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Menstrual Product Sales Taxes Hang On as Repeal Efforts Persist

By Angélica Serrano-Román

- Just one state, South Carolina, creates exemption this year
- “Those pennies make a difference,” Indiana lawmaker says

South Carolina is the latest state to exempt menstrual products from sales tax, part of a nationwide trend addressing gender-based economic inequality, and align exemptions with those for prescription medications and medical supplies.

The products are tax-free in the state as of May 13, when Gov. Henry McMaster (R) signed legislation authorizing the change.

South Carolina is the only state to enact such a bill this year. At least a dozen considered repealing so-called tampon taxes during their 2023-24 sessions. Twenty states still tax the products.

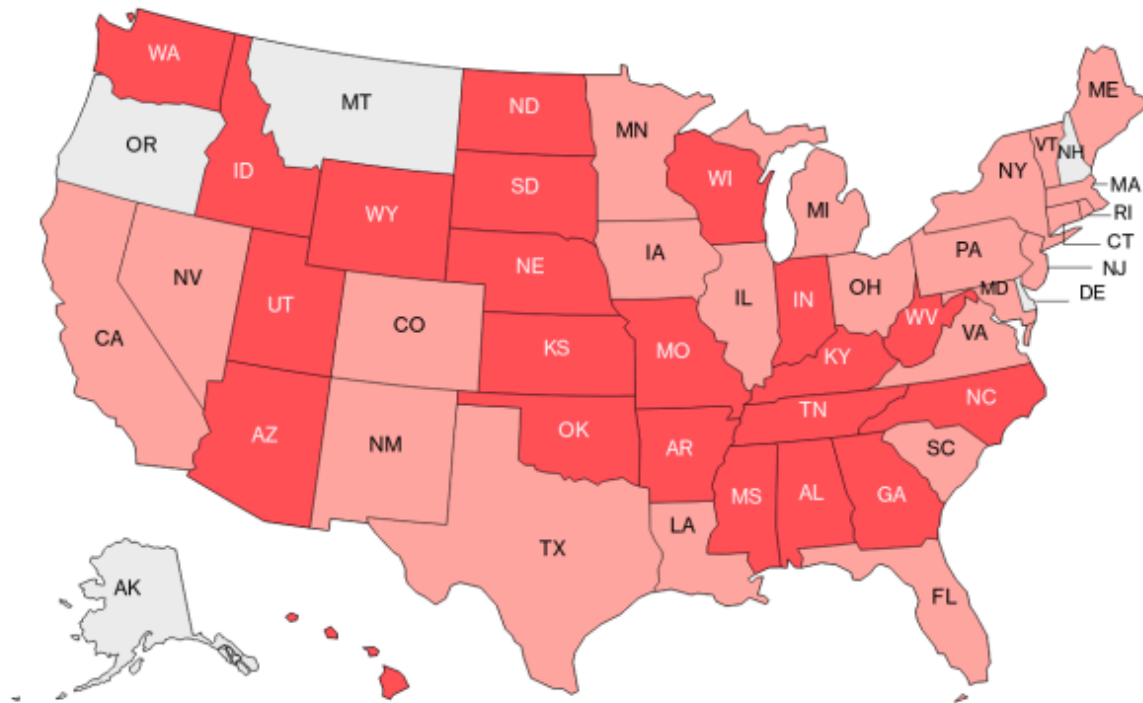
A tax repeal effort this year fell short in Indiana, where lawmakers included, but later stripped, a tax exemption from a miscellaneous fiscal matters bill (SB 256). According to Indiana Senate Assistant Democratic Leader Shelli Yoder, who sponsored the repeal attempt, said the proposal died because other lawmakers argued that the exemption wouldn't result in significant relief for taxpayers.

“It might seem like pennies to many legislators who don't have to pay the price at the register, and maybe it seems like pennies to some, but to the women in Indiana who are used to pinching pennies because our wages are lagging behind, those pennies make a big difference at the end of every month, every year,” Yoder said in an interview. “Compounding that year after year, those pennies turn into hundreds of dollars.”

Menstrual Products Are Still Taxed in 20 States

Sales tax rates range from 4% to 7%. Some cities and counties also impose a local sales tax.

■ Period products taxed ■ Period products not taxed
 ■ No state sales tax



Source: Alliance for Period Supplies
 Note: Data as of May 14

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But Indiana's proposal was novel in one respect. The bill, like one introduced in Kentucky, used a new term for the products. Instead of calling them feminine hygiene products, the bill used the term "menstrual discharge absorption devices," a designation recommended by the advocacy organization Period Law and endorsed last year by the 24-state Streamlined Sales Tax Governing Board.

"The name change from feminine hygiene products to menstrual discharge collection devices was intended to educate lawmakers about the essential nature of these products and help them rectify tax laws that already exempt medical necessities," said Laura Strausfeld, executive director of Period Law.

The products aren't like soap or hair cream, as people who are menstruating can't go to school or work without a pad or tampon, she said. "If they did so, they'd risk bleeding through their clothes."

Bill in Congress

Strausfeld noted that because many states still tax the products, US Rep. Grace Meng (D-N.Y.) is sponsoring H.R. 3646, which would expand access to menstrual products through federal programs and prohibit states and localities from levying sales taxes on them. The bill, which has 85 co-sponsors, all Democrats, hasn't seen any action.

It would be unusual for Congress to bar states from taxing a product. Richard C. Auxier, a principal policy associate at the Urban-Brookings Tax Policy Center, said he wasn't aware of "anything else like it," but that if it were to happen, it could open the door for other members of Congress to try banning taxation of other items.

State legislatures, driven by lawsuits and nonprofit organizations like Period Law, have taken action over the last decade to end taxes on menstrual products, which the Food and Drug Administration regulates as medical devices. Opponents of repeal argue that eliminating the tax would provide only minimal economic relief, erode a state's sales tax base, and drive tax rate increases in the long run.

Auxier said the reasoning behind exempting the products is a "fair argument," and in some states, the lost revenue is less than 1% of the state's sales tax revenue. But the challenge is where to draw the line and how many more times such exemptions can be implemented before the cumulative loss adds up, Auxier said.

Sales taxes aren't about taxing "bad products" and exempting "good products," he said. While some levies, like cigarette taxes, are intended to stop people from buying the product, a sales tax is "supposed to be a relatively low rate applied to just about everything, because we're picking up revenue from economic activity."

Auxier also said that other policies, like earned income tax credits and other refundable tax credits, would deliver money to low-income people without extending a tax benefit to high earners.

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