

## Sales/Use/Indirect:

### Kentucky: Combo Deli and Grocer Deemed Perishable Prepared Food Manufacturer Eligible for Exemption

*Case No. 2023-CA-1192-MR*, Ky. Ct. App. (2/28/25). The Kentucky Court of Appeals (Court) held that based on the composition of a combined deli and grocer's various business activities, it was primarily engaged in perishable prepared food manufacturing under the facts – which caused the otherwise taxable “prepared food” items at issue (*e.g.*, certain salads and spreads) to be exempt from Kentucky sales taxation. That is, according to the Court, the taxpayer's North American Industry Classification System (NAICS) classification of perishable prepared food manufacturing excepted it from the Kentucky statute's definition of taxable “prepared food.” While ultimately affirming the Kentucky circuit court's overall conclusion in this case, the Court did disagree with the circuit court's narrower reading of “prepared food” to exclude foods created in bulk and then repackaged for individual sale, and it agreed with the Kentucky Department of Revenue's and the Kentucky Board of Tax Appeals' underlying determination that the salads and spreads at issue were mixed or combined for sale as a new single item of “prepared food.” Please contact us with any questions.

**URL:** <http://opinions.kycourts.net/COA/2023-CA-001192.pdf>

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