



MINNESOTA FARMERS' MARKET ASSOCIATION

9800 155th Street East, Nerstrand MN 55053 | www.mfma.org | kzeman@mfma.org | (507) 664-9446

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Chair Rest, Senator Putnam, and members of the Senate Taxes Committee –

I am Kathy Zeman, executive director of the Minnesota Farmers' Market Association. Thank you for letting me testify in support of SF3958, to exempt cottage foods from sales tax. MFMA supports all 375+ farmers' markets in MN and the Tribal Nations, and their 10,000+ vendors.

I'd like to thank Senator Putnam's leadership on this cottage foods issue, as he engaged his team to help research and surface a possible solution. Sales tax on certain foods that our food farmers and cottage food producers make and sell has been one of the most vexing issues for us to resolve. Part of the problem for us is that MN Dept. of Revenue defines the words "prepared foods" much differently than MN Dept. of Ag or MN Dept. of Health, who issue the food licenses.

Exempting all cottage foods from sales tax brings some equity to the cottage foods industry and to our food farmers, since baked "prepared foods" are already exempt from sales tax. But other "prepared foods" like jams and jellies sold by fruit & vegetable farmers who are cottage food producers do have to pay sales tax. Produce farmers who make and sell acidified cottage foods like salsa and spaghetti sauce – using the same ingredients in both products - face a unique conundrum: salsa is taxed but spaghetti sauce is not taxed, because if you heat it to eat it, there's no sale tax.

On the fiscal note, we're looking forward to getting more info from the Department of Revenue because we think it's high. While we know the total number of registered CFPs, and the number of CFPs in Tier 1 and Tier 2, we have no data on total sales of the CFPs in either category. And we have no data on how many CFPs make baked items – and baked items are already sales tax exempt. Nor do we have any data on the number of CFPs that make taxable and nontaxable foods – that data does not exist. We do provide a [guidance list of taxable and nontaxable foods](#), approved by MDOR, and that list includes more nontaxable items than taxable items – but even that list provides no data on sales of taxable foods. Hoping we can connect with MDOR to see the numbers behind their analysis.

SF3958 is a good solution for Minnesota cottage food producers, food farmers and the thousands of Minnesotans who buy their foods directly from the makers and farmers.

Thanks for listening and I'm happy to answer any questions you have.

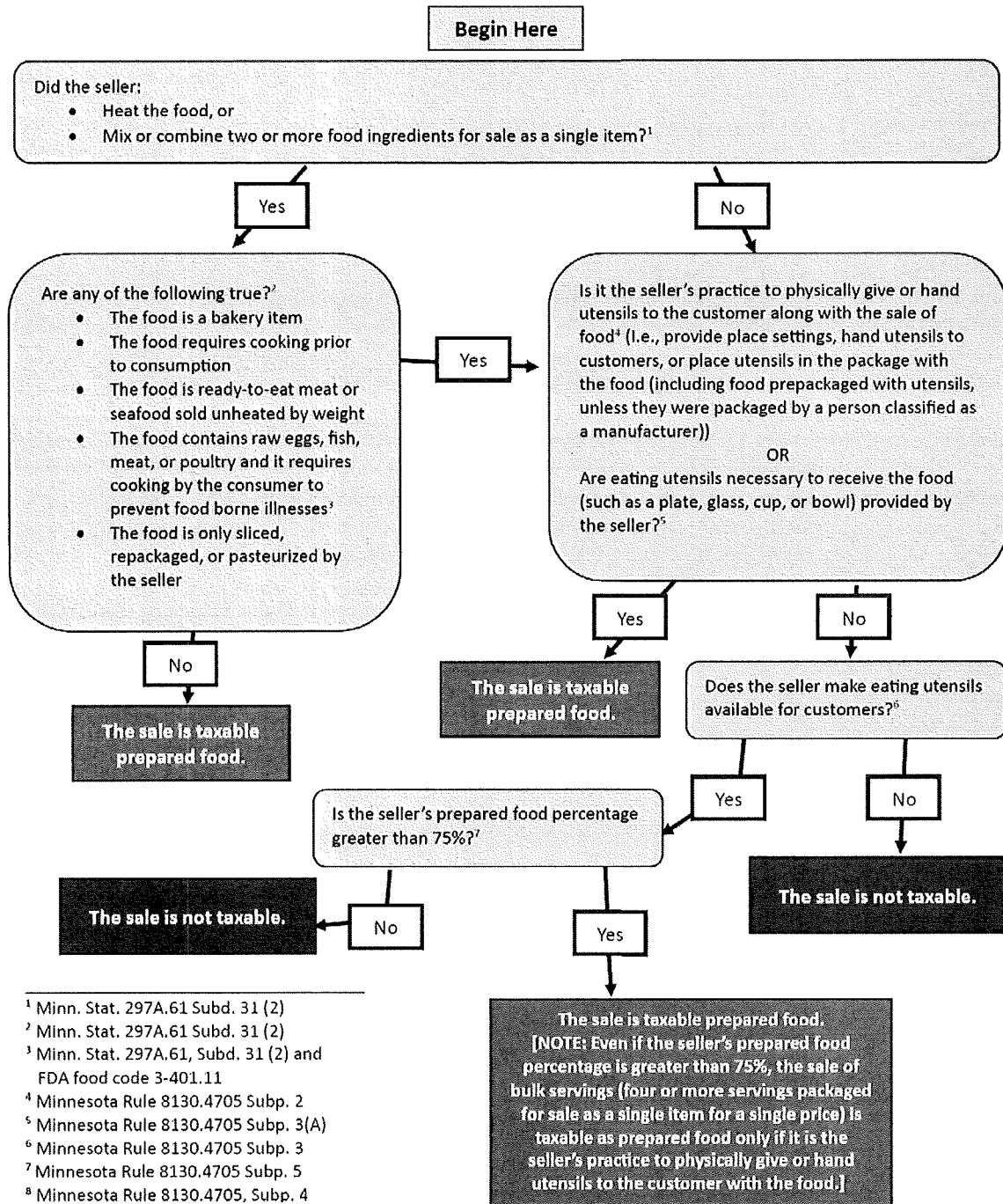
Kathy Zeman, Executive Director
Minnesota Farmers' Market Association
(507) 664-9446 | [Kzeman@mfma.org](mailto:kzeman@mfma.org)

BACKGROUND

The definition of "prepared food" is governed by the [Streamlined Sales and Use Tax Agreement](#), of which Minnesota is a part. Under the Agreement, if a state includes or excludes certain products from their sales tax base, that state has to use the definition in the Agreement. So, we cannot exempt certain foods or types of food from the definition of "prepared food." Minnesota Department of Revenue created a flowchart that explains how "prepared foods" are taxed, referencing the applicable statutes and rules. Page 2 includes the flowchart from MDOR that show how prepared foods are taxed FYI.

MISSION

MFMA provides services, programs, and leadership that support and promote farmers' markets across Minnesota & Tribal Nations.



¹ Minn. Stat. 297A.61 Subd. 31 (2)

² Minn. Stat. 297A.61 Subd. 31 (2)

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

⁴ Minnesota Rule 8130.4705 Subp. 2

⁵ Minnesota Rule 8130.4705 Subp. 3(A)

⁶ Minnesota Rule 8130.4705 Subp. 3

⁷ Minnesota Rule 8130.4705 Subp. 5

⁸ Minnesota Rule 8130.4705, Subp. 4

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