California State
Board *of* Equalization

Legislative Bill Analysis

Legislative and Research Division

Assembly Bill 1561 (Garcia, et al.)
Date: 06/15/16
Program: Sales and Use Tax
Sponsor: Author
BOE Position: Support
Revenue and Taxation Code Section 6363.10
Effective: Upon enactment, but operative 90 days following 1st calendar quarter

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Summary: Until January 1, 2022, exempts from the sales and use tax specified feminine hygiene product sales and purchases.

Summary of Amendments: The amendments since the previous analysis make a non-substantive change and add coauthors.

Purpose: According to the author, "We are being taxed for being women. This bill is a step in the right direction to fix this gender injustice. 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. If we can't make them free we should at least make them more affordable."

Fiscal Impact Summary: Annual state and local revenue loss of $20 million.

Existing Law: Except where the law provides a specific exemption or exclusion, California's Sales and Use Tax Law[1] imposes the sales tax on all retailers for the privilege of selling tangible personal property at retail in this state or the use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer.

Existing law provides for numerous exemptions from the sales and use tax. Some of the more significant exemptions relate to "necessities of life," including:

- Food, as specified and defined.[2]
- Prescription medicines, as specified and defined.[3]
- Gas, electricity and water sold to consumers through mains, lines, and pipes.[4]
- "Food" animals, such as cows, pigs and chickens, and "food" plants, such as asparagus, nut trees, and strawberry plants.[5]

The sales and use tax is imposed on a variety of other "necessities of life" sold at retail, such as feminine hygiene products, toilet paper, clothing, shoes, soap, and baby and adult diapers and other incontinence products.

Proposed Law: Until January 1, 2022, this bill exempts from the sales and use tax tampon, sanitary napkin, menstrual cup and menstrual sponge sales and purchases.

The exemption becomes operative on the first day of the first calendar quarter commencing more than 90 days after the bill is enacted.

Commentary:

1. **Effect of the bill.** For a 5-year period ending January 1, 2022, exempts specified feminine hygiene product sales and purchases from sales and use tax.

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[1] Part 1 of Division 2 of the Revenue and Taxation Code (RTC) (commencing with Section 6001).
[2] RTC Section 6359.
3 RTC Section 6369.
4 RTC Section 6353.
5 RTC Section 6358.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

2. **The June 15, 2016 amendments** make a non-substantive change and add four additional coauthors. The **May 31, 2016 amendment** changed the sunset date to January 1, 2022. The **April 28, 2016 amendments** included sales and purchases of menstrual cups and menstrual sponges within the proposed exemption, and added a January 1, 2027 sunset date. The **March 28, 2016 amendments** added 30 coauthors and made non-substantive changes.
3. **Certain care providers, hospitals and others would additionally benefit from the proposed exemption.** Since sales of these products to these service enterprises are currently subject to tax, this bill would provide an additional benefit to these entities that purchase these products for their clients or patients. Also, the bill's intent is to make these products more affordable for poor women on tight budgets, yet, women of all income levels would receive the benefit of the exemption.

Costs: BOE will incur absorbable administrative costs to notify affected retailers, audit claimed exemptions, amend appropriate regulations, and answer inquiries from the general public.

Revenue Impact:

Background, Methodology, and Assumptions. According to a 2015 *Time* magazine article, American women spend over $2 billion per year on feminine hygiene products. Based on California's population, staff estimated California annual sales of $240 million ($2 billion × 12% = $240 million).

Assuming a July 1, 2016 effective date, staff estimates that the sales and use tax loss for fiscal year (FY) 2016-17 would be $20 million (8.335% statewide average × $240 million = $20 million).

Revenue Summary. The proposed sales and use tax exemption for sales and purchases of these products would result in estimated sales and use tax loss of $20 million in FY 2016-17.

Qualifying Remarks. This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.

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