

(Without Reference to File)

ASSEMBLY THIRD READING  
AB 31 (Cristina Garcia, et al.)  
As Amended January 23, 2020  
Majority vote. Tax Levy

**SUMMARY:**

Extends, until January 1, 2027, the existing sales and use tax (SUT) exemption for menstrual hygiene products, defined as tampons, specified sanitary napkins, menstrual sponges, and menstrual cups.

**Major Provisions**

- 1) Extends the sunset date for the existing SUT exemption for menstrual hygiene products from January 1, 2022, to January 1, 2027.
- 2) Contains legislative findings noting, among other things, that this exemption is intended to bring gender equity to California's tax laws.
- 3) Calls for the automatic backfilling of the Local Revenue Fund 2011 for exemption-related revenue losses.
- 4) Provides that, notwithstanding Revenue and Taxation Code Section 2230, the state shall not reimburse any local agency for any SUT revenues lost as a result of this exemption.
- 5) Takes immediate effect as a tax levy.

**COMMENTS:**

The SUT Law imposes a sales tax on retailers for the privilege of selling tangible personal property (TPP), absent a specific exemption. The tax is based upon the retailer's gross receipts from TPP sales in this state.

On June 27, 2019, Governor Newsom signed into law SB 92 (Budget and Fiscal Review Committee), Chapter 34, Statutes of 2019. Among other things, this tax-related trailer bill provided a complete SUT exemption for menstrual hygiene products. The exemption, however, only lasts two years and is scheduled to sunset on January 1, 2022. SB 92 also called for the automatic backfilling of the Local Revenue Fund 2011 for exemption-related revenue losses. Finally, SB 92 called for the Legislative Analyst's Office to prepare a report by January 1, 2021 on, among other things, whether more targeted approaches to providing individuals in need with adequate access to menstrual hygiene products are available.

This bill, in turn, would extend the exemption for menstrual hygiene products by an additional five years, from January 1, 2022, to January 1, 2027.

**According to the Author:**

"Each year, California women pay over 20 million dollars in taxes on menstrual products. This is not insignificant to women, especially poor women on a tight budget who struggle to pay for basic necessities like a box of tampons or pads every month for their adult life. Having your

period when you are poor or homeless means that once a month you have the added stress of finding a way to pay for these essentials. The money from this tax belongs in the pockets of California women.

The sales and use tax exempts items that are deemed 'necessities of life' such as food or medicine. In other words any item not on this list is deemed unnecessary or even a luxury for consumers. California's tax code exempts health items like walkers, medical identification tags, and prescription medication, including Viagra®. Menstrual products are not exempt even though they are far from being luxuries and women do not have the choice to stop the flow. The fact that there is no other example of a set of essential health products within our tax code that one gender must use each month for 40 years of life speaks to the outdated nature of our code. The FDA regulates both tampons and sanitary napkins as medical devices; yet, our tax law does not recognize menstrual products as necessary health products for women."

**Arguments in Support:**

This bill is supported by the National Association of Social Workers, California Chapter, which notes:

In 2016, California, along with five other states vowed to eliminate the tax on menstrual products. After a bill to this effect was vetoed in California, lawsuits were filed against the respective departments of each state overseeing taxation of these products, reasoning that taxing feminine hygiene products violates federal and state Equal Protection clauses. The suit in California notes that prisons and jails provide the female inmates with sanitary items in recognition that they are a necessity. AB 31 will bring greater gender neutrality to our tax code and make these products more affordable to the people who need them the most.

**Arguments in Opposition:**

No opposition on file

**FISCAL COMMENTS:**

Staff estimates that the SUT loss in fiscal year 2021-22 would be \$9.55 million for the half fiscal year. The SUT loss in the first full fiscal year of FY 2022-23 is estimated to be \$19.2 million.

**VOTES:**

**ASM REVENUE AND TAXATION: 10-0-1**

**YES:** Burke, Brough, Chu, Mayes, Melendez, Mullin, Petrie-Norris, Quirk, Luz Rivas, Ting  
**ABS, ABST OR NV:** Gray

**ASM APPROPRIATIONS: 18-0-0**

**YES:** Gonzalez, Bigelow, Bloom, Bonta, Brough, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Maienschein, Petrie-Norris, Quirk, Robert Rivas

**UPDATED:**

VERSION: January 23, 2020