

North Carolina Department of Revenue
Post Office Box 25000
Raleigh, North Carolina 27640-0001

Important Notice: Sales of Baked Goods by Artisan Bakeries

Effective January 1, 2009, there is a new exemption from State sales and use tax for bakery items sold without eating utensils by an artisan bakery. Sales of these items will be subject to the 2% local rate of tax imposed on qualifying food products.

G.S. 105-164.13B exempts sales of food from the State sales and use tax except for the following products: dietary supplements, food sold through a vending machine, prepared food, soft drinks, and candy. The excluded items are subject to the general State and applicable local rates of sales or use tax. Prepared food includes food items that consist of two or more foods mixed or combined by a retailer for sale as a single item. Bakery items created from food ingredients constitute prepared food when made and sold by a retailer.

Bakery items include bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. The new exemption only applies if the bakery items are sold by an artisan bakery and are sold without eating utensils. Eating utensils include plates, knives, forks, spoons, glasses, cups, napkins, and straws. Information as to when bakery items are considered to be sold without eating utensils can be found in Sales and Use Tax Technical Bulletin 19-2 B.5., which is available on the Department's website at www.dornc.com. An artisan bakery is a bakery that meets all of the following requirements:

- (1) It derives over eighty percent (80%) of its gross receipts from the sale of bakery items.
- (2) Its annual gross receipts, combined with the gross receipts of all related persons as defined in G.S. 105-163.010 do not exceed one million eight hundred thousand dollars (\$1,800,000).

For the purposes of determining annual gross receipts, a bakery should use the gross receipts reported on its income tax return for the most recent year that a return is due to be filed. The term "related person" is defined under G.S. 105-163.010(10a) as a person described in one of the relationships set forth in Section 267(b) or 707(b) of the Internal Revenue Code.

Questions about this notice can be directed to the Taxpayer Assistance Division at telephone number 1-877-252-3052 (toll-free) or in writing to the Taxpayer Assistance Division, North Carolina Department of Revenue, P.O. Box 25000, Raleigh, N.C. 27640-0001.