



## Legislative Fiscal Bureau

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June 9, 2023

TO: Representative David Steffen  
Room 323 North, State Capitol

FROM: Sydney Emmerich, Fiscal Analyst

SUBJECT: Sales and Use Tax Exemption for Baby-Related Products

At your request, this memorandum provides information on the estimated fiscal effect of a proposal to exempt various baby-related products from the sales and use tax. Under current law, the state sales tax is generally imposed at a rate of 5% on retail sales of tangible personal property, with numerous exemptions. Baby-related products are generally subject to the sales tax, although exemptions exist for items such as food, prescription drugs, and medical devices used or consumed by babies.

The proposal would provide an exemption from the sales and use tax for certain items used by, or to care for, a child under three years of age. Under the proposal, the following items would be exempt from the state sales and use tax: (a) children's diapers, including single-use diapers, reusable diapers, and reusable diaper inserts; (b) baby cribs, including playpens and play yards; (c) baby strollers; (d) baby safety gates; (e) baby monitors; (f) child safety cabinet locks and latches and electrical socket covers; (g) bicycle child carrier seats and trailers designed for carrying young children, including any adaptors and accessories for these seats and trailers; (h) baby exercisers, jumpers, bouncer seats, and swings; (i) breast pumps, bottle sterilizers, baby bottles and nipples, pacifiers, and teething rings; (j) baby wipes; (k) changing tables and pads; and (l) car seats. Children's clothing, as well as toys and books intended for use by babies, would remain taxable.

The Streamlined Sales and Use Tax Agreement (SSUTA) was the product of a multi-state effort to simplify and modernize sales and use tax administration among the states, so that sellers that are not required to collect tax under federal law would voluntarily agree to collect and remit the tax for member states. Various members of the business community were involved with states in forming this Agreement. Wisconsin became a SSUTA member state on October 1, 2009, which requires some uniformity in tax administration among member states. SSUTA ensures uniformity of major tax base definitions by requiring member states to adopt the definitions established by the Agreement and treat all items within the definition the same for sales tax purposes. A list of relevant terms defined under SSUTA related to products intended for care of a baby is included in the Attachment.

It should be noted that defining items that would be exempt from sales tax under this proposal (those that are not defined under SSUTA) could be challenging. For example, it may be difficult to distinguish the difference between a baby wipe and other wipes, such as a wet wipe, in statute. A clear definition would be required to ensure accurate sales tax compliance.

This estimate utilizes various sources detailing the costs of the above mentioned items and data from the Department of Health Services regarding the number of births in Wisconsin. Assuming this exemption would take effect on October 1, 2023, it is estimated that the proposal would reduce state sales and use taxes by \$15.6 million in 2023-24 and \$21.6 million in 2024-25 and annually thereafter. The table below breaks out this estimate between children's diapers, breastfeeding supplies and equipment, and other baby-related products. The estimate for children's diapers was derived from available market data on disposable and cloth diaper sales. The estimate for breastfeeding supplies and equipment is based on available data on babies born in Wisconsin, breastfeeding frequency, and the average price of breastfeeding supplies and equipment. The estimate for other baby-related products is based on publicly available estimates of U.S. spending in durable baby goods stores.

**Estimated Fiscal Effect of Proposed Sales Tax Exemption for Baby-Related Products  
(Millions)**

	<u>2023-24</u>	<u>2024-25</u>	<u>2023-25 Biennium</u>
Children's Diapers	-\$7.8	-\$10.9	-\$18.7
Breastfeeding Supplies and Equipment	-0.5	-0.7	-1.2
Other Baby-Related Products	<u>-7.3</u>	<u>-10.0</u>	<u>-17.3</u>
Total	-\$15.6	-\$21.6	-\$37.2

I hope that this information is helpful. Please contact me if you have questions.

SE/ml  
Attachment

## ATTACHMENT

### Streamlined Sales and Use Tax Agreement Definitions

The definitions below relate to products that the proposal would exempt from the sales and use tax. If the state were to exempt such items, it would have to adopt the applicable definition below and exempt all items within that definition to maintain compliance under SSUTA.

#### **Definitions Related to Diapers**

"Clothing" means all human wearing apparel suitable for general use. The definition includes a non-exhaustive list of items that would be classified as clothing, including "diapers, children and adult, including disposable diapers."

"Diaper" means an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements. Under SSUTA, the definition of diapers includes both cloth and disposable diapers.

"Children's diapers" means diapers marketed to be worn by children.

#### **Definitions Related to Breastfeeding Supplies and Equipment**

"Breast pump" means an electrically or manually controlled pump device designed or marketed to be used to express milk from a human breast during lactation. "Breast pump" includes the electrically or manually controlled pump device and any battery, AC adapter, or other power supply unit packaged and sold with the pump device at the time of sale to power the pump device.

"Breast pump collection and storage supplies" means items of tangible personal property designed or marketed to be used in conjunction with a breast pump to collect milk expressed from a human breast and to store collected milk until it is ready for consumption. "Breast pump collection and storage supplies" includes, but is not limited to: breast shields and breast shield connectors; breast pump tubes and tubing adapters; breast pump valves and membranes; backflow protectors and backflow protector adapters; bottles and bottle caps specific to the operation of the breast pump; breast milk storage bags; and other items that may be useful to initiate, support, or sustain breast-feeding using a breast pump during lactation, that may be sold separately, but are generally sold as part of a breast pump kit.

"Breast pump kit" means a kit that contains a breast pump and one or more of the following items: breast pump collection and storage supplies; and other taxable items of tangible personal property that may be useful to initiate, support, or sustain breast-feeding using a breast pump during lactation, so long as the other taxable items of tangible personal property sold with the breast pump kit at the time of sale are less than 50% of the total sales price of the breast pump kit if the state treats the breast pumps as durable medical equipment. If a state does not treat the breast pump as durable medical equipment, the other taxable items of tangible personal property sold with the breast pump kit at the time of the sale must be less than 10% of the total sales price of the breast pump kit.