



# Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

JANUARY, 2014

## **Sales of Charcoal Briquettes, Wood Chips, and Similar Items to Restaurants**

### **Background**

Engrossed substitute senate bill (ESSB) 5882 (Chapter 13, Laws of 2013) Section V provides a sales and use tax exemption for purchases by restaurants of the following two types of items:

1. Items used to impart flavor to food that are completely or substantially consumed by combustion during the cooking process
2. Items comprised entirely of wood that support the food during the cooking process

### **Qualifying Purchases**

1. **Items used to flavor food that are substantially or completely consumed during the cooking process**

Items that may be purchased exempt from sales and use tax include but are not limited to:

- Wood chips
- Charcoal
- Charcoal briquettes
- Grape vines

2. **Items Used to Support the Food During Cooking**

The exemption also applies to sales of items used to support the food during cooking, such as cedar grilling planks. The items must be made entirely of wood to qualify. Items used to support the food during cooking in this manner do not need to be substantially consumed during the cooking process in order to qualify.

### **Sales of Gas Cooking Fuel**

Sales of gas fuel for cooking remain subject to sales tax. The sales and use tax exemption provided by ESSB 5882 does not extend to any type of gas fuel.

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## **Restaurant Defined**

For purposes of this exemption, "Restaurant" has the meaning given in RCW 82.08.9995:

"Restaurant" means any establishment having special space and accommodation where food and beverages are regularly sold to the public for immediate, but not necessarily on-site, consumption, but excluding grocery stores, mini-markets, and convenience stores. Restaurant includes, but is not limited to, lunch counters, diners, coffee shops, espresso shops or bars, concession stands or counters, delicatessens, and cafeterias. It also includes space and accommodations where food and beverages are sold to the public for immediate consumption that are located within hotels, motels, lodges, boarding houses, bed and breakfast facilities, hospitals, office buildings, movie theaters, and schools, colleges, or universities, if a separate charge is made for such food or beverages. Mobile sales units that sell food or beverages for immediate consumption within a place, the entrance to which is subject to an admission charge, are "restaurants." So too are public and private carriers, such as trains and vessels, that sell food or beverages for immediate consumption if a separate charge for the food and/or beverages is made. A restaurant is open to the public for purposes of this section if members of the public can be served as guests. "Restaurant" does not include businesses making sales through vending machines or through mobile sales units such as catering trucks or sidewalk vendors of food or beverage items.

## **Requirements for Sellers:**

Sellers making tax-exempt sales under this section of the law must:

- Obtain a completed Buyer's Retail Sales Tax Exemption Certificate from the eligible purchaser.
- Report their total gross sales on their return, and then deduct their exempt sales from their reported gross. A line will be provided on the E-file deduction detail page for this deduction.
- Keep the copy of the exemption certificate with the business records for five years after the date of the exempt sale.

## **New Reporting Requirements for Buyers**

This sales and use tax exemption is considered a new tax preference subject to additional reporting requirements.

Buyers must report the amount of tax preference received under the "Tax Preference" section of the Department's E-file tax return. When completing this section, buyers should select "Certain Flavor Imparting Products by Restaurants" from the drop down list of exemptions and enter the purchase price paid on sales for which an exemption was claimed for that tax reporting period. This addendum must be completed in addition to a buyer's regular reporting responsibilities.

Buyers are not required to report the amount of preference received if:

- The tax benefit to a buyer is less than \$1,000 per year; or
- A business files an annual tax return with the Department.

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**Effective Dates**

This sales and use tax exemption is effective beginning October 1, 2013, and expires July 1, 2017.

**For More Information**

Call our Telephone Information Center at 800-647-7706.