at 6%.
- All food sold by an eating establishment that sells meals, sandwiches, or other food for consumption on or off the premises. Additionally, Prepared Food Items include self-service food such as salad bars or drink islands.
- Items previously heated by the seller and ready to eat without further cooking by the consumer.
- When an item subject to the rate of 6% is sold with a non-taxed food item for a single non-itemized price, the entire purchase amount is subject to the rate of 6%.
- Food sold by a seller who is primarily a manufacturer, except for bakeries, when the food is sold with eating utensils and in a heated state.
  - **“Bakeries”** are those bakeries that sell food in an unheated state by weight or volume as a single item; or bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas.

The mere presence of self-service utensils in a facility does not change non-taxed food items into Prepared Food Items (taxable at 6%) **unless it is intended that the food be consumed with those utensils. Further, items provided solely pursuant to sanitary statutes or regulations do not qualify as utensils.**

Food that is **only** sliced, repackaged or pasteurized by the seller is **not considered to be prepared food** and therefore is not taxed at the 6% rate.

West Virginia municipalities have the authority to levy local sales and use taxes in their respective jurisdictions. Municipal sales tax may be imposed by the municipality where the tangible personal property or taxable service is delivered. Sales and use tax imposed by municipalities is 1%.

Foods containing raw animal foods that require cooking by the consumer as recommended by the FDA are **not** Prepared Foods taxable at the 6% rate.

Cottage Food Vendors

Cottage Food Vendors may sell prepared food or food and food ingredients pursuant to [Department of Agriculture](#) regulations. Under W. Va. Code § 19-35-6, production and sale of nonpotentially hazardous foods, or shelf-stable foods, that can be made in a home, farm, community, or commercial kitchen, is **exempt** from food licensing, permitting, inspection, packaging, and labeling laws. **This does not exempt a producer, seller, third-party vendor, or third-party agent from any law that requires them to register their business and remit applicable taxes.** Tax laws are still applicable to the production and sale of shelf-stable foods. Taxpayers should consult [TSD 360](#) to learn more about business registration requirements.

**Nonpotentially hazardous foods** means foods that do not require refrigeration or heat in order to remain safe for consumption.

**For more information, you can:**

- **Call** a Taxpayer Services Representative at (304)558-3333 or toll-free at (800) 982-8297
- **Email** [taxhelp@wv.gov](mailto:taxhelp@wv.gov)
- **Go Online** to [tax.wv.gov](http://tax.wv.gov)