



United States
Department of
Agriculture

Food and
Nutrition
Service

Midwest Region

77 West Jackson Blvd
20th Floor
Chicago, IL 60604

August 7, 2017

Mr. James T. Dimas
Secretary
Illinois Department of Human Services
401 South Clinton Street
Chicago, Illinois 60607

Dear Secretary Dimas:

The Food and Nutrition Service (FNS) is formally notifying you that the August 2, 2017, implementation of the Cook County Sweetened Beverage Tax is in violation of the Food and Nutrition Act.

On November 10, 2016, the Cook County Board of Commissioners passed the Cook County Sweetened Beverage Tax Ordinance and provided that this tax would not apply to purchases that are specifically exempt from taxation under Federal law (i.e. SNAP).

Subsequently, Cook County changed the manner in which retailers could charge the Sweetened Beverage tax. Initially retailers were advised to include the tax in the shelf price of the effected beverages. On June 6, 2017, retailers were advised that alternatively, they could add the tax at the point-of- sale.

With the implementation date for tax collection approaching, Cook County advised retailers unable to modify their point-of-sale systems in time for the tax implementation date that one interim option was to refund the tax charged on SNAP purchases after collecting it. The Food and Nutrition Act prohibits state or local sales tax from being collected on food purchased with SNAP benefits. The County's guidance is out of compliance with Section 4(a) of the Food and Nutrition Act and 7 CFR 272.1(b).

We advised Cook County via phone call on June 28, 2017, that this option for managing the tax was unacceptable. However, as of August 3rd, this alternative still appears on the Cook County website ("Sweetened Beverage Tax Regulation 2017-3").

Consequently, this letter serves as advance notification that DHS could soon be subject to suspension or disallowance of Federal Financial Participation (FFP) administrative funds in accordance with 7 CFR 276.4(d)(1) unless this refund alternative is removed and retailers notified, or the implementation is delayed until retailers can appropriately program front end point-of-sale systems.

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The State must take immediate steps to address Cook County compliance in this area. Within 14 days from the date of this letter, DHS must submit a Corrective Action Plan (CAP) that specifically addresses the following:

- How the implementation of the Cook County tax will be adjusted to conform with the Food and Nutrition Act and 7 CFR 272.1(b), or
- Confirmation of a delay in implementation along with a timeline and plan that allows for proper implementation of the tax at the point-of-sale by SNAP authorized retailers.

If FNS determines that DHS has failed to meet the requirements set forth in this letter to FNS's satisfaction, FNS will issue a formal warning letter in accordance with 7 CFR 276.4. DHS would then have 30 days to submit additional evidence that the State is in compliance or submit a revised CAP. If the response is inadequate, FNS could suspend Federal funding of State administrative expenses.

We appreciate your commitment and attention to addressing these issues. Our goal is to help DHS avoid suspension or disallowance of administrative funding and ensure access to SNAP for eligible households in Illinois. FNS staff is available to provide technical assistance and guidance to assist the State. If you have any questions or wish to discuss this further please contact me at (312) 353-6663 or Susan Holzer at (312) 353-1478. Thank you.

Sincerely,



Tim English
Regional Administrator
Midwest Region

cc: Diane Grigsby Jackson, Director – Division of Family and Community Services, IDHS