

Date of Hearing: June 15, 2026

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION

Mike Gipson, Chair

SB 1151 (Cervantes) – As Amended April 29, 2026

Majority vote. Tax levy. Fiscal committee.

SENATE VOTE: 35-0

SUBJECT: Sales and Use Tax Law: exemptions: infant formula

SUMMARY: Adds "infant formula" to the definition of "food products" exempt from taxation under the Sales and Use Tax (SUT) Law. Specifically, **this bill:**

- 1) Expands the existing definition of "food products" exempt from SUT to include "infant formula" as defined in Health and Safety Code Section 114094.5.
- 2) Provides that the statutory inclusion of infant formula is declaratory of existing law.
- 3) Takes immediate effect as a tax levy.

EXISTING FEDERAL LAW defines "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. (21 United States Code Section 321(z).)

EXISTING STATE 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. (Revenue and Taxation Code (R&TC) Section 6001 *et seq.*)
- 2) Imposes a complimentary use tax on the storage, use, or other consumption of TPP generally 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 entity 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). (R&TC Section 6001 *et seq.*)
- 3) Provides a SUT exemption for food products for human consumption, as specified (including baby formula). (R&TC Section 6359.)
- 4) Provides that "infant formula" shall have the same meaning given in subdivision (z) of Section 321 of Title 21 of the United States Code. (Health and Safety Code Section 114094.5(d)(2).)

FISCAL EFFECT: The CDTFA notes that this bill has no revenue impact, because infant formula is already exempt under the SUT Law.

COMMENTS:

- 1) The author has provided the following statement in support of this bill:

SB 1151 would codify the infant formula sales tax exemption, ensuring that we continue to lower costs for parents purchasing formula, baby food, and related products. SB 1151 would tax-exempt the gross receipts from the sale in this state, and the storage, use, or other consumption in this state, of infant formula, to codify that infant formula is a food product. SB 1151 seeks to recognize infant formula as an essential item under the law, as a declaratory act, ensuring that financial burdens and supporting family stability and health are not imperiled.

- 2) Committee Staff Comments:

- a) *What is a "tax expenditure"?* Existing law provides various credits, deductions, exclusions, and exemptions for particular taxpayer groups. In the late 1960s, U.S. Treasury officials began arguing that these features of the tax law should be referred to as "expenditures" since they are generally enacted to accomplish some governmental purpose and there is a determinable cost associated with each (in the form of foregone revenues).

As the Department of Finance notes in its annual Tax Expenditure Report, there are several key differences between tax expenditures and direct expenditures. First, tax expenditures are reviewed less frequently than direct expenditures. Second, there is generally no control over the amount of revenue losses associated with any given tax expenditure. Finally, it should also be noted that, once enacted, it takes a two-thirds vote to rescind an existing tax expenditure absent a sunset date. This effectively results in a "one-way ratchet" whereby tax expenditures can be conferred by majority vote, but cannot be rescinded, irrespective of their efficacy or cost, without a supermajority vote.

- b) *An overview of the SUT Law:* The SUT represents the state's third largest source of General Fund (GF) revenues. Nevertheless, the past several decades have seen a dramatic reduction in the state's reliance on the SUT and a corresponding increase in its reliance on personal income tax revenues. In fiscal year (FY) 2026-27, SUT revenues are estimated to comprise only 15.2% of the state's GF revenues, down from nearly 60% in FY 1950-51.
- c) *What accounts for the state's reduced reliance on SUT revenues?* The SUT Law was enacted in a very different era. In the 1930s, California's economy was largely dominated by manufacturing, and residents mostly bought and sold tangible goods. Thus, in establishing the base for a new consumption tax, it made sense to impose the tax on sales of TPP, defined as personal property that may be "seen, weighed, measured, felt, or touched." Over the past 90 years, however, California's economy has seen dramatic growth in the service and information sectors, resulting in a significant erosion of the SUT base. For example, the Commission on the 21st Century Economy noted that spending on taxable goods represented 34.6% of personal income in 2008, down from

55.4% in 1980. As a result, tax experts and economists from across the political spectrum argue that California should expand its SUT base.

- d) *What would this bill do?* This bill would add "infant formula" to the definition of "food products" exempt from taxation under the SUT Law, and would provide that this addition is declaratory of existing law.
- e) *Is this bill necessary?* Existing law already provides that milk and milk products are included within the definition of exempt food products under the SUT Law. In addition, the CDTFA has clarified through its regulatory authority that baby food is a food product for human consumption and has issued SUT annotations noting that baby formula and non-dairy formulas also qualify as food products exempt from taxation. As such, it is not readily clear to Committee staff what this bill is attempting to achieve. Moreover, to the extent greater definitional clarity is required, the Committee may wish to consider whether this task would be better undertaken by CDTFA via its regulatory process.
- f) *Prior legislation:*
 - i) AB 1203 (Bains), Chapter 833, Statutes of 2023, provides a SUT exemption for breast pumps, breast pump collection and storage supplies, breast pump kits, and breast pads. The exemption applies on or after April 1, 2024, and before April 1, 2029.
 - ii) AB 150 (Committee on Budget), Chapter 82, Statutes of 2021, indefinitely extended the SUT exemptions for diapers for infants, toddlers, and children, and for menstrual hygiene products.
 - iii) AB 85 (Committee on Budget), Chapter 8, Statutes of 2020, extended the SUT exemption for diapers for infants, toddlers, and children and menstrual hygiene products until July 1, 2023.
 - iv) SB 92 (Committee on Budget and Fiscal Review), Chapter 34, Statutes of 2019, provided a SUT exemption on and after January 1, 2020, and until January 1, 2022, for diapers for infants, toddlers, and children, and menstrual hygiene products, as defined.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: M. David Ruff / REV. & TAX. / (916) 319-2098