Date of Hearing: May 1, 2019

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
AB 31 (Cristina Garcia, et al.) – As Amended April 4, 2019

Policy Committee: Revenue and Taxation Vote: 10 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill establishes, until January 1, 2025, a sales and use tax (SUT) exemption for tampons, sanitary napkins, menstrual sponges and menstrual cups.

FISCAL EFFECT:

Annual General Fund revenue loss of $4.4 million in 2019-20 and $8.8 million each year thereafter.

COMMENTS:

1) **Background and purpose.** Existing law exempts a number of products from California's sales and use tax. Many types of food and prescription medicines, as well as utilities such as gas, water and electricity, are all exempt. These exemptions are typically referred to as "necessities as life," but this type of exemption is not applied consistently. For example, feminine hygiene products, toilet paper, clothing, shoes, soap and diapers are all subject to the sales tax.

   According to supporters, AB 31 will align California with a number of other states that recognize that menstrual products are health necessities. Supporters argue taxing tampons and sanitary napkins each year is especially significant for poor women on a tight budget who struggle to pay for basic necessities.

2) **Section 41.** While tax expenditure bills coming out of policy committee typically comply with Section 41 of the Revenue and Taxation Code, AB 31 only partially complies. Section 41 (which technically applies to just income tax credits but has been more recently applied to all tax expenditures) requires a tax expenditure proposal to outline goals and objectives as well as detailed performance indicators for the Legislature to use when evaluating the expenditure. While AB 31 contains goals and objectives, it is silent on what metrics should be used to evaluate the exemption's effectiveness.

3) **Recent Legislation.** AB 9 (C. Garcia), of the 2017-18 Legislative Session, was nearly identical to this bill and was held on this committee' Suspense File. AB 1561 (Garcia), of the 2015-16 Legislative Session, would have provided a similar SUT exemption, but included a five-year sunset provision. This bill was vetoed by the governor, whose veto message stated:

   > As I said last year, tax breaks are the same as new spending – they both cost the General Fund money. As such, they must be considered during budget deliberations so that all

spending proposals are weighed against each other at the same time. This is even more important when the state's budget remains precariously balanced.

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