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Tax Pet Food? Even Amazon Can't Define It

New Year's Day launched the 16% pet food tax in Mexico. Half of Mexican households have pets, and low income earners are expected to be hit especially hard. Food for horses, a pet of the elite, isn't taxed, though that's ostensibly because they are classed as livestock by the new law.

Americans have been taxing pet food for years, though in most states, sales tax doesn't apply to human food. Pet food is taxed in America, but not uncooked human food. Restaurant meals and prepared takeout? Usually taxed. Keeping track of many arcane rules about what's taxed and what isn't can be daunting (one argument against Amazon taxes online) and leads to scary disputes.

In California, one mom and pop wholesale produce seller sold only produce. Strictly wholesale, the company delivered fruits and vegetables to city schools, hospitals, and the zoo. Aha, the zoo is a problem, said sales tax auditors. They slapped the produce seller with a crippling bill for back taxes on produce delivered to the zoo.



In U.S. and Mexico, pet food is taxed, but just what is pet food anyway?

This produce was consumed by **animals** and that made the sales taxable, the state said. What's more, because this produce company never filed sales tax returns (selling only nontaxable produce, why would it?), 8 years of taxes were due. Only 3 years would have been fair game if the company had been filing returns.

One possible way out was that the zoo had snack bars and cafeterias where produce was eaten by humans. But the wholesaler couldn't show **which** carrots and bananas were consumed by people and which by animals. How could it when it just **delivered** the produce? So the state said it was **all** taxable.

Eight years of taxes, penalties and interest would wipe out the family business. So after efforts to compromise with auditors failed—this was in California after all—they went to a formal hearing before California's five member Board of Equalization. Given the human (and animal?) interest, the produce seller invited the press.

Did you know that if you tell a supermarket checker you're buying broccoli for your dog, the store has no way to charge you sales tax? Plus, if an animal is suitable for human consumption, the food it eats isn't taxable. So, produce eaten by primates was taxable, but not produce eaten by goats and sheep?

Hey, some people eat snake, turtle, and game animals. Was this law cultural discrimination? "I've eaten snake," admitted one of the five judges. Examples showed the law to be riven by contradictions.

That made the state's position seem arbitrary. The press thought so too. As for the five-member Board, it looked increasingly uncomfortable about putting this mom and pop produce seller out of business. It led to a speedy verdict for mom and pop.

Some pet owners take on the tax man too. One big pet tax victory was the [Oakland, California Cat Lady](#) who beat the IRS in a cat fight. Her tax [decision](#) said she could claim the cost of vet bills and cat food as charitable contribution deductions. Some people focus on business deductions instead.

In [Seawright v. Commissioner](#), a married couple running a junkyard put out food to attract wild cats. The feral cats they attracted dealt with snakes and rats on the property. They made for a safer junkyard for customers, and that made cat food a business expense.

Sometimes, tax law seems to be going to the dogs.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.