



City of Culver City

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Staff Report

File #: 19-1223, **Version:** 1

Item #: C-9.

CC- (1) Discussion of the Adoption of a Position on AB 31 (Garcia) - Sales and Use Taxes: Exemption: Sanitary Napkins: Tampons: Menstrual Sponges and Menstrual Cups; and (2) If Desired, Direction to the City Manager to Transmit Such Position to the Author and Appropriate Legislators.

Meeting Date: May 13, 2019

Contact Person/Dept: Shelly Wolfberg/City Manager's Office

Phone Number: (310) 253-6000

Fiscal Impact: Yes ☐ No ☒

General Fund: Yes ☐ No ☐

Public Hearing: ☐

Action Item: ☒

Attachments: ☒

Commission Action Required: Yes ☐ No ☒ **Date:**

Public Notification: The Honorable Cristina Garcia; (E-Mail) Meetings and Agendas - City Council (05/08/19);

Department Approval: John M. Nachbar (05/08/19)

RECOMMENDATION

Staff recommends the City Council (1) discuss adopting a position on AB 31 (Garcia) - sales and use taxes: exemption: sanitary napkins: tampons: menstrual sponges and menstrual cups; and (2) if desired, direct the City Manager to transmit such position to the author and appropriate legislators.

BACKGROUND/DISCUSSION

Existing Law:

- 1) 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.
- 2) Imposes a complimentary use tax on the storage, use, or other consumption of TPP purchased out-of-state and brought into California. The use tax is imposed on the purchaser; and unless the purchaser pays the use tax to an out-of-state retailer registered to collect California's use tax, the purchaser remains liable for the tax. The use tax is set at the same

rate as the state's sales tax and must generally be remitted to the California Department of Tax and Fee Administration (CDTFA).

AB 31 establishes a sales and use tax (SUT) exemption for tampons, sanitary napkins, menstrual sponges, and menstrual cups. Specifically, this bill:

- 1) Contains the following legislative findings and declarations:
 - a. Menstrual products, including tampons, pads, and menstrual cups, are the only gender-specific items in California's tax laws;
 - b. Menstrual products are not luxuries, and, in fact, are necessary health products for menstruating women to participate in society;
 - c. The goal of exempting tampons, pads, and menstrual cups from the sales and use tax laws is to bring gender equity to California's tax laws;
 - d. Each year, California women pay over \$20 million in taxes on menstrual products. That money, paid as taxes, belongs in the pockets of California women;
 - e. The sales and use tax laws exempt items that are deemed "necessities of life," such as food and medicine; and,
 - f. The fact that there are no other examples of an essential health product within the state tax laws that one gender must use each month for 40 years of life speaks to the outdated nature of the tax laws.
- 2) Provides that, notwithstanding existing law, the state shall not reimburse any local agency for SUT revenues lost as a result of this exemption.
- 3) Takes immediate effect as a tax levy, but only becomes operative on January 1, 2020.
- 4) Sunsets the exemption on January 1, 2025.

AB 31 is opposed by the California Tax Reform Association, which notes:

"The line drawn in this bill would be new to the state's sales tax - gender necessity. [. . .] The problem with drawing such a line is that many possibilities for exemption follow the logic of gender specificity. Clothing, cosmetics, over-the-counter and pharmaceuticals are all examples of products that can be construed as both gender-based and necessary. Should condoms and over-the-counter birth control be taxed, since these are arguably positive and necessary products?"

The City's Legislative and Policy Platform ("Platform") does not provide guidance for a City Council position on AB 31.

FISCAL ANALYSIS

The state estimates that AB 31 would result in estimated state and local revenue losses of \$9.4 million in fiscal year (FY) 2019-20 and \$19 million in FY 2020-21, however staff believes the fiscal impact to Culver City in lost revenues would be negligible.

ATTACHMENTS

1. AB 31, as amended, Cristina Garcia. Sales and use taxes: exemption: sanitary napkins: tampons: menstrual sponges and menstrual cups, as amended on April 4, 2019.

MOTION

That the City Council:

1. If desired, adopt a position supporting AB 31; and
2. Transmit the City's position to the author and appropriate Legislators.