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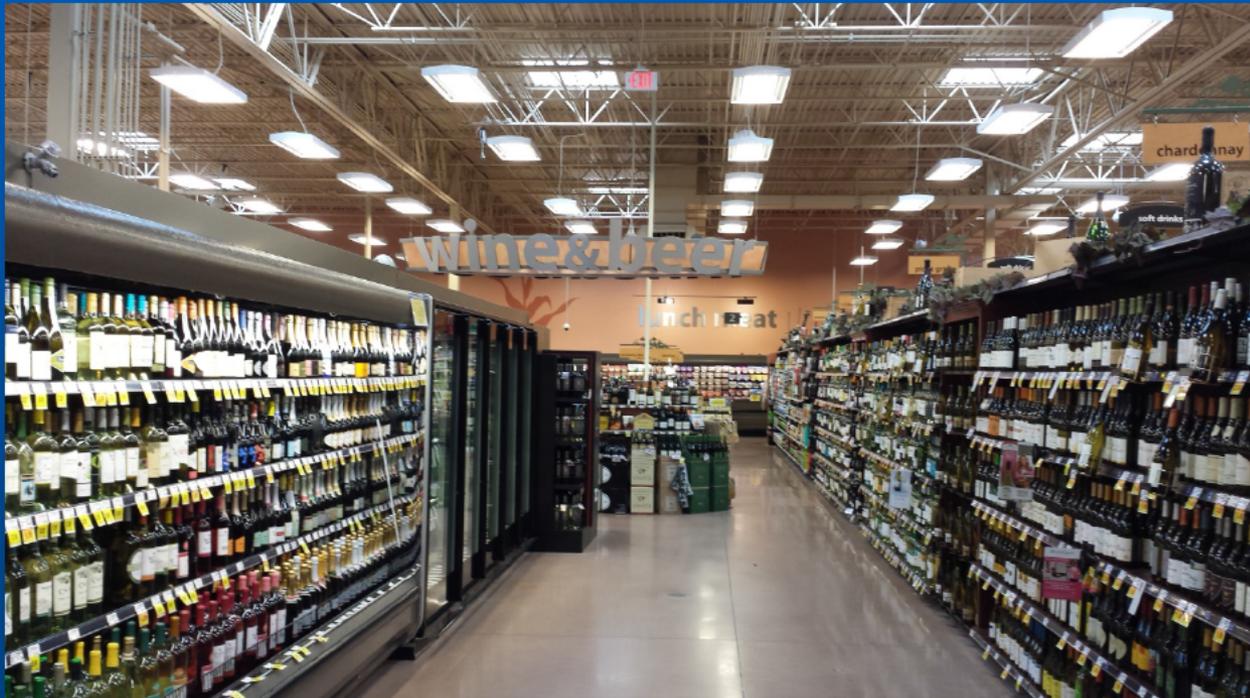
# MAINE REVENUE SERVICES

**Changes in Taxable Food Products effective  
January 1, 2016**

**Presented by:  
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Sales, Fuel and Special Tax Division**

# Products currently taxable – no change

- Spirits, beer, wine



# Products currently taxable – no change

- Spirits, beer, wine
- Medicines, vitamins, dietary supplements



# Products currently taxable – no change

- Spirits, beer, wine
- Medicines, vitamins, dietary supplements
- Water and ice



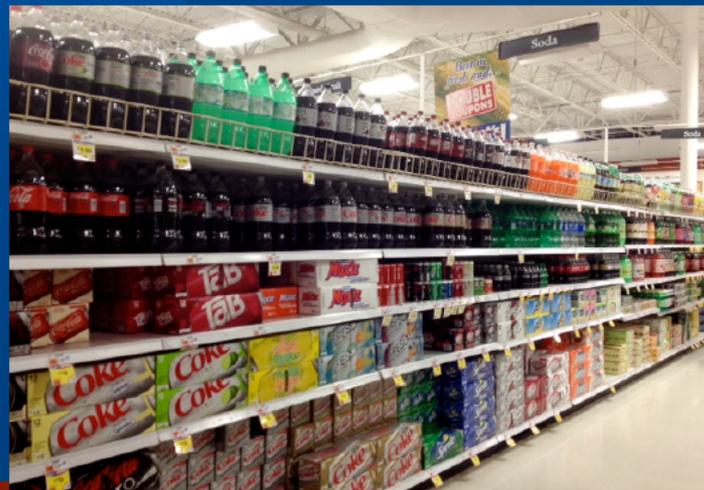
# Products currently taxable – no change

- Spirits, beer, wine
- Medicines, vitamins, dietary supplements
- Water and ice
- Dietary substitutes
- All at 5.5%



# Products currently taxable – with changes

- Candy
- Confections
  - Cotton candy, *Pixy Stix*®
- Soft drinks
- 5.5%



# Candy and confections – new definitions

- ***“Grocery staples” does not include:***
  - ***“Candy and confections, including but not limited to confectionery spreads.”***
  - ***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.”***
  - ***“Confections” are sweet preparations that may not otherwise fall under the definition of candy.***

# Confectionery spreads - new taxable items

- **“Grocery staples” does not include:**
  - “Candy and confections, including but not limited to **confectionery spreads.**”
  - **Examples of confectionery spreads:**
    - **Marshmallow Fluff® and Creme®**
    - **Nutella®**
    - **Hersheys® chocolate spreads**
    - **Frosting, decorating gel icings**



# Confectionery spreads

- *Other than jams, jellies, and preserves, if first listed ingredient is sugar, corn syrup, or other sweetener, the item is a confectionery spread.*



# Candy - new taxable items

- **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.”**
  - Sweetened baking chocolate and baking bits such as chocolate, peanut butter and butterscotch chips
  - Sweetened flaked coconut
  - Edible cake decorations
  - “gummie” snacks
  - Marshmallows
  - Processed fruit snacks
  - Dessert toppings such as rainbow sprinkles



# Soft drinks - new definition

- Soft drinks expands through definition
- Defined as “*non-alcoholic beverages that contain natural or artificial sweeteners other than those containing milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.*”

# Soft drinks - new taxable items

- *“non-alcoholic beverages that contain natural or artificial sweeteners other than those containing milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.”*
  - juice drinks
  - juice cocktails
  - Energy and sports drinks
  - fruit drinks
  - Lemonades
  - Gatorade®



# Soft drinks

- Liquid coffee drinks that contain milk or milk products are exempt grocery staples; not “soft drinks”



# Upcoming changes - Grocery staples

- Beginning January 1, 2016, excluded from the definition of exempt “grocery staples” are **the following** “food and drinks ordinarily sold for consumption without further preparation”.

# Taxable food products

- Beginning January 1, 2016, excludes from the definition of exempt “grocery staples” the following food and drinks ordinarily sold for consumption **without further preparation.**
- ***“Without further preparation” does not include combining an item with a liquid or toasting, microwaving or otherwise heating or thawing a product for palatability rather than for the purpose of cooking the product.***

# **“without further preparation”**

- If a product needs to be cooked, “further preparation” is necessary. The product would continue to be an exempt grocery staple.
- However “further preparation” does not include combining the product with a liquid, toasting, microwaving, or thawing a product for palatability. Any product needing any one of these processes would be taxable.

# New taxable food products

- Beginning January 1, 2016, excluded from the definition of exempt “grocery staples” are the following food and drinks ordinarily sold for consumption without further preparation.
  - *Powdered and liquid drink mixes*
  - *Sandwiches and salads*
  - *Supplemental meal items such as chips and crackers...*
  - *Fruit bars and granola bars...*
  - *Nuts and seeds*
  - *Desserts and bakery items*
  - *Meat sticks, meat jerky and meat bars*

# New taxable food products

- Beginning January 1, 2016, excluded from the definition of exempt “grocery staples” are the following food and drinks ordinarily sold for consumption without further preparation.
  - Powdered and liquid drink mixes except powdered milk, infant formula, coffee and tea*



# Examples - new taxable items

- *Powdered and liquid drink mixes except powdered milk, infant formula, coffee and tea*
  - bartender mixes;
  - frozen juice mix and liquid juice concentrates regardless of percentage of fruit juice content;
  - concentrated water enhancers;
  - lemonade mix;
  - instant breakfast drink mixes including such items as Tang®, Nestle's Quick®, Postum®, and Ovaltine®;
  - hot cocoa mix.

# Examples

- *Powdered and liquid drink mixes except powdered milk, infant formula, **coffee and tea***
- *Examples of exempt coffee and tea*
  - *coffee grounds, tea bags, tea leaves, herbal tea, and pure instant coffee and tea.*
  - *100% coffee and tea liquid concentrates (pure)*

# Examples - new taxable items

- Powdered and liquid drink mixes except powdered milk, infant formula, **coffee and tea**
- Taxable examples
  - Iced tea mix
  - General Foods International Coffee®
  - Coffee and tea liquid concentrates (not 100%)



# New taxable food products

- Beginning January 1, 2016, excluded from the definition of exempt “grocery staples” are the following food and drinks ordinarily sold for consumption without further preparation.
  - *Sandwiches and salads*

# Sandwiches - 8% vs 5.5%

- All sandwiches that are ready for immediate consumption are “meals” and currently taxable at the “prepared food” rate of 8%
  - no change



# Sandwiches - 8% vs 5.5%

- Fully-cooked frozen sandwiches will become taxable at the general rate of 5.5%
- Provided packaging states “fully-cooked” or does not require the product to reach a certain internal temperature.



# Salads – 8% vs 5.5%

- Products sold at salad bars and salads prepared by the retailer are currently prepared food and subject to the “prepared food” rate of 8%
  - no change



# Salads – 8% vs 5.5%

- Salads typically found in deli case will become taxable at the general rate of 5.5%
  - cole slaw
  - potato salad
  - pasta salad
  - tuna, chicken and egg salad.
- Bags or containers of lettuce are exempt grocery staples; not “salad”



# New taxable food products

- Beginning January 1, 2016, excluded from the definition of exempt “grocery staples” are the following food and drinks ordinarily sold for consumption without further preparation.
  - *Supplemental meal items such as corn chips, potato chips, crisped vegetable or fruit chips, potato sticks, pork rinds, pretzels, crackers, popped popcorn, cheese sticks, cheese puffs and dips*



# Examples - new taxable items

- Supplemental meal items such as corn chips, potato chips, crisped vegetable or fruit chips, potato sticks, pork rinds, pretzels, crackers, popped popcorn, cheese sticks, cheese puffs and **dips**
  - All dips; chip, cracker, fruit and vegetable
  - Salsa
  - Hummus



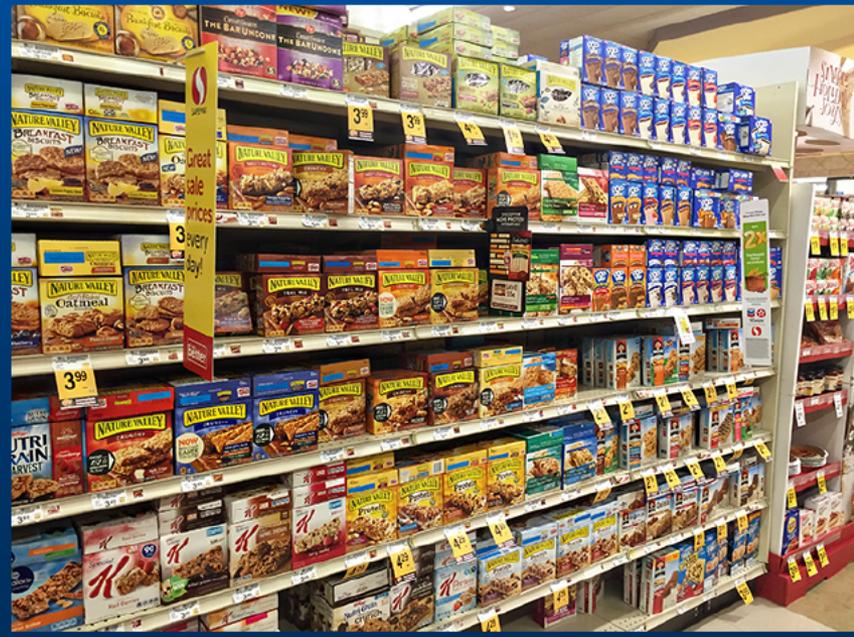
# Examples

- *Supplemental meal items such as corn chips, potato chips, crisped vegetable or fruit chips, potato sticks, pork rinds, pretzels, crackers, popped popcorn, cheese sticks, cheese puffs and dips*
  - *Unflavored matzah, breakfast cereals, powdered dip mixes, taco shells, taco bowls, and unpopped popcorn are exempt grocery staples.*
  - *If item is marketed as a “spread”, it is not a “dip”.*



# New taxable food products

- Beginning January 1, 2016, excluded from the definition of exempt “grocery staples” are the following food and drinks ordinarily sold for consumption without further preparation.
  - *Fruit bars, granola bars, trail mix, breakfast bars, rice cakes, popcorn cakes, bread sticks and dried sugared fruit*



# Examples - new taxable items

- *Fruit bars, granola bars, trail mix, breakfast bars, rice cakes, popcorn cakes, **bread sticks** and dried sugared fruit*
- Crisp “bread sticks” are not to be confused with crusty bakery bread, such as French baguettes, which remain exempt grocery staples



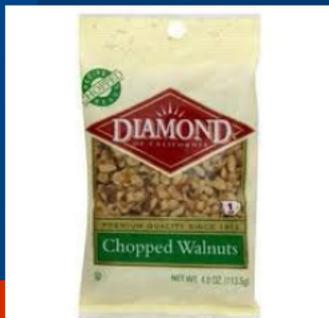
# Examples

- Dried fruit, like raisins, dates, apricots and prunes are exempt grocery staples **UNLESS** they are sugared or sweetened
  - If they are covered in chocolate, yogurt or carob they are a taxable candy



# New taxable food products

- Beginning January 1, 2016, excluded from the definition of exempt “grocery staples” are the following food and drinks ordinarily sold for consumption without further preparation.
  - *Nuts and seeds that have been processed or treated by salting, spicing, smoking, roasting or other means*



# Examples - new taxable items

- *Nuts and seeds that have been processed or treated by salting, spicing, smoking, roasting or other means*

Peanuts	Cashews
Pistachios	Pumpkin seeds
Sunflower seeds	Pine nuts
Macadamias	Walnuts
Pecans	Almonds
Nuts found in the baking section	

- *Raw nuts and nuts and seeds processed into a different form, such as peanut butter, are exempt grocery staples.*

# New taxable food products

- Beginning January 1, 2016, excluded from the definition of exempt “grocery staples” are the following food and drinks ordinarily sold for consumption without further preparation.
  - *Desserts and bakery items, including but not limited to doughnuts, cookies, muffins, dessert breads, pastries, croissants, cakes, pies, ice cream cones, ice cream, ice milk, frozen confections, frozen yogurt, sherbet, ready-to-eat puddings, gelatins and dessert sauces*

# Dessert and Bakery items - 8% vs 5.5%

- All dessert and bakery items that are prepared by the retailer are currently taxable at the “prepared food” rate of 8%
  - no change



# Dessert and Bakery items - 8% vs 5.5%

- Dessert and bakery items NOT prepared by the retailer will become taxable at the general rate of 5.5%



# 6-doughnut rule replaced with “Rule of 6”

- *Old rule – bakery items prepared by the retailer and sold in bulk currently qualify as an exempt grocery staple if 6 or more items of like kind*
- *Change - dessert and bakery items will no longer be grocery staples*
- *All prepared bakery items will become taxable regardless of quantity purchased.*



# 6-doughnut rule replaced with “Rule of 6”

- *New rule – bread and bread products prepared by the retailer and sold in bulk are exempt grocery staples if 6 or more items of like kind*
  - *Bagels*
  - *Loaf of bread*
  - *Sandwich rolls*
  - *Dinner rolls*
  - *English muffins*



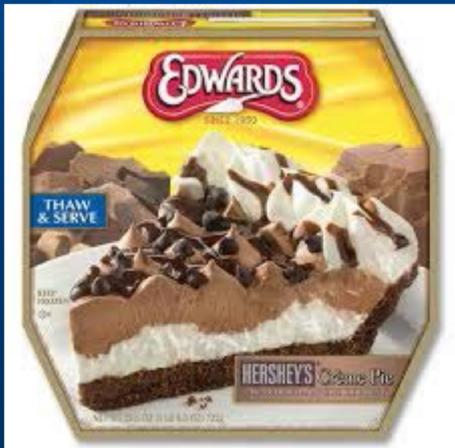
# Examples - new taxable items

- *Desserts and bakery items, including but not limited to doughnuts, cookies, muffins, **dessert breads**, pastries, croissants, cakes, pies, ice cream cones, ice cream, ice milk, frozen confections, frozen yogurt, sherbet, ready-to-eat puddings, gelatins and dessert sauces*
  - *Dessert breads mean “quick” breads such as banana, cranberry, corn and pumpkin.*



# Examples - new taxable items

- *Desserts and bakery items, including but not limited to doughnuts, cookies, muffins, dessert breads, pastries, croissants, **cakes, pies**, ice cream cones, ice cream, ice milk, frozen confections, frozen yogurt, sherbet, ready-to-eat puddings, gelatins and dessert sauces*
  - *Includes “thaw-and-serve” cakes, pies and pastries*



# Examples

- *Desserts and bakery items, including but not limited to doughnuts, cookies, muffins, dessert breads, pastries, croissants, **cakes, pies**, ice cream cones, ice cream, ice milk, frozen confections, frozen yogurt, sherbet, ready-to-eat puddings, gelatins and dessert sauces*
  - *Frozen desserts and bakery items that require cooking are exempt grocery staples*



# Examples - new taxable items

- Desserts and bakery items, including but not limited to doughnuts, cookies, muffins, dessert breads, pastries, croissants, cakes, pies, **ice cream cones, ice cream, ice milk, frozen confections, frozen yogurt, sherbet**, ready-to-eat puddings, gelatins and dessert sauces
  - Ice cream, ice milk, gelato
  - Novelties
    - Ice cream, ice milk, confections, frozen tofu, frozen coconut milk
  - Frozen yogurt
  - Sherbet



# Examples - new taxable items

- *Desserts and bakery items, including but not limited to doughnuts, cookies, muffins, dessert breads, pastries, croissants, cakes, pies, ice cream cones, ice cream, ice milk, frozen confections, frozen yogurt, sherbet, **ready-to-eat puddings, gelatins** and dessert sauces*
  - *Those in the refrigerated section as well as on the shelf*



# Examples - new taxable items

- *Desserts and bakery items, including but not limited to doughnuts, cookies, muffins, dessert breads, pastries, croissants, cakes, pies, ice cream cones, ice cream, ice milk, frozen confections, frozen yogurt, sherbet, ready-to-eat puddings, gelatins and **dessert sauces***



# Examples - new taxable items

- *Desserts and bakery items, including but not limited to doughnuts, cookies, muffins, dessert breads, pastries, croissants, cakes, pies, ice cream cones, ice cream, ice milk, frozen confections, frozen yogurt, sherbet, ready-to-eat puddings, gelatins and dessert sauces*
  - *Other examples of taxable items*
    - *Scones*
    - *Cookie and dip snack packs*
    - *Crepes*

# Examples

- Exempt grocery staples include:
  - Bread and bread products such as a loaf of bread, Italian rolls, French baguettes, sandwich rolls, dinner rolls, bread bowls, bagels, English muffins, and unflavored matzah;
  - yogurt; and
  - jello and pudding mixes.

# New taxable food products

- Beginning January 1, 2016, excluded from the definition of exempt “grocery staples” are the following food and drinks ordinarily sold for consumption without further preparation.
  - *Meat sticks, meat jerky and meat bars*



# Examples

- Exempt grocery staples include:
  - Ready-to-eat bacon or sausage
  - Pepperoni slices and pepperoni logs
  - Sausage links and sausage logs

# Bundled products

- *Two or more items packaged together as one product either by the retailer or by a manufacturer*
- *Contains both taxable and exempt items*
- *Bundle is taxable unless taxable products are a de minimis component of the product being sold.*
  - *Fruit basket with a handful of candy pieces = exempt*
  - *Wine and cheese basket = taxable*

# Taxable bundled products - examples

- *Taxable unless taxable products are a de minimis component of the product being sold.*
  - *Kraft Lunchables®*
  - *Meat, cheese and cracker trays*
  - *Veggie/fruit and dip trays*
  - *Cheese/cracker snack packs*



# Prepared Food review – current law

- *Meals whether served on or off the premises*
- *All food and drink prepared BY THE RETAILER and ready for consumption without further preparation*
- *All food and drink sold by a retailer whose sales of prepared food comprise more than 75% of its total sales*
- *All currently taxable at 8% rate*
- *“Bulk sales of grocery staples” are exempt.*

# Meals – current law

- *Includes take-out or “to-go” items*
  - *Convenience meals*
- *8% tax*



# Meals – current law

- *All sandwiches are meals whether prepared by retailer or not*
- *8% tax*



# Meals – current law

- **All heated food and drink**
  - Includes items prepared for sale in a heated state regardless of cooling
  - Examples: Soup, pizza, hot dogs, chicken
- **8% tax**



# Prepared by Retailer – current law

- *All food and drink*
- *Prepared by the retailer*
- *Ready for consumption without further preparation*
  - *Salad bar*
  - *Chef salad and garden salad*
- *8% tax*



# Prepared by Retailer – current law

- *All food and drink*
- *Prepared by the retailer*
- *Ready for consumption without further preparation*
  - *Platters*
    - *Meat, cheese, cracker, fruit, vegetable, sandwich, etc.*
- *8% tax*



# Prepared by Retailer – current law

- *All food and drink*
- *Prepared by the retailer*
- *Ready for consumption without further preparation*
  - *Dessert and bakery items*
    - *Cakes, pies, doughnuts, muffins, cookies, etc.*
  - *8% tax*



# Prepared by Retailer – current law

- *All food and drink*
- *Prepared by the retailer*
- *Ready for consumption without further preparation*
  - *Drinks such as soda fountain drinks, punch, lemonade, slush drinks, coffee, tea, iced tea, etc.*
- *8% tax*



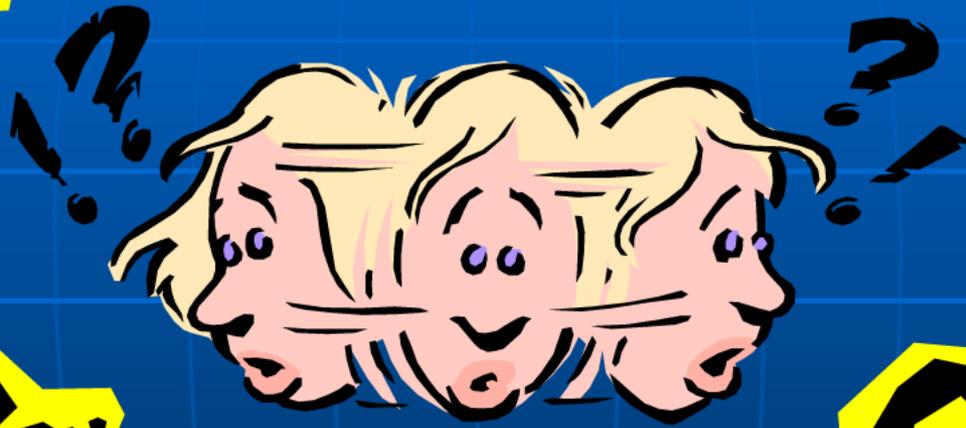
# 75% rule

- All food and drink is taxable when sold from an establishment whose sales of food and drinks that are prepared by the retailer account for more than 75% of the establishment's gross receipts.



## **75% rule – current law**

- ***Numerator = food and drink prepared by retailer***
- ***Denominator = gross sales***
  - *Gross sales means ALL sales including non-taxable sales, beer, wine, newspapers, cigarettes, gasoline, etc.*
- ***If greater than 75%, all food and drink taxable at 8%***
- ***Exception for bulk sale of grocery staples***
  - *Loaf of bread*
  - *Gallon of milk*



# For additional assistance:



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