

1. Prepackaged salads that come from a manufacture are not taxable. They are not taxable. They are not mixed or combined by the seller and fit the description in Reg 1-083.03A in that they are sold by a manufacturer.
  - The food contains two or more food ingredients mixed or combined by the seller for sale as a single item. Examples include meals, sandwiches, self-service fountain drinks, and ice cream sundaes; or
  - Food or food ingredients for human consumption, except for prepared food and food sold through vending machines.
  - Food that is only sliced, repackaged, or pasteurized by the seller (other than caterers). Examples include luncheon meats, cheeses, meat and cheese trays, and cut fruits;

The way that I read it, for a food to be considered a "prepared food" the ingredients must be combined by the retailer. Is this correct? Not necessarily. A salad can be taxable or not, depending on certain factors. Pre-packaged salads are not taxable if you do not provide eating utensils. According to the Nebraska Sales and Use Tax Guide for Prepared Food, any food sold with eating utensils provided by the seller, such as plates, knives, forks, spoons, glasses, cups, napkins or straws is considered a prepared food and is taxable. Reg 1-083.02 supports this:

- Prepared food is food intended for, and which is generally ready for, **immediate consumption, either on or off the premises of the seller.**
- A food that is only sliced, repackaged, or pasteurized by the seller, other than caterers, such as luncheon meats, cheeses, meat and cheese trays and fruits are not taxable.

2. We have meal deals in the cold case where we combine a protein and two sides for \$6.99. Since we are combining two or more foods this is a taxable product. But if we sold them by the weight then they would not be taxable. Is that correct? Cold meals that require reheating are not taxable because they are not considered a prepared food (it requires additional steps by the consumer). The Meal Deal you sell must be reheated prior to consumption so it is not considered a taxable item. On the other hand, a sandwich is consumed without reheating and would therefore be considered taxable.

Tax exempt food includes deli foods maintained at room temperature or below, such as potato salad, coleslaw, fruit salad, olives and pudding are not taxable when served in a container with a lid and measured and sold by weight or volume. These foods are taxable when sold as part of a meal, when catered or when served on a plate with an eating utensil.

3. Cold sandwiches that we make on site are taxable. My question is: EBT shoppers are not able to purchase these sandwiches, correct? Correct – these are considered a prepared food and are taxable. Cold sandwiches are not eligible for purchase with SNAP benefits.
4. Finally, I understand that hot items that were unsold and must be cooled to maintain their quality can be put in the cold case without adding other food products to them, and they can be sold as non-taxable items. I could not find this in the regulations that I have but I believe that this is correct. This is correct. If a food item requires heating before consumption, then it is not a prepared food and is therefore not taxable and can be purchased with SNAP benefits. Prepared food is defined as food intended for, and generally ready for, immediate consumption, either on or off the premises and that meets the criteria in Reg 1-083.02. Prepared food does not include food sold in an unheated state by weight or volume as a single item, including but not limited to containers of potato salad, coleslaw, fruit salad, pudding and popcorn. (See Reg 1-083.03C). So, if it is something similar to these items it is not taxable.