

## Prepared Food Flow Chart

12345678

**Begin Here**

Did the seller:

- heat the food, or
- mix or combine two or more food ingredients for sale as a single item? <sup>1</sup>

Yes

No

Are any of the following true? <sup>2</sup>

- The food is a bakery item
- The food requires cooking prior to consumption
- The food is ready-to-eat meat or seafood sold unheated by weight
- The food contains raw eggs, fish, meat, or poultry and it requires cooking by the consumer to prevent food borne illnesses <sup>3</sup>
- The food is only sliced, repackaged, or pasteurized by the seller

Yes

Is it the seller's practice to physically give or hand utensils to the customer along with the sale of food <sup>4</sup> (i.e. provide place settings, hand utensils to customers, or place utensils in the package with the food (including food prepackaged with utensils, unless they were packaged by a person classified as a manufacturer))

OR

Are eating utensils necessary to receive the food (such as a plate, glass, cup, or bowl) provided by the seller? <sup>5</sup>

Yes

No

**The sale is taxable prepared food.**

**The sale is taxable prepared food.**

Does the seller make eating utensils available for customers? <sup>6</sup>

Yes

No

**The sale is not taxable.**

Is the seller's prepared food percentage greater than 75%? <sup>7</sup>

No

Yes

**The sale is not taxable.**

**The sale is taxable prepared food. [NOTE: Even if the seller's prepared food percentage is greater than 75%, the sale of bulk servings (four or more servings packaged for sale as a single item for a single price) is taxable as prepared food only if it is the seller's practice to physically give or hand utensils to the customer with the food.]<sup>8</sup>**

<sup>1</sup> Minn.Stat. 297A.61 Subd. 31 (2)

<sup>2</sup> Minn.Stat. 297A.61 Subd. 31 (2)

<sup>3</sup> Minn. Stat. 297A.61, Subd. 31 (2) and FDA food code 3-401.11

<sup>4</sup> Minnesota Rule 8130.4705 Subp. 2

<sup>5</sup> Minnesota Rule 8130.4705 Subp. 3(A)

<sup>6</sup> Minnesota Rule 8130.4705 Subp. 3

<sup>7</sup> Minnesota Rule 8130.4705 Subp. 5

<sup>8</sup> Minnesota Rule 8130.4705, Subp 4