Sales and Use Tax on Dietary Supplements under Public Chapter 856

Sales & Use tax notice

Effective July 15, 2002, Tennessee law raises the state sales and use tax rate from 6% to 7%. However, the law provides that "food and food ingredients" continue to be taxed at a state tax rate of 6% plus the applicable local tax rate. The law defines "food and food ingredients" as follows:

> "food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

The reduced rate for "food and food ingredients" does not apply to dietary supplements. Dietary supplements means any product, other than tobacco, intended to supplement the diet that:

1) contains one or more of the following dietary ingredients:
   - a vitamin
   - a mineral
   - an herb or other botanical
   - an amino acid
   - a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
   - a concentrate, metabolite, constituent, extract, or combination of any of the above ingredients; and

2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

3) is required to be labeled as a dietary supplement, identifiable by the supplement facts box found on the label and as required pursuant to Code of Federal Regulations, title 21, section 101.36.

Any item that is required by the FDA to be labeled with "Supplement Facts" is taxable at the full state rate of 7% plus the applicable local rate. This includes appetite suppressants and/or stimulants, or food supplements such as vitamins and minerals, whether sold in tablet, capsule, powder, softgel, gelcap, or liquid form. *Please refer to the Important Notice on Food and Food Ingredients for additional information.*

Dietary supplements taxable at the 7% state rate plus applicable local rate include:

•amino acids •antioxidants •bee pollen •enzymes •garlic capsules •ginseng •herbal supplements	• immune supports • lecithin • metabolic supplements • vitamins and minerals • zinc lozenges

Meal substitutes are taxable at the 6% state tax rate and applicable local rate. Meal substitutes are labeled with "Nutrition Facts" and include:

- unsweetened breakfast bars or those that contain flour
- dried fruit snacks (unsweetened)
- Ensure or Boost
- Pop Tarts
- soup mixes

Brand names are shown for illustration purposes only and are not inclusive, nor do they imply sole representation in any category.

Have questions or comments? Please let us know. Contact us.

Publication Date: July 2002