

# SPECIAL NOTICE

April 16, 2004

For further information contact:  
Telephone Information Center  
360-705-6705

Alternate formats (360) 705-6705  
Teletype users 711

## Sales Tax Changes for Dietary Supplements SB 5783 (Chapter 168, Laws of 2003)

**Effective January 1, 2004**, Washington adopted food definitions based on the national Streamlined Sales and Use Tax Agreement. The changes significantly affected the application of retail sales tax to food products.

Under the new law, “food and food ingredients” are exempt from retail sales tax unless they fall within the definition of “dietary supplements,” “soft drinks,” or “prepared foods.” This notice discusses the definition of “dietary supplements.” “Bakeries,” “soft drinks,” and “prepared foods” are discussed in separate notices.

**“Dietary Supplements” are subject to retail sales tax unless dispensed to patients, pursuant to a prescription.**

Dietary supplements include any product, other than tobacco, that is intended to supplement the diet and that meets *all three* of the following criteria:

- ◆ It is required to be labeled as a dietary supplement with a “Supplement Facts” box as required under 21 Code of Federal Regulation (CFR) Sec. 101.36, **and**
- ◆ It contains a vitamin, mineral, herb or other botanical, amino acid, a dietary substance taken to supplement the diet by increasing the total dietary intake, or a concentrate, metabolite, constituent, extract, or combination of the aforementioned ingredients, **and**
- ◆ It is intended for ingestion in tablet, capsule, powder, soft gel, gelcap, liquid form, or is otherwise not represented as conventional food or for use as the sole component of a meal or diet.

Products labeled with both a “Supplement Facts” box and a “Nutrition Facts” box are **not** dietary supplements. Such products are “food and food ingredients” and are exempt from retail sales tax unless they are taxable as a “soft drink” or “prepared food.”

The Department of Revenue is in the process of amending WAC 458-20-244. Persons selling food products should refer to this administrative rule.

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