

# DEPARTMENT OF TAXATION

## 2023 Fiscal Impact Statement

1. **Patron** Kathy J. Byron

3. **Committee** House Finance

4. **Title** Local sales and use tax; Exemption for essential personal hygiene products and infant formula

2. **Bill Number** HB 2196

**House of Origin:**

X **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would, beginning July 1, 2023, create an exemption from the local sales and use tax for essential personal hygiene products and infant formula.

Essential personal hygiene products and food purchased for human consumption are currently exempt from the state portion of the retail sales and use tax but continue to be subject to the local one percent tax.

If enacted during the regular session of the 2023 General Assembly, this bill would become effective July 1, 2023.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

### 8. **Fiscal implications:**

#### Revenue Impact

The portion of this bill that would exempt essential personal hygiene products would have a negative impact to local revenues of \$2.7 million in Fiscal Year 2024, \$3.1 million in Fiscal Year 2025, \$3.2 million in Fiscal Years 2026 and 2027, \$3.3 million in Fiscal Year 2028, and \$3.4 million in Fiscal Year 2029. It is unknown how much sales and use tax is currently collected on infant formula and, therefore, this portion of the bill would have an additional unknown impact on local revenues. This bill would have no impact on state revenues.

#### Administrative Costs

The Department of Taxation would incur costs of \$249,000 in Fiscal Year 2023 and \$292,000 in Fiscal Year 2024 as a result of this bill. Such costs are primarily due to the need to modify the Department's forms and systems. Due to existing implementation priorities from the 2022 General Assembly session, the programming work would need to be completed using contract labor, and the earliest the Department could implement the

required changes would be October 2023. However, if the effective date of the bill is delayed until January 1, 2024, the Department would consider this bill as routine and would not require additional funding. This bill would have an unknown impact on local administrative costs.

**9. Specific agency or political subdivisions affected:**

Department of Taxation  
All localities

**10. Technical amendment necessary:** No.

**11. Other comments:**

Background

Legislation enacted during the 2022 General Assembly exempted food purchased for human consumption and essential personal hygiene products from the state 1.5 percent Retail Sales and Use Tax beginning January 1, 2023. The local one percent rate of the tax continues to apply to these items.

“Food purchased for human consumption” has the same meaning as “food” defined in the Food Stamp Act of 1977, [7 U.S.C. § 2012](#), except it does not include seeds and plants which produce food for human consumption. Also, “food purchased for human consumption” does not include food sold by any retail establishment where the gross receipts derived from the sale of food prepared by such retail establishment for immediate consumption on or off the premises of the retail establishment constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment.

“Essential personal hygiene products” means: (i) nondurable incontinence products such as diapers, disposable undergarments, pads, and bed sheets; and, (ii) menstrual cups and pads, pantyliners, sanitary napkins, tampons, and other products used to absorb or contain menstrual flow.

Proposal

This bill would, beginning July 1, 2023, create an exemption from the local sales and use tax for essential personal hygiene products and infant formula. The bill would define “infant formula” as a food which purports to be or is represented for special dietary use solely as a food for infants by reason of its simulation of human milk or its suitability as a complete or partial substitute for human milk.

If enacted during the regular session of the 2023 General Assembly, this bill would become effective July 1, 2023

### Similar Legislation

**House Bill 1484** would provide, beginning July 1, 2023, an exemption from local sales and use tax for food purchased for human consumption and essential personal hygiene products. This exemption would render these items completely exempt from sales and use tax. The bill would also provide an allocation to fund the distribution to localities for funding that would have been distributed to them absent the exemption created by the bill.

**House Bill 1686** would authorize the governing board of a locality to, by ordinance, exempt food purchased for human consumption and essential personal hygiene products from local sales and use tax.

cc : Secretary of Finance

Date: 1/21/2023 VB  
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