

# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

ETA 3168.2026

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## Meal Assembly Kitchens and Meal Delivery Businesses

### Purpose

This Excise Tax Advisory (“ETA”) addresses Washington’s business and occupation (B&O) tax and retail sales tax obligations for the preparation and delivery of entrées, meals, and other food products prepared by meal assembly kitchens or meal delivery businesses. For more information on defined terms or other guidance on all food and food ingredients, please see [WAC 458-20-244](#).

### Definitions and terms

For the purposes of this ETA, the following definitions and terms apply:

**Consumer-assembled food** is food that is assembled by consumers at a “meal assembly kitchen.” See definition of “meal assembly kitchens.” Consumers attend a meal assembly session at the kitchen and then assemble their own meals, entrées, side dishes, or other “prepared food” using the meal assembly kitchen’s ingredients, recipes, and facilities. See definition of “prepared food” and “What is prepared food” section within this ETA.

**Kitchen-assembled food** is food prepared or assembled by “meal assembly kitchens.” See the definition of “meal assembly kitchens.” Consumers order from a menu of meals, entrées, side dishes, or other prepared food and the kitchen staff will prepare or assemble the ordered items.

**Meal assembly kitchens** are businesses that sell, to consumers “kitchen-assembled food” and “consumer-assembled food.” See definitions for “kitchen-assembled food” and “consumer-assembled food.” Generally, the kitchens do not cook meals, serve meals, or provide space for immediate consumption. Meal assembly kitchens provide menu options purchase ingredients and either prepare the ingredients, or allow consumers to prepare the ingredients, for assembly into meals, entrées, side

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dishes, or other “prepared foods.” See definition of “prepared food” and “What is prepared food” section within this ETA.

**Meal delivery businesses** are businesses that sell and deliver, to consumers, ready-to-eat-meals, entrées, side dishes, or other prepared foods that do not require additional heating or cooking. They may also sell and deliver “meal kits” that generally need to be cooked by the consumer. These businesses are similar to caterers or restaurants that offer delivery to consumers. See definition of “meal kits.” However, meal delivery businesses are not restaurants or grocery stores that provide space or accommodation where meals, entrées, side dishes, or other prepared food items sold to the public may be immediately consumed. Instead, meal delivery businesses sell prepared foods and/or meal kits that are delivered to a location selected by the consumer.

**Meal kits** are a selection of food and food ingredients that need to be assembled and cooked by the consumer. In many cases, the seller provides instructions on how to assemble and cook the ingredients at the consumer’s home kitchen. Some meal kits contain only food ingredients that have only been cut, repackaged, or pasteurized by the seller. The ingredients may or may not be combined. Some meal kits may also contain prepared foods such as pre-made sauces or other items like measuring cups.

**Prepared food** is excluded from the exemptions for food and food ingredients. “Prepared food” generally means heated foods, combined foods, or foods sold with utensils provided by the seller, as described in more detail in WAC 458-20-244. Also see “What is prepared food” section within this ETA.

**Ready-to-eat foods** are meals, entrées, side dishes, or any other prepared foods that are delivered ready to consume. While consumers may reheat the prepared food prior to consuming, it is ready-to-eat and does not require additional cooking prior to consumption.

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**What is prepared food?**

Please refer to WAC 458-20-244 for a more complete definition of “prepared food.” In general, however, a meal, entrée, side dish, or any other food product is “prepared food” if it meets any one of the following three tests:

	<b>Description</b>
Test 1	All food sold with utensils provided by the seller is “prepared food.”  “Utensils” include plates, knives, forks, spoons, glasses, cups, napkins, or straws. The term does not include a container or packaging used to assemble or transport food.

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	A meal assembly kitchen or meal delivery business provides utensils when the seller customarily hands or delivers the utensil to the customer with the meal, entrée, side dish, or food product. Utensils may also be considered “provided by the seller” under other specific circumstances. See WAC 458-20-244 for more information.
Test 2	Food sold in a heated state is “prepared food” UNLESS it is a bakery item.  “Bakery items” include bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.
Test 3	Two or more food ingredients mixed or combined by the seller for sale as a single item is “prepared food” UNLESS the food or food ingredients: <ul style="list-style-type: none"><li>• are bakery items; or</li><li>• are only cut, repackaged, or pasteurized by the seller; or</li><li>• are items that contain eggs, fish, meat or poultry, in a raw or undercooked state requiring cooking to prevent food-borne illness; or</li><li>• are sold in an unheated state <b>AND</b> sold by weight or volume.</li></ul>

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**How is gross income determined?**

Gross income from sales to consumers of meal kits, consumer-assembled food, kitchen-assembled food, and ready-to-eat prepared foods is subject to the retailing business and occupation (B&O) tax classification. Gross income includes all charges for all income related to the sale including but not limited to amounts charged for:

- prepared food and ingredients,
- preparing ingredients,
- the use of kitchen space or utensils,
- delivery, and
- assembly or delivery containers.

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**When is retail sales tax due?**

Generally, “food and food ingredients” are exempt from retail sales tax; however, the exemption does not apply to sales of “prepared foods.” RCW 82.08.0293. Retail sales tax applies to the sale of entrées, meals, side dishes, and other food products that meet the definition of “prepared foods.”

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**When does retail sales tax generally apply?**

**Consumer-assembled food** generally does not meet the definition of “prepared foods” because it is not sold with utensils and is not heated or combined by the seller. Therefore, consumer-assembled food is generally not subject to retail sales tax.

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**Kitchen-assembled food** generally meets the definition of “prepared foods” because kitchen-assembled food consists of two or more foods or food ingredients mixed or combined by the seller for sale as a single item. Retail sales tax applies UNLESS the food or food ingredient is excluded from the definition of “prepared food” as stated in the prior section under “Test 3.”

**Ready-to-eat food** generally meets the definition of “prepared foods” and is subject to retail sales tax. Ready-to-eat meals, entrées, side dishes, and other prepared food items are “prepared foods” whether or not they are sold with utensils because they are heated or combined by the seller and they do not require additional cooking prior to consumption. Therefore, they are generally subject to retail sales tax.

**Meal kits** generally do not meet the definition of “prepared foods” because the seller only cuts, portions, and repackages food ingredients. The ingredients are not heated or combined by the seller. Therefore, meal kits are generally not subject to retail sales tax. However, retail sales tax may apply as discussed below.

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### Packages sold for one nonitemized price

Businesses may sell packages that consist of both taxable and exempt products such as food ingredients, food products, prepared food, or other items for one nonitemized price, where the price does not vary based on the items ordered. The following table provides a general guideline for determining whether retail sales tax applies.

If ...	Then ...
If the seller’s purchase price or sales price of the taxable “prepared food” is greater than fifty percent of the combined nonitemized purchase price or sales price.	Retail sales tax applies to the entire package.
If the seller’s nonitemized purchase price or sales price of the taxable entrées or meals is fifty percent or less of the combined purchase price or sales price.	The entire package is exempt from retail sales tax.

**Note:** The seller may make the determination based on either purchase price or sales price but may not use a combination of the purchase price and sales price.

See WAC 458-20-244, RCW 82.08.190, and 82.08.195 for additional information and examples.

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### Food Manufacturers

“Prepared food” does NOT include food that is sold without eating utensils by a seller whose proper primary North American Industry Classification System (NAICS)

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classification is food manufacturing in sector 311, except subsector 3118 (bakeries). RCW 82.08.0293(2)(c)(iii)(A).

Generally, meal assembly kitchens' or meal delivery businesses' proper primary NAICS classification will not be manufacturing in sector 311. If a meal assembly kitchen or meal delivery business believes their proper primary NAICS classification is manufacturing in sector 311, they are encouraged to request a written tax ruling from the department to determine their proper primary NAICS classification and if they qualify for this exclusion. To learn more about the tax ruling process, see the department's [binding rulings webpage](#). See also [WAC 458-20-100](#).

For information on other exemptions and exclusions see [WAC 458-20-244](#).

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