



2018 Issue Brief:

Treat the Sales Tax Paid on Energy for Commercial Food Preparation Consistently with Treatment for Other Manufacturers

POSITION: The Minnesota Restaurant Association supports legislation to exempt the portion of utilities used to produce taxable food from state and local sales tax.

BACKGROUND: Many states exempt businesses from paying sales tax on certain utilities used in producing tangible goods for sale. Typically both restaurants and manufacturers benefited from such an exemption. However, in the early 1990s, states decided to impose the sales tax on restaurant utilities while allowing manufacturers to continue to purchase their utilities tax-free.

In fact, under current Minnesota tax law, electricity, gas, steam or water used or consumed in the agricultural or industrial production of a product is exempt from sales tax. The same treatment should be extended to restaurants and other foodservice businesses that produce taxable ready-to-eat food. The cost of utilities used to heat, cool and light a business are subject to sales tax.

SUPPORTING STATEMENTS:

- Restaurants, caterers and other foodservice businesses are manufacturers. Restaurants buy raw materials and then add labor and expertise to create a taxable product.
- Our customers are being taxed twice on the cost of the energy that goes into producing a meal that they purchase. The sales tax on the utilities used are included in the calculation of the cost of the product on which they also pay the sales tax.
- As part of the hospitality and tourism industry, restaurants are an important part of the economy. Tourism is the second largest private employer in Minnesota, providing about 11% of the state's jobs and collecting about 17% of the total sales taxes paid in the state. The industry deserves to be treated fairly in comparison to other businesses.
- Over the last decade, many states began restoring this restaurant exemption. Colorado, Iowa, Kansas, Ohio and Rhode Island all now allow restaurants varying forms of sales tax relief when purchasing their utilities, as does Washington, D.C. This exemption has resulted in an average restaurant savings of \$2,000-\$4,000 per year or more (based on size and utility consumption).