



# Every Drop Counts

## Promoting Health by Removing a Tax on Bottled Water

*Sugary drinks contribute to poor diet, rising obesity rates, and chronic diseases such as diabetes and cardiovascular disease. This fact sheet outlines how taxes on bottled drinking water can be removed to make water more affordable and appealing.*

Communities are becoming increasingly aware that sugar-sweetened beverages (SSBs) contribute to poor diet and rising obesity rates. Research has also shown a link between SSB consumption and chronic diseases such as diabetes<sup>1</sup> and cardiovascular disease.<sup>2</sup> One-half of the U.S. population consume SSBs on any given day, and a quarter consume at least 200 calories from SSBs, equivalent to more than a 12-ounce can of soda.<sup>3</sup>

One strategy to decrease SSB consumption and to improve population health is to encourage individuals to drink more water. In recent years, some local governments have tried to encourage people to drink more water as opposed to SSBs. Communities are ensuring drinking water access (also referred to as potable water) in schools, vending machines on government property, and public parks. Not only have policymakers thought about access, but some have carefully considered promotion by, for example, requiring vending machines to: (1) stock a certain percentage of eye-level slots with drinking water, (2) price drinking water competitively compared with SSBs, and (3) promote only drinking water on machine wraps. State and local governments have also started thinking about SSB taxes to discourage SSB consumption and fund public health programs addressing obesity and chronic disease.



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Removing disincentives to purchase drinking water can be one of many solutions for policymakers to consider. This fact sheet discusses how sales of bottled drinking water are taxed in some states and how these taxes can be removed to make water more affordable and appealing to purchasers. Removing a tax is a financial policy that can complement other efforts by state and local governments to promote drinking water.

**Drinking water can be purchased in various ways. The most common types of purchases include:**

- Bottled drinking water in various sizes (e.g., single-serve, multiple single-serve packages, gallons)
- Filtered water dispensers – customers provide their own containers (sometimes available outside of grocery stores)
- Water cooler delivery to a home or office



**How Bottled Drinking Water Is Taxed**

In many states, some sales of drinking water are already exempt from taxes (depending on the type of establishment where a purchase is made). The most common way governments tax sales of drinking water is through a general sales tax, which is applicable to sales of most consumer goods at retail.

**EXAMPLE: Generally Applicable Sales Tax (South Dakota)**

“There is hereby imposed . . . a tax of four percent upon the gross receipts of all sales of tangible personal property consisting of goods, wares, or merchandise, except as otherwise provided in this chapter, sold at retail in the State of South Dakota to consumers or users.”<sup>4</sup>

Many states exempt sales of food from the generally applicable sales tax, and sales of drinking water often fall within the exemption for food. In most cases, however, this exemption, known informally as a “grocery exemption,” does not apply to food sold at restaurants. So even when drinking water falls under a food exemption when sold at grocery stores, the exemption often does not apply when drinking water is sold at restaurants.

Whether a food exemption applies to vending machine sales varies by jurisdiction. And whether a food exemption applies to machines that dispense drinking water into customers’ own containers may depend on how “vending machine” is defined. Sometimes “vending machine” can be defined in a way that includes drinking water dispensers.<sup>5</sup> Another type of drinking water purchase is delivery for a water cooler at a home or office. This type of sale is generally not singled out in sales tax laws (unlike vending machines), so it is therefore likely to receive the same tax treatment as drinking water purchased at grocery stores.

**Promoting Access**

Policymakers can promote drinking water by providing free, open access to water fountains in the community. Some considerations may include: (1) providing enough quality water fountains to serve the community; (2) locating fountains in areas with high need such as schools, parks, playgrounds, trails, and government buildings; and (3) ensuring that fountains are clean and appealing. Strategies to promote drinking water can include using fountains that are designed to also fill reusable bottles and ensuring that the water temperature is cool.



**Sales Tax versus Excise Tax**

A sales tax (also referred to as a sales and use tax or transactions and use tax) is imposed on consumers who purchase goods at retail; it is usually measured as a percentage of the overall sales price.<sup>6</sup> An excise tax is imposed on the performance of some act or the exercise of some privilege, and is often imposed on the business selling a consumer product.<sup>7</sup> For example, most state “tobacco taxes” are excise taxes.

Table 1 lists different types of sales tax policies and how they affect whether drinking water is taxed in different venues. Though there are many ways sales tax exemptions may be carved out, the table presents the most common policies in various states.

**Table 1: Overview of tax legislation and the effects on the sale of water**

Tax policy	Restaurants (prepared food)	Vending machines / water dispensers	Grocery stores	Home / office water cooler delivery
No sales tax	not taxed	not taxed	not taxed	not taxed
Sales tax, with a specific drinking water exemption	not taxed	not taxed	not taxed	not taxed
Sales tax, food exemption that applies to vending machines and/or water dispensers	taxed	not taxed	not taxed	not taxed
Sales tax, food exemption that does not apply to vending machines and/or water dispensers	taxed	taxed	not taxed	not taxed
Sales tax, no food or water exemption	taxed	taxed	taxed	taxed

## Removing a Tax on Drinking Water and Encouraging Consumption

### Step 1 – Understand the Policy in the Jurisdiction

Communities can familiarize themselves with the relevant sales tax provisions in their jurisdiction:

1. Is there a generally applicable sales tax?<sup>8</sup>
2. If so, is there an exemption for food or water?
3. If so, does the exemption apply regardless of the type of establishment selling the food or water? (e.g., does the exemption apply at restaurants selling prepared food? Vending machines? Machines that dispense drinking water into the customer’s own container? Water cooler delivery?)

Some states allow local jurisdictions to impose a local sales tax. The questions above should be considered for both the state and local levels.

### Step 2 – Add a Specific Exemption for Water and Apply the Exemption Broadly

For states with a generally applicable sales tax, which is the case in all but a handful, the most effective way to remove a tax on drinking water is to adopt, specifically, a drinking water exemption to a generally applicable sales tax. This is different from a food exemption applicable to drinking water. Even in states with a food exemption that applies to drinking water, whether the food exemption applies often depends on the type of establishment (restaurant versus grocery store).<sup>9</sup> Sometimes the relevant distinction is whether the food is sold for consumption on the premises or for take-out.<sup>10</sup> For example, Ohio exempts only the latter.

An example of a state with a broad exemption specific to drinking water is Pennsylvania, which exempts drinking water from its sales tax regardless of where it is sold. The relevant provision in the state law very plainly provides that sales tax shall not be imposed on the retail sale of water. A drinking water exemption and food exemption are not mutually exclusive. In fact, Pennsylvania has both but its exemption for drinking water is much broader.<sup>11</sup>



#### EXAMPLE: Broad Drinking Water Exemption (Pennsylvania)

“[Sales tax] shall not be imposed upon any of the following:

\* \* \*

(25) The sale at retail or use of water.”<sup>12</sup>

Promoting drinking water can be an effective way for communities to decrease SSB consumption, but policymakers may also be concerned about the environmental impact from greater use of disposable bottled water. This is a legitimate concern that can be addressed by more heavily promoting the use of drinking fountain and tap water over bottled water. In addition, a more targeted method of addressing environmental concerns may be to apply a refundable redemption fee on all bottle purchases. The fee can be refunded when a consumer recycles the bottle at a designated center in the jurisdiction. Unlike a tax, such a policy encourages recycling and has been implemented in some states including for example, California, Connecticut, and Oregon. However, removing a sales tax and adding a redemption fee in its place may negate any public health impact.<sup>13</sup>

- <sup>1</sup> Malik VS, Popkin BM, Bray GA, Després JP, Willett WC, Hu FB. “Sugar-sweetened beverages and risk of metabolic syndrome and type 2 diabetes: a meta-analysis.” *Diabetes Care*. Nov. 2010; 33(11): 2477–83.
- <sup>2</sup> Malik VS, Popkin BM, Bray GA, Després JP, Hu FB. “Sugar-Sweetened Beverages, Obesity, Type 2 Diabetes Mellitus, and Cardiovascular Disease Risk.” *Circulation*. 2010; 121: 1356–1364.
- <sup>3</sup> Ogden CL, Kit BK, Carroll MD, Park S. Consumption of sugar drinks in the United States, 2005–2008. NCHS data brief, no 71. Hyattsville, MD: National Center for Health Statistics. 2011.
- <sup>4</sup> S.D. Codified Laws § 10-45-2 (2014).
- <sup>5</sup> For example, a definition of “vending machine” that may include water dispensers is a “machine or other mechanical device that accepts payment.” California explicitly exempts from sales tax the sale of drinking water through a dispenser, though other vending machine sales are subject to sales tax: “Sales of purified drinking water through vending machines where the water enters the machine through local supply lines and is dispensed into the customer’s own containers are exempt from the tax under Revenue and Taxation Code Section 6353.” 18 C.C.R. § 1574 (2014).
- <sup>6</sup> CCH Tax Law Editors, *State Tax Guide*: 2009.
- <sup>7</sup> State of Hawaii, Department of Taxation. *Tax Facts 96-1: General Excise vs. Sales Tax*. Hawaii, 2000.
- <sup>8</sup> Chriqui JF, Eidson SS, Chaloupka FJ. *State Sales Taxes on Bottled Water* (as of January 1, 2014) – BTG Fact Sheet. Chicago, IL: Bridging the Gap Program, Health Policy Center, Institute for Health Research and Policy, University of Illinois at Chicago; 2014. [www.bridgingthegapresearch.org](http://www.bridgingthegapresearch.org).
- <sup>9</sup> See, e.g., Mass. Gen. Laws ch. 64H, § 6 (2014).
- <sup>10</sup> See, e.g., Ohio Rev. Code Ann. § 5739.02 (2014) (sales tax does not apply to “[s]ales of food for human consumption off the premises where sold”).
- <sup>11</sup> 72 Pa. Stat. Ann. § 7204 (2014).
- <sup>12</sup> 72 Pa. Stat. Ann. § 7204 (2014).
- <sup>13</sup> [www.ncsl.org/research/environment-and-natural-resources/state-beverage-container-laws.aspx#ia](http://www.ncsl.org/research/environment-and-natural-resources/state-beverage-container-laws.aspx#ia).

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