

This letter discusses the applicable sales tax rates for food and candy. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

March 24, 2016

Dear Xxxxx:

This letter is in response to your letter dated February 23, 2016, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings (“PLRs”) are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department’s regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter (“GIL”) is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Please review the enclosed product labels for each item listed below, and provide us with a determination of sales taxability in your state. Please note that these products are categorized as whole foods.

Products: BAR-CHOCOLATE + FRUIT  
BAR-FRUIT+ HONEY

Thank you for your prompt attention to this request. I will be happy to provide additional information if needed.

We appreciate your assistance in this matter.

#### **DEPARTMENT’S RESPONSE:**

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as “sales” tax in Illinois. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase. The retailers are then allowed to retain the amount of Use Tax paid to reimburse themselves for their Retailers' Occupation Tax liability incurred on those sales.

In the case of food that is sold for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, candy and food that has been prepared for immediate consumption), the tax is imposed at the low State rate of 1%, plus any applicable local taxes. Food that is prepared for immediate consumption, as well as candy, alcoholic beverages and soft drinks, is taxed at the general State rate of 6.25%, plus any applicable local taxes. For further information on the taxability of food, please see 86 Ill. Adm. Code 130.310. Food that is to be consumed off the premises where it is sold includes food sold from a vending machine, except soft drinks, candy, and food products that are dispensed hot from a vending machine.

As pointed out above, candy is taxable at the 6.25% general merchandise rate. 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. Thus, if a product contains flour or requires refrigeration, it would not be considered “candy” even if it meets all the other elements of the definition

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department’s Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Debra M. Boggess  
Associate Counsel

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