



# BULLETIN

Susan Combs, Texas Comptroller of Public Accounts

## Sales Tax Exemptions for Over-the-Counter Drugs and Medicines

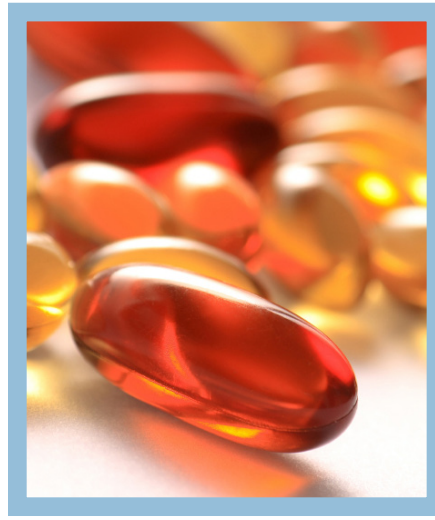
**F**or Texas tax purposes, a drug or medicine is defined as a product (other than an appliance, device or food product) that is applied to the human

body; ingested or inhaled by humans; and intended or marketed for the diagnosis, cure, mitigation, treatment or prevention of disease, illness, injury or pain. Over-the-counter (OTC) drugs and medicines are those for which a prescription is not needed.

### Exemption

Over-the-counter (OTC) drugs and medicines were exempted from sales tax on April 1, 2000. In 2007, legislation further defined the exemption for OTC drugs and medicines to apply only to drugs or medicines that are required to be labeled with a Drug Facts panel in accordance with regulations of the federal Food and Drug Administration (FDA). If an item is required by the FDA to be labeled with a Drug Facts panel, then it is exempt from sales tax. A product that meets the definition of a drug or medicine, but is not required by

the FDA to be labeled with a Drug Facts panel, is exempt from tax when prescribed or dispensed by a physician.



A Drug Facts panel has detailed information about product ingredients, uses, directions and warnings so consumers can properly choose and use the products.

Only OTC drugs and medicines designed for humans are exempt. Drugs and medicines for animals, such as flea repellants and de-wormers, are exempt only when purchased with a veterinarian's prescription.

### Examples of Exempt OTC Drugs and Medicines

The following list contains examples of OTC products that qualify for exemption if they are required to be labeled with a Drug Facts panel in accordance with FDA regulations. The list is intended as a guide and does not include all tax-exempt OTC products.

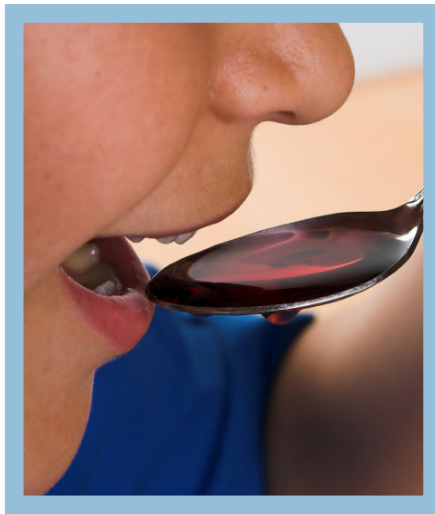


- Acne treatment products
- Allergy treatment products
- Analgesics
- Antacids
- Anti-diarrhea and anti-nausea products
- Anti-fungal products
- Anti-rheumatic products
- Anti-vomiting products and vomiting inducements
- Antibacterial personal care items (hand sanitizer, wipes, soap)
- Antibiotic topical ointment
- Antihistamines
- Antiperspirants
- Antiseptic sprays, creams and lozenges
- Bronchodilator and anti-asthmatic products
- Cold remedies
- Cough suppressants
- Dandruff products (medicated)
- Dental products (medicated)
- Ear care products
- Eye drops (medicated)
- Hemorrhoid products
- Insect bite treatments
- Laxatives
- Nicotine gum or patches and smoking cessation aids
- Pain relievers such as aspirin, ibuprofen and acetaminophen
- Sedatives and sleep aids
- Toothache treatments

### Sunscreen

As previously stated, an OTC product is exempt from sales tax if it is required to be labeled with a

Drug Facts panel in accordance with regulations of the FDA. According to the FDA, sunscreens are not required at this time to be labeled with a Drug Facts panel; however, some sunscreen packaging does contain a Drug Facts panel. Because sunscreen is not required by the FDA to contain a Drug Facts panel, effective Sept. 1, 2007, sunscreen sold without a prescription is taxable even if the packaging contains a Drug Facts panel.



### Wound Care Dressings and Supplies

Wound care dressings and supplies are exempt from sales tax and may be purchased tax free without a prescription or exemption certificate. A wound care dressing is defined as an item that absorbs wound drainage, protects healing tissue, maintains a moist or dry wound environment (as appropriate) or prevents bacterial contamination.

Listed below are examples of exempt wound care dressings and supplies. Keep in mind that this list is only an example of items and is not all-inclusive:

- adhesive bandages (including strip adhesive bandages, large adhesive bandages and butterfly closures)
- corn cushions
- gauze rolls and pads
- liquid bandage products
- medical tape



### Medical Kits

The predominant cost of the contents of a medical kit determines its taxability. If the cost of the taxable items is greater than the cost of the exempt items, the kit is taxable. If the cost of the exempt items is greater, the kit is exempt.

If the taxable items in the kit are its primary cost component, kit manufacturers may issue a resale certificate to suppliers to purchase the taxable components of the kit tax free. The manufacturer is then responsible for collecting and remitting tax on the total sales price of the kits, or must accept a properly completed resale or exemption certificate in lieu of the tax.

If exempt items are the primary cost component of the kit, manufacturers should pay tax on the taxable components at the time of purchase, or accrue tax on the taxable components if the items were purchased tax free.

### Dietary and Nutritional Supplements

Dietary and nutritional supplements are exempt from sales tax.

For purposes of this exemption, a dietary or nutritional supplement is a product that:

- (1) contains one or more vitamins, minerals, herbs, botanicals, amino acids or substances to increase calorie intake;
- (2) is not represented as a food or the sole item of a meal or diet; and
- (3) is labeled, or required to be labeled, "dietary supplement" or "supplement."



A product that does not meet the previous three criteria will also be considered a dietary supplement if the product is labeled, or required to be labeled, with a Supplement Facts panel in accordance with FDA regulations.


### More Information

For more information on the taxability of drugs, medicines, medical equipment and devices, see Rule 3.284.

For additional information on the taxability of a particular product, please call the Comptroller's helpline at (800) 252-5555, or visit the Comptroller's Web site at [www.window.state.tx.us](http://www.window.state.tx.us).

The Texas Comptroller of Public Accounts is an equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, national origin, age, or disability in employment or in the provision of any services, programs or activities.

In compliance with the Americans with Disabilities Act, this document may be requested in alternative formats by calling the toll-free number listed at the bottom of Page 1 or by calling (512) 463-4600 in Austin, (512) 475-0900 (FAX).

 Sign up to receive e-mail updates on the Comptroller topics of your choice at [www.window.state.tx.us/subscribe](http://www.window.state.tx.us/subscribe).