



Florida Department of Revenue
Tax Information Publication

TIP

No: 10A01-22
Date Issued:
December 21, 2010

SALES OF BAKERY PRODUCTS

This Tax Information Publication provides clarification for bakery products sold by bakeries, pastry shops, and other like establishments.

Bakery products are taxable when:

- Sold for intended consumption on the premises.
 - Bakery products sold in quantities of five (5) or less are assumed to be sold for consumption on the premises.
- Packaged in a manner consistent with consumption on the premises.
- Sold as hot prepared food products regardless of where or how they are sold.
 - Bakery products sold while still warm from the initial baking are not hot prepared food products.
 - Bakery products that are kept warm by a heat source used to maintain them in a heated state, or to reheat them, are hot prepared food products.

Bakery products are exempt when:

- Sold for intended consumption off the premises **and**
- Packaged in a manner consistent with consumption off the premises (examples include packaging that is glued, stapled, wrapped, or sealed).
- Sold by bakeries, pastry shops, and other like establishments that do not have eating facilities.

Example: A bagel shop operates an establishment with eating facilities and makes a single sale of three bagels. The bagels are taxable unless the seller can establish that they were packaged in a manner consistent with an intent by the customer to consume the products off the seller's premises.

Exempt sales of bakery products for consumption off of the premises are required to be separately accounted from taxable sales. Examples include:

- Using sales invoices which contain documentation that the sale of the bakery product is for consumption off of the premises.
- Using a separate key on a cash register to record tax-exempt sales of bakery products.
- Using a separate cash register to record tax-exempt sales of bakery products.

Example: A bakery operates an establishment with eating facilities. The bakery sells donuts, toasted bagels, and other pastries, as well as coffee and other drinks. The bakery sells bakery

products to patrons who take the products in sealed containers for consumption off of the premises. Products sold for consumption on the premises are served to the customers on trays. The bakery uses separate keys on its cash registers to account for the sales of tax-exempt bakery products for consumption off of the premises in sealed containers separately from the accounting for taxable sales of toasted bagels, coffee, other drinks, and bakery products for consumption on the premises. The bakery products sold for consumption off the premises are exempt, because the bakery's packaging and accounting methods are consistent with a manner of consumption off of the premises.

This Tax Information Publication is for illustrative purposes only. Please refer to the references below for the complete text of the law.

References: Section 212.08(1), Florida Statutes and Rule 12A-1.011(3), Florida Administrative Code

FOR MORE INFORMATION

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

For forms and other information, visit our Internet site at www.myflorida.com/dor or call Taxpayer Services, 8:00 a.m. to 7:00 p.m., ET, Monday through Friday, excluding holidays, at 800-352-3671.

Persons with hearing or speech impairments may call our TDD at 800-367-8331 or 850-922-1115.

For a detailed written response to your questions, write the Florida Department of Revenue, Taxpayer Services, 5050 West Tennessee Street, Tallahassee, FL 32399-0112.

**Want the latest tax information and due-date reminders
for sales tax and unemployment tax returns?
Go to www.myflorida.com/dor and click on:
“Subscribe to our tax publications.”
It’s fast, easy, and secure.**