

General Questions

When do these changes described in Information Bulletin FY-2010-01 go into effect?

Statutory changes relating to “soft drinks,” “candy” and “grooming and hygiene products” are effective on sales beginning September 1, 2009.

What is the tax amount used when calculating Line 6a on Form ST-1?

The general merchandise rate is 6.25 percent, plus any applicable local taxes. You may obtain information about local tax rates from our Web site by using the “Quick Links” sidebar entitled “Tax Rate Finder.”

What is the low rate number?

“Low rate” refers to the sales tax rate for qualifying food, drugs, and medical appliances of 1 percent. In addition, there may also be local taxes that apply. **Note:** This is not a new tax rate.

What is the high rate number?

“High rate” refers to the sales tax rate for general merchandise of 6.25 percent. In addition, there also may be local taxes that apply. **Note:** This is not a new tax rate.

Will tax lines on grocery receipts indicate different rates?

They should, as they do now.

Internet email responses from the Illinois Department of Revenue are not binding on the department and create no rights under the Taxpayer Bill of Rights. In addition, they do not constitute private letter rulings or general information letters, which are more fully explained in Part 1200 of the department’s regulations. These regulations, as well as others, can be accessed on the department’s Web site by using the “Quick Links” sidebar entitled “Laws/Regs/Rulings”. See tax.illinois.gov/Legalinformation/index.htm

The department plans to propose regulations to provide additional guidance regarding recent changes to the sales and excise taxes. The proposed regulations will also be posted on our Web site, as explained above.

Soft Drinks

Recent sales tax changes define “soft drinks” as “non-alcoholic beverages that contain natural or artificial sweeteners. “Soft drinks” do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50 percent of vegetable or fruit juice by volume.”

The tax rate applied to soft drinks did not change. The new definition of “soft drinks” will result in a tax increase on certain beverages. An example is sweetened tea. Under the old definition, sweetened tea was not considered a “soft drink.” Beginning September 1, 2009, sweetened tea is considered a “soft drink” and is taxed at the high rate.

Are non-alcoholic cocktail mixers (e.g., dry mixes, concentrates and ready-to-use) taxed following the “soft drinks” guidelines?

Dry mixes and concentrates will continue to be taxed as food, because they do not fall within the statutory definition of “soft drink.” However, “ready-to-use” non-alcoholic cocktail mixers will be taxed as soft drinks.

Does “soft drink” only apply to bottled or canned soft drinks and not fountain drinks?

The new definition of “soft drink” removes the limitation that the drink be contained in a closed or sealed bottle, can, carton, or container. This means fountain drinks are now technically considered to be “soft drinks”. In practice, however, this will **not** be a rate change because prior to this change, fountain drinks were taxed at the high rate as “food prepared for immediate consumption.” They will continue to be taxed at the high rate, but as “soft drinks.”

Are “soft drink” mixes included under the new definition?

The definition of “soft drink” does not include beverage powders (Tang®, Koolade®, etc.) or fruit flavored soft drink mix concentrates. These items are food.

Is flavored tea packaged as a tea bag or loose-leaf form considered soft drinks?

Tea (whether flavored or sweetened) in a tea “bag” or loose-leaf form are not beverages and do not fall within this new definition of “soft drinks.” The same would be true for powdered drink mixes and frozen juice concentrates.



Internet email responses from the Illinois Department of Revenue are not binding on the department and create no rights under the Taxpayer Bill of Rights. In addition, they do not constitute private letter rulings or general information letters, which are more fully explained in Part 1200 of the department’s regulations. These regulations, as well as others, can be accessed on the department’s Web site by using the “Quick Links” sidebar entitled “Laws/Regs/Rulings”. See tax.illinois.gov/LegalInformation/index.htm

The department plans to propose regulations to provide additional guidance regarding recent changes to the sales and excise taxes. The proposed regulations will also be posted on our Web site, as explained above.

Personal grooming and hygiene products

There is **not** a new tax or a new group of items being taxed. The change is limited to personal grooming and hygiene products that are currently taxed at the low rate because they make "medicinal claims." Beginning September 1, 2009, these products will be taxed at the high rate, regardless of any medicinal claim. An example is medicated dandruff shampoo. Beginning September 1, 2009, this shampoo will be taxed at the high rate, even though it makes a medicinal claim. Grooming and hygiene products that are available by prescription only are taxed at the low rate.

Are vitamins or minerals subject to the changes that occur September 1, 2009?

Vitamins and minerals (taken orally or ingested) are not "candy" or "grooming and hygiene products" and generally remain taxed at the low rate.

What is the tax rate for shampoo sold at a salon?

Shampoo is specifically listed as a grooming and hygiene product. Prior to the recent law change, shampoo was already taxed at the general merchandise rate, unless it made a medicinal claim, such as dandruff shampoo. If a salon sells shampoo that make medicinal claims, the tax rate on these shampoos will increase from the low rate to the general merchandise rate on and after September 1, 2009.

Does this tax rate change apply to toothpaste, mouthwash, and whitening products?

Toothpaste, mouthwash, and whitening products (including whitestrips and whitening gels sold in stores or sold only through a dental office) are personal grooming and hygiene products subject to the high rate (general merchandise) of tax. Most personal grooming and hygiene products (including the ones above) were already taxed at the high rate. The products impacted by the change are those that had been taxed at the low rate because they were categorized as "non-prescription medicine and drugs" (e.g., medicated toothpaste). These products will be taxed at the high rate with all other personal grooming and hygiene products, regardless if they make medicinal claims.

Please note that tangible personal property transferred incident to a sale of service (as opposed to sold over-the-counter) is subject to the Service Occupation Tax. Please see 86 Ill. Adm. Code 140.101 and following for information on this tax.

Which rate applies to feminine products (tampons, sanitary napkins or pads, etc.) and items used for incontinence?

Feminine products are grooming and hygiene products and are taxed at the rate for general merchandise (high rate).

Items used for incontinence, such as Depends® and adult underwear or diapers, are grooming and hygiene products and are taxed at the rate for general merchandise (high rate).

Are contact lens solutions grooming or hygiene products?

Contact lens solutions are grooming and hygiene products and are taxed as general merchandise (high rate).

Are lip balms considered grooming or hygiene products?

Lip balms are considered grooming and hygiene products and are taxed as general merchandise (high rate).

Is denture adhesive a grooming or hygiene products?

No. Denture adhesives should be taxed at the low rate.

Are first aid infection preventers or acne products considered grooming or hygiene products ?

First aid infection preventers are **not** grooming and hygiene products and are taxed at the low rate.

Acne treatment products are grooming and hygiene products and should be taxed as general merchandise (high rate) unless available only by prescription.

Are Band Aids® adhesive bandages considered grooming or hygiene products ?

Adhesive bandages (Band Aid®, etc.) are not considered a grooming and hygiene product. The Department's regulation at 130.310(c)(1)(D)(3) provides that "sterile dressing, bandages and gauze qualify for the reduced rate". If the bandages are sterile they continue to be taxed at the low rate.

Internet email responses from the Illinois Department of Revenue are not binding on the department and create no rights under the Taxpayer Bill of Rights. In addition, they do not constitute private letter rulings or general information letters, which are more fully explained in Part 1200 of the department's regulations. These regulations, as well as others, can be accessed on the department's Web site by using the "Quick Links" sidebar entitled "Laws/Regs/Rulings". See tax.illinois.gov/LegalInformation/index.htm

The department plans to propose regulations to provide additional guidance regarding recent changes to the sales and excise taxes. The proposed regulations will also be posted on our Web site, as explained above.

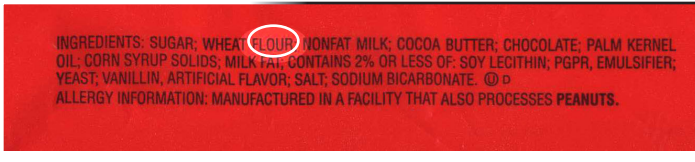
Candy

Beginning September 1, 2009, for Illinois sales tax purposes, candy is defined 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. “Candy” does not include any preparation that contains flour or requires refrigeration.”

Always consult the list of ingredients. If the word “flour” is listed, it is excluded from the definition of “candy.”

How do I tell whether candy contains flour?

You must look at the label. See example below:



How should a candy bar (e.g., Kit-Kat™) that contains both sugar and flour be taxed?

Using this definition, Kit Kat™ bars would NOT be considered candy because it contains flour.

Are granola bars “candy?”

It is possible granola bars constitute “candy” because they contain natural or artificial sweeteners in combination with fruit, nuts, chocolate or other ingredients (such as whole grains). If the ingredient label indicates “flour,” or requires refrigeration, the granola bar does not constitute “candy.” We urge retailers to review the products’ ingredients list.

Are fruit snacks or roll-ups “candy?”

Fruit snacks (e.g., gummy bears) and roll-ups, are “candy” unless they contain flour.

Are baking chocolate (bar, etc.) or morsels “candy?”

Yes

Are molded chocolate items (e.g., snowmen, Santas, bunnies, sporting figures) “candy?”

Yes

Are malted milk balls “candy?”

“Whether an item is a candy depends upon whether the ingredient list contains the word “flour.” Some malted milk balls do not contain this wording and so are considered candy. However, since Whoppers® lists flour as an ingredient, it is not considered to be candy.

Is sweetened flake coconut considered “candy?”

Yes

Is un-popped flavored and sweetened popcorn “candy?”

No

Is food coloring “candy?”

No

Are trail and snack mix that contain both flour, dried fruit and candy considered “candy”?

If “flour” is one of the ingredients listed on the ingredient label, then the trail or snack mix would **not** be considered “candy”.

Internet email responses from the Illinois Department of Revenue are not binding on the department and create no rights under the Taxpayer Bill of Rights. In addition, they do not constitute private letter rulings or general information letters, which are more fully explained in Part 1200 of the department’s regulations. These regulations, as well as others, can be accessed on the department’s Web site by using the “Quick Links” sidebar entitled “Laws/Regs/Rulings”. See tax.illinois.gov/LegalInformation/index.htm

The department plans to propose regulations to provide additional guidance regarding recent changes to the sales and excise taxes. The proposed regulations will also be posted on our Web site, as explained above.

Candy

Are bags of mini candy bars included?

Like snack and trail mixes, bags of mini candy bars really require the examination of the ingredients label. If “flour” is listed on the ingredient label, the entire bag will **not** be taxed as “candy”.

Are ice cream bars considered candy?

The new definition of “candy” provides that if refrigeration is required the item is **not** considered “candy.” Refrigeration is required for ice cream and yogurt bars, popsicles, *etc.* so these items will remain taxed as food at the low rate.

Is “honey” by itself considered “candy”?

No. Flavored honey is not considered “candy” provided that it is not in the form of bars, drops or pieces.

Are barbeque-flavored snacks (*e.g.*, chips, popcorn) considered “candy”?

No.

Items that contain flour:

The following items all contain flour within the ingredients or require refrigeration and would not be considered “candy” and would be taxed as food (low rate).

- Good & Plenty®
 - Kit Kat™
 - Take 5® bars
 - Twix ®bars
 - Twizzlers®
 - Whoppers®
-

Internet email responses from the Illinois Department of Revenue are not binding on the department and create no rights under the Taxpayer Bill of Rights. In addition, they do not constitute private letter rulings or general information letters, which are more fully explained in Part 1200 of the department’s regulations. These regulations, as well as others, can be accessed on the department’s Web site by using the “Quick Links” sidebar entitled “Laws/Regs/Rulings”. See tax.illinois.gov/LegalInformation/index.htm

The department plans to propose regulations to provide additional guidance regarding recent changes to the sales and excise taxes. The proposed regulations will also be posted on our Web site, as explained above.