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TAXES ON SOFT DRINKS OR CANDY

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You asked which states impose a tax on soft drinks or candy. This report updates the information in OLR report [2002-R-1004](#).

SUMMARY

We identified four states (Arkansas, Tennessee, Virginia, and West Virginia) that levy an excise tax on soft drinks, but none that levy an excise tax on candy.

While most states do not impose excise taxes on candy or soft drinks, many tax these goods at a higher sales tax rate than other grocery food. Of the 46 jurisdictions (45 states and the District of Columbia) that impose a state sales tax, 32 exempt grocery food purchases from the sales tax and 7 tax such purchases at a reduced rate. Many of these 39 jurisdictions exclude candy or soft drinks from the definition of grocery food, thus making them taxable or subjecting them to the state's general sales tax rate. In all, 18 jurisdictions tax candy and 23 tax soft drinks at a higher rate than other groceries.

SOFT DRINK EXCISE TAXES

Four states (Arkansas, Tennessee, Virginia, and West Virginia) levy excise taxes on soft drinks. Table 1 below briefly describes each state's tax. The states vary in how they levy the tax. Arkansas and West Virginia base the tax on volume, while Tennessee and Virginia base it on gross receipts.

Table 1: State Excise Taxes on Soft Drinks

State	Tax Rate	Paid By
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Arkansas	<ul style="list-style-type: none"> ● \$2 per gallon of soft drink or simple syrup ● \$0.21 per gallon of bottled or canned soft drink product or ● \$0.21 for each gallon produced by powders or base products 	Distributors, manufacturers, and wholesale dealers on the first sale in Arkansas
Tennessee	1.9% of gross receipts derived from manufacturing, producing, or importing bottled soft drinks	Manufacturers, bottlers, and importers of bottled soft drinks
Virginia	<p>Excise tax on gross receipts from soft drink sales as follows:</p> <ul style="list-style-type: none"> ● \$50 if the gross receipts are \$100,000 or less ● \$100 if the gross receipts are between \$100,000 and \$250,000 ● \$250 if the gross receipts are between \$250,000 and \$500,000 ● \$750 if the gross receipts are between \$500,000 and \$1,000,000 ● \$1,500 if the gross receipts are between \$1,000,000 and \$3,000,000 ● \$3,000 if the gross receipts are between \$3,000,000 and \$5,000,000 ● \$4,500 if the gross receipts are between \$5,000,000 and \$10,000,000 ● \$7,200 if the gross receipts are between \$10,000,000 and \$25,000,000 ● \$18,000 if the gross receipts are between \$25,000,000 and \$50,000,000 ● \$33,000 if the gross receipts exceed \$50,000,000 	Wholesalers and distributors of carbonated soft drinks
West Virginia	<p>Excise tax on sales, handling, use, or distribution of bottled soft drinks and soft drink syrup in the state as follows:</p> <ul style="list-style-type: none"> ● \$ 0.01 on each bottle of 16.9 ounces (1/2 liter) of bottled soft drink ● \$ 0.80 on each gallon of bottled soft drink syrup ● \$ 0.84 on each four liters of soft drink syrup ● \$ 0.01 on each ounce of dry mix used to make soft drinks 	Manufacturers, distributors, wholesale dealers, retail dealers, or any other person who is the original consignee of any bottled soft drink or soft drink syrup

Source: Drenkard, Scott. "Overreaching on Obesity: Governments Consider New Taxes on Soda and Candy." *Tax Foundation*, October 2011; State tax department websites

TAXABILITY OF SOFT DRINKS AND CANDY ACROSS STATES

Of the 46 jurisdictions (45 states and the District of Columbia) that impose a state sales tax, 32 exempt grocery food purchases from the tax and 7 tax such purchases at a reduced rate. Many of these jurisdictions exclude candy or soft drinks from the definition of grocery food, thus making them taxable or subjecting them to the state's general sales tax rate. Table 2 indicates for each jurisdiction whether grocery food, candy, and soda are taxable.

Table 3 lists the jurisdictions that tax candy and soft drinks at a higher rate than grocery food. In all, 18 jurisdictions tax candy and 23 tax soft drinks at a higher rate than other groceries.

Table 2: Taxability of Groceries, Candy, and Soda Across Jurisdictions

T= Taxable, E= Exempt, RR = Reduced rate

<i>Jurisdiction</i>	<i>State Sales Tax Rate</i>	<i>Grocery Food</i>	<i>Candy</i>	<i>Soda</i>
Alabama	4%	T	T	T
Arizona	6.6%	E	E	E
Arkansas	6%	RR	RR	RR
California ¹	7.25%	E	E	T
Colorado	2.9%	E	T	T
Connecticut	6.35%	E	T	T
District of Columbia	6%	E	E	T
Florida	6%	E	T	T
Georgia	4%	E	E	E
Hawaii	4%	T	T	T
Idaho	6%	T	T	T
Illinois	6.25%	RR	T	T
Indiana	7%	E	T	T
Iowa	6%	E	T	T
Kansas	6.3%	T	T	T
Kentucky	6%	E	T	T
Louisiana	4%	E	E	E
Maine	5%	E	T	T
Maryland	6%	E	T	T
Massachusetts	6.25%	E	E	E
Michigan	6%	E	E	E
Minnesota	6.875%	E	T	T
Mississippi	7%	T	T	T
Missouri	4.225%	RR	RR	RR

Nebraska	5.5%	E	E	E
Nevada	6.85%	E	E	E
New Jersey	7%	E	T	T
New Mexico	5.125%	E	E	E
New York	4%	E	T	T
North Carolina	4.75%	E1	T	T
North Dakota	5%	E	T	T
Ohio	5.5%	E	E	T
Oklahoma	4.5%	T	T	T
Pennsylvania	6%	E	E	T
Rhode Island	7%	E	T	T

Table 2: -Continued-

Jurisdiction	State Sales Tax Rate	Grocery Food	Candy	Soda
South Carolina	6%	E	E	E
South Dakota	4%	T	T	T
Tennessee	7%	RR	T	RR
Texas	6.25%	E	T	T
Utah ¹	5.95%	RR	RR	RR
Vermont	6%	E	E	E
Virginia ¹	5%	RR	RR	RR
Washington	6.5%	E	E	T
West Virginia	6%	RR	RR	T
Wisconsin	5%	E	T	T
Wyoming	4%	E	E	E

Source: CCH State Tax Guide, State tax department websites

¹State rate includes mandatory, statewide, local add-on sales taxes: California (1%), Utah (1.25%), and Virginia (1%).

Table 3: States that Tax Candy and Soft Drinks at Higher Rates Than Groceries

Candy Taxed at Higher Rate		Soft Drinks Taxed at Higher Rate	
Colorado	New Jersey	California	New Jersey
Connecticut	New York	Colorado	New York
Florida	North Carolina	Connecticut	North Carolina
Illinois	North Dakota	District of Columbia	North Dakota

Indiana	Rhode Island	Florida	Ohio
Iowa	Tennessee	Illinois	Pennsylvania
Kentucky	Texas	Indiana	Rhode Island
Maine	Wisconsin	Iowa	Texas
Maryland		Kentucky	Washington
Minnesota		Maine	West Virginia
		Maryland	Wisconsin
		Minnesota	

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