

## SECTION .2200 - FOOD AND FOOD PRODUCTS FOR HUMAN CONSUMPTION

### 17 NCAC 07B .2201 FOOD AND FOOD PRODUCTS

(a) Retail sales and purchases of food and food products not included in Paragraph (b) of this Rule are subject to the two percent local food rate of sales and use tax, imposed by Articles 39, 40, and 42 of Chapter 105 of the North Carolina General Statutes, and are exempt from the general State rate of sales and use tax, pursuant to G.S. 105-164.13B. The local and transit taxes imposed by Articles 43 and 46 of Chapter 105, do not apply to food and food products that are exempt from the State rate of sales and use tax.

(b) The following food and food products are subject to sales and use tax, pursuant to G.S. 105-164.4:

- (1) Dietary supplements.
- (2) Food sold through a vending machine.
- (3) Prepared food, other than bakery items sold without eating utensils by an artisan bakery.
- (4) Soft drinks.
- (5) Candy.
- (6) Food or prepared food provided by prepaid meal plans.

(c) Schools making purchases of food that is exempt under G.S. 105-164.13(26) and G.S. 105-164.13(26a), are required to furnish their suppliers a Certificate of Exemption, or the required data elements, in accordance with 17 NCAC 07B .0106. Failure to provide a Certificate of Exemption or other documentation to the supplier, for entry of the information in their records and on the sales invoice identifying the food purchased as food to be sold exempt by the school, shall subject the transaction to sales and use tax.

*History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4L; 105-164.6; 105-164.13; 105-164.13B; 105-164.28; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-506.2; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538; Eff. February 1, 1976; Amended Eff. May 1, 2009; August 1, 2002; May 1, 1999; August 1, 1998; October 1, 1993; October 1, 1991; February 1, 1986; May 11, 1979; Readopted Eff. January 1, 2024.*