

[Assembly Bill 9](#) (C. Garcia)

Date: Introduced

Program: Sales and Use Tax

Sponsor: Author

Revenue and Taxation Code Section 6363.10

Effective: Upon enactment, but operative January 1, 2018

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**Summary:** Exempts specified feminine hygiene products from the sales and use tax.

**Purpose:** According to the author, the purpose of the bill is to eliminate a tax assessed only on women.

**Fiscal Impact Summary:** For fiscal year 2018-19, the state and local revenue loss is estimated to be \$21.7 million.

**Existing Law:** Except where the law provides a specific exemption or exclusion, California's Sales and Use Tax Law<sup>1</sup> 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 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.<sup>2</sup>
- Prescription medicines, as specified and defined.<sup>3</sup>
- Gas, electricity, and water sold to consumers through mains, lines, and pipes.<sup>4</sup>
- "Food" animals, such as cows, pigs and chickens, and "food" plants, such as asparagus, nut trees, and strawberry plants.<sup>5</sup>

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.

As a tax levy, the bill is effective immediately, but is operative on January 1, 2018.

**Proposed Law:** Beginning January 1, 2018, this bill exempts from the sales and use tax sales and purchases of tampons, sanitary napkins, menstrual cups, and menstrual sponges.

**Legislative History:** Last year, [AB 1561](#) (Garcia) also proposed a sales and use tax exemption on sales and purchases of feminine hygiene product. That bill, which was unanimously supported by the BOE Members, included a five-year sunset date. The bill was [vetoed](#) by Governor Brown along with six other tax exemption bills.

### **Commentary:**

1. **Effect of the bill.** Exempts specified feminine hygiene product sales and purchases from sales and use tax.
2. **Certain care providers and hospitals 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 entities that purchase these products for their clients or patients.

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<sup>1</sup> Part 1 of Division 2 of the Revenue and Taxation Code (RTC) (commencing with Section 6001).

<sup>2</sup> RTC Section 6359.

<sup>3</sup> RTC Section 6369.

<sup>4</sup> RTC Section 6353.

<sup>5</sup> 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.

3. **The bill has no income limitations.** Women of all income levels would receive the benefit of the exemption.
4. **This exemption does not include all menstrual products.** Tax would still apply to products like period panties and reusable cloth pads.
5. **Exemptions increase retailers' costs.** Creating a new sales tax exemption on specific items requires retailers to re-program their cash registers and incur additional expenses.

**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 IBISWorld, a global business intelligence leader specializing in industry market research, the sanitary paper product manufacturing industry produces hygienic paper goods, including toilet paper, paper towels, facial tissues, diapers, menstrual pads and tampons. In FY 2017-18, U.S industry revenues are estimated to be \$10.8 billion. An estimated 20.3% of the industry represents the feminine products segment, which is composed of tampons and menstrual pads. Therefore, feminine industry revenues are estimated to be \$2.2 billion ( $20.3\% \times \$10.8 \text{ billion} = \$2.2 \text{ billion}$ ).

Based on California's population, staff estimated feminine industry revenues in California to be \$264 million ( $\$2.2 \text{ billion} \times 12\% = \$264 \text{ million}$ ).

With a January 1, 2018 effective date, staff estimates that sales and use tax loss in FY 2017-18 will be \$21.6 million ( $8.21\% \text{ statewide average} \times \$264 \text{ million} = \$21.6 \text{ million}$ ). The half year fiscal effect is therefore \$10.8 million. Sales and use tax loss in Fiscal Year (FY) 2018-19 is estimated to be \$21.7 million.

**Revenue Summary.** The proposed sales and use tax exemption on sanitary napkins and tampons would result in estimated sales and use tax (8.21% statewide average) loss of \$10.8 million in FY 17-18 and \$21.7 million in FY 18-19.

Fund	Rate	FY 17-18 (6 months)	FY 18-19
State General Fund	3.94%	\$5,150,000	\$10,500,000
Local Revenue 2011	1.06%	\$1,400,000	\$2,800,000
Local Revenue 1991	0.50%	\$650,000	\$1,300,000
Public Safety Fund	0.50%	\$650,000	\$1,300,000
Bradley Burns	1.25%	\$1,650,000	\$3,300,000
Special District	0.96%	\$1,250,000	\$2,500,000
Statewide Average Rate	8.21%	\$10,750,000	\$21,700,000

**Qualifying Remarks.** The basis for this revenue estimate is the IBISWorld feminine products segment data, composed of tampons and menstrual pads. Staff understanding of the industry is that this segment receives competition from alternative feminine products that is likely not captured in the above data. Hence, the revenue estimate may be understated.

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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