



# TAX BULLETIN 22-12

## *Virginia Department of Taxation*

October 31, 2022

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### GROCERY TAX RATE REDUCTION – REDUCED RETAIL SALES AND USE TAX RATE ON FOOD FOR HOME CONSUMPTION AND ESSENTIAL PERSONAL HYGIENE PRODUCTS

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The [fifth](#) enactment clause of the 2022 Appropriation Act (House Bill 30, Chapter 2 of the 2022 *Acts of Assembly*, Special Session I), [House Bill 90](#), and [Senate Bill 451](#) (Chapters 4 and 504 of the 2022 *Acts of Assembly*, Special Session I) provide an exemption from the state Retail Sales and Use Tax for food purchased for home consumption and essential personal hygiene products (“food and essential personal hygiene products”). Effective January 1, 2023, the Retail Sales and Use Tax applicable to these items will consist only of the 1.0 percent local option sales tax.

#### **Background**

The Retail Sales and Use Tax generally is imposed at a total combined rate of 5.3 percent statewide. The tax consists of the 4.3 percent state tax and the 1.0 percent local option tax. In certain transportation districts and in the Historic Triangle Region, regional state taxes are also levied. Also, certain localities have been authorized to levy an additional local tax. See the Department of Taxation’s [website](#) for more information.

#### **Food Purchased for Home Consumption**

“Food purchased for home consumption” has the same meaning as “food” defined in the Food Stamp Act of 1977, [7 U.S.C. § 2012](#), except it does not include seeds and plants which produce food for human consumption. Also, “food purchased for home consumption” does not include food sold by any retail establishment where the gross receipts derived from the sale of food prepared by such retail establishment for immediate consumption on or off the premises of the retail establishment constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment.

Beginning July 1, 2005, the rate of the Retail Sales and Use Tax levied on food for home consumption was reduced to 2.5 percent. The rate of tax levied on these items was

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comprised of a 1.5 percent state tax and the 1.0 percent local option tax. See Tax Bulletin [05-07](#) for more information on what qualifies as food for home consumption.

**Essential Personal Hygiene Products**

“Essential personal hygiene products” means (i) nondurable incontinence products such as diapers, disposable undergarments, pads, and bed sheets and (ii) menstrual cups and pads, pantyliners, sanitary napkins, tampons, and other products used to absorb or contain menstrual flow. See Tax Bulletin [19-8](#) for a complete list of items.

Beginning January 1, 2020, the rate of the Retail Sales and Use Tax levied on essential personal hygiene products was reduced to 2.5 percent to match the reduced rate of tax applicable to food for home consumption.

**Grocery Tax Reduction –  
Reduced Tax Rate Applicable to Food and Essential Personal Hygiene Products**

Beginning January 1, 2023, the 1.5 percent state Retail Sales and Use Tax levied on food and essential personal hygiene products is eliminated. Food and essential personal hygiene products will continue to be subject to the 1.0 percent local option tax and will continue to be exempt from all regional and additional local tax rates.

Sales of food and essential personal hygiene products made on or after January 1, 2023 will be subject to the new reduced tax rate. Items delivered to a purchaser and paid for on or after January 1, 2023 will be taxed at the 1.0 percent rate, regardless of when the property was ordered. The decreased rate will not apply to items delivered prior to January 1, 2023, but paid for on or after January 1, 2023.

**Example 1:**

Dealer A makes a sale of food and essential personal hygiene products to a customer on December 1, 2022 in the City of Danville. Generally, taxable goods sold in the City of Danville are subject to the statewide sales tax rate of 5.3 percent plus the 1.0 percent additional local tax rate for a total sales tax rate of 6.3 percent. However, prior to January 1, 2023, food and essential personal hygiene products are subject to the reduced sales tax rate of 2.5 percent. Accordingly, the sale would be subject to the 2.5 percent sales tax rate.

**Example 2:**

Dealer B makes a sale of food and essential personal hygiene products to a customer on January 1, 2023 in the City of Danville. Generally, taxable goods sold in the City of Danville are subject to the statewide sales tax rate of 5.3 percent plus the 1.0 percent additional local option tax rate for a total sales tax rate of 6.3 percent. However, beginning January 1, 2023, food and essential personal hygiene products are subject only to the 1.0

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percent local option sales tax. Accordingly, Dealer B should collect and remit only the 1.0 percent local option sales tax on the transaction.

**Filing of Returns**

The reduced rate of tax will be reported on dealers' Retail Sales and Use Tax returns and on businesses' consumer's use tax returns applicable to sales or purchases made on or after January 1, 2023.

**Additional Information**

This Tax Bulletin is available online in the [Laws, Rules & Decisions](#) section of [www.tax.virginia.gov](http://www.tax.virginia.gov). If you have any questions regarding this Tax Bulletin, please contact the Department of Taxation at (804) 367-8037.