

**Introduced by Senator Correa**February 12, 2010

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An act to add Sections 6591.6, 7655.5, 8876.5, 12631.5, 30281.5, 32252.5, 40101.5, 41095.5, 43155.5, 45153.5, 46154.5, 50112.1, 55042.5, and 60207.5 to the Revenue and Taxation Code, relating to taxation.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1028, as introduced, Correa. State Board of Equalization: administration: interest.

Existing law requires the payment of interest on late payments, or late prepayments, of tax, fee, or surcharge payments at the modified adjusted rate per month under the provisions of the Sales and Use Tax Law, Motor Vehicle Fuel Tax Law, Use Fuel Tax Law, Cigarette and Tobacco Products Tax Law, Alcoholic Beverage Tax Law, Energy Resources Surcharge Law, Emergency Telephone Users Surcharge Act, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, Oil Spill Response, Prevention, and Administration Fees Law, Underground Storage Tank Maintenance Fee Law, Fee Collection Procedures Law, Diesel Fuel Tax Law, and the law governing the taxation of insurance companies. Interest is charged on a per-month basis, with one month's interest charged for each month, or fraction of a month, that a payment or prepayment is unpaid.

This bill would allow the members of the State Board of Equalization, meeting as a public body, to find, under specified circumstances, that it is inequitable to compute interest on a monthly basis and to instead compute interest on a daily basis.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. It is the intent of the Legislature that California's  
2 penalty and interest provisions foster and maintain the current high  
3 level of compliance, provide appropriate costs and sanctions for  
4 noncompliance, and provide a reasonable and administrable degree  
5 of latitude for individual taxpayer circumstances and errors. It is  
6 the intent of the Legislature in enacting this act, that the State  
7 Board of Equalization strictly and narrowly apply its provisions  
8 on a case-by-case basis and only in special circumstances.

9 SEC. 2. Section 6591.6 is added to the Revenue and Taxation  
10 Code, to read:

11 6591.6. (a) If the board finds, taking into account all facts and  
12 circumstances, that it is inequitable to compute interest at the  
13 modified adjusted rate per month or fraction thereof, as defined  
14 in subdivision (b) of Section 6591.5, interest shall be computed at  
15 the modified adjusted daily rate from the date on which the tax or  
16 prepayment was due until the date of payment, if all of the  
17 following occur:

18 (1) The payment of tax or the prepayment was made one  
19 business day after the date the tax or prepayment was due.

20 (2) The person was granted relief from all penalties that applied  
21 to that payment of tax or prepayment.

22 (3) The person files a request for an oral hearing before the  
23 board.

24 (b) For purposes of this section, "modified adjusted daily rate"  
25 means the modified adjusted rate per annum as defined in  
26 subdivision (a) of Section 6591.5 determined on a daily basis by  
27 dividing the modified adjusted rate per annum by 365.

28 (c) For purposes of this section, "board" means the members  
29 of the State Board of Equalization meeting as a public body.

30 (d) For purposes of this section "business day," means any day  
31 other than a Saturday, Sunday, or any day designated as a state  
32 holiday.

33 (e) This section shall not apply to any payment made pursuant  
34 to a deficiency determination, a determination where no return has  
35 been filed, or a jeopardy determination issued by the board.

36 SEC. 3. Section 7655.5 is added to the Revenue and Taxation  
37 Code, to read:

1 7655.5. (a) If the board finds, taking into account all facts and  
2 circumstances, that it is inequitable to compute interest at the  
3 modified adjusted rate per month or fraction thereof, as defined  
4 in subdivision (b) of Section 6591.5, interest shall be computed at  
5 the modified adjusted daily rate from the date on which the tax or  
6 prepayment was due until the date of payment, if all of the  
7 following occur:

8 (1) The payment of tax or the prepayment was made one  
9 business day after the date the tax or prepayment was due.

10 (2) The person was granted relief from all penalties that applied  
11 to that payment of tax or prepayment.

12 (3) The person files a request for an oral hearing before the  
13 board.

14 (b) For purposes of this section, “modified adjusted daily rate”  
15 means the modified adjusted rate per annum as defined in  
16 subdivision (a) of Section 6591.5 determined on a daily basis by  
17 dividing the modified adjusted rate per annum by 365.

18 (c) For purposes of this section, “board” means the members  
19 of the State Board of Equalization meeting as a public body.

20 (d) For purposes of this section “business day,” means any day  
21 other than a Saturday, Sunday, or any day designated as a state  
22 holiday.

23 (e) This section shall not apply to any payment made pursuant  
24 to a deficiency determination, a determination where no return has  
25 been filed, or a jeopardy determination issued by the board.

26 SEC. 4. Section 8876.5 is added to the Revenue and Taxation  
27 Code, to read:

28 8876.5. (a) If the board finds, taking into account all facts and  
29 circumstances, that it is inequitable to compute interest at the  
30 modified adjusted rate per month or fraction thereof, as defined  
31 in subdivision (b) of Section 6591.5, interest shall be computed at  
32 the modified adjusted daily rate from the date on which the tax  
33 was due until the date of payment, if all of the following occur:

34 (1) The payment of tax was made one business day after the  
35 date the tax was due.

36 (2) The person was granted relief from all penalties that applied  
37 to that payment of tax.

38 (3) The person files a request for an oral hearing before the  
39 board.

1 (b) For purposes of this section, “modified adjusted daily rate”  
2 means the modified adjusted rate per annum as defined in  
3 subdivision (a) of Section 6591.5 determined on a daily basis by  
4 dividing the modified adjusted rate per annum by 365.

5 (c) For purposes of this section, “board” means the members  
6 of the State Board of Equalization meeting as a public body.

7 (d) For purposes of this section “business day,” means any day  
8 other than a Saturday, Sunday, or any day designated as a state  
9 holiday.

10 (e) This section shall not apply to any payment made pursuant  
11 to a deficiency determination, a determination where no return has  
12 been filed, or a jeopardy determination issued by the board.

13 SEC. 5. Section 12631.5 is added to the Revenue and Taxation  
14 Code, to read:

15 12631.5. (a) If the board finds, taking into account all facts  
16 and circumstances, that it is inequitable to compute interest at the  
17 modified adjusted rate per month or fraction thereof, as defined  
18 in subdivision (b) of Section 6591.5, interest shall be computed at  
19 the modified adjusted daily rate from the date on which the tax or  
20 prepayment was due until the date of payment, if all of the  
21 following occur:

22 (1) The payment of tax or prepayment was made one business  
23 day after the date the tax or prepayment was due.

24 (2) The person was granted relief from all penalties that applied  
25 to that payment of tax or prepayment.

26 (3) The person files a request for an oral hearing before the  
27 board.

28 (b) For purposes of this section, “modified adjusted daily rate”  
29 means the modified adjusted rate per annum as defined in  
30 subdivision (a) of Section 6591.5 determined on a daily basis by  
31 dividing the modified adjusted rate per annum by 365.

32 (c) For purposes of this section, “board” means the members  
33 of the State Board of Equalization meeting as a public body.

34 (d) For purposes of this section “business day,” means any day  
35 other than a Saturday, Sunday, or any day designated as a state  
36 holiday.

37 (e) This section shall not apply to any payment made pursuant  
38 to a deficiency determination, or a determination where no return  
39 has been filed.

1 SEC. 6. Section 30281.5 is added to the Revenue and Taxation  
2 Code, to read:

3 30281.5. (a) If the board finds, taking into account all facts  
4 and circumstances, that it is inequitable to compute interest at the  
5 modified adjusted rate per month or fraction thereof, as defined  
6 in subdivision (b) of Section 6591.5, interest shall be computed at  
7 the modified adjusted daily rate from the date on which the tax  
8 was due until the date of payment, if all of the following occur:

9 (1) The payment of tax was made one business day after the  
10 date the tax was due.

11 (2) The person was granted relief from all penalties that applied  
12 to that payment of tax.

13 (3) The person files a request for an oral hearing before the  
14 board.

15 (b) For purposes of this section, “modified adjusted daily rate”  
16 means the modified adjusted rate per annum as defined in  
17 subdivision (a) of Section 6591.5 determined on a daily basis by  
18 dividing the modified adjusted rate per annum by 365.

19 (c) For purposes of this section, “board” means the members  
20 of the State Board of Equalization meeting as a public body.

21 (d) For purposes of this section “business day,” means any day  
22 other than a Saturday, Sunday, or any day designated as a state  
23 holiday.

24 (e) This section shall not apply to any payment made pursuant  
25 to a deficiency determination, a determination where no report or  
26 return has been filed, or a jeopardy determination issued by the  
27 board.

28 SEC. 7. Section 32252.5 is added to the Revenue and Taxation  
29 Code, to read:

30 32252.5. (a) If the board finds, taking into account all facts  
31 and circumstances, that it is inequitable to compute interest at the  
32 modified adjusted rate per month or fraction thereof, as defined  
33 in subdivision (b) of Section 6591.5, interest shall be computed at  
34 the modified adjusted daily rate from the date on which the tax  
35 was due until the date of payment, if all of the following occur:

36 (1) The payment of tax was made one business day after the  
37 date the tax was due.

38 (2) The person was granted relief from all penalties that applied  
39 to that payment of tax.

1 (3) The person files a request for an oral hearing before the  
2 board.

3 (b) For purposes of this section, “modified adjusted daily rate”  
4 means the modified adjusted rate per annum as defined in  
5 subdivision (a) of Section 6591.5 determined on a daily basis by  
6 dividing the modified adjusted rate per annum by 365.

7 (c) For purposes of this section, “board” means the members  
8 of the State Board of Equalization meeting as a public body.

9 (d) For purposes of this section “business day,” means any day  
10 other than a Saturday, Sunday, or any day designated as a state  
11 holiday.

12 (e) This section shall not apply to any payment made pursuant  
13 to a deficiency determination, a determination where no return has  
14 been filed, or a jeopardy determination issued by the board.

15 SEC. 8. Section 40101.5 is added to the Revenue and Taxation  
16 Code, to read:

17 40101.5. (a) If the board finds, taking into account all facts  
18 and circumstances, that it is inequitable to compute interest at the  
19 modified adjusted rate per month or fraction thereof, as defined  
20 in subdivision (b) of Section 6591.5, interest shall be computed at  
21 the modified adjusted daily rate from the date on which the  
22 surcharge was due until the date of payment, if all of the following  
23 occur:

24 (1) The payment of the surcharge was made one business day  
25 after the date the surcharge was due.

26 (2) The person was granted relief from all penalties that applied  
27 to that payment of the surcharge.

28 (3) The person files a request for an oral hearing before the  
29 board.

30 (b) For purposes of this section, “modified adjusted daily rate”  
31 means the modified adjusted rate per annum as defined in  
32 subdivision (a) of Section 6591.5 determined on a daily basis by  
33 dividing the modified adjusted rate per annum by 365.

34 (c) For purposes of this section, “board” means the members  
35 of the State Board of Equalization meeting as a public body.

36 (d) For purposes of this section “business day,” means any day  
37 other than a Saturday, Sunday, or any day designated as a state  
38 holiday.

1 (e) This section shall not apply to any payment made pursuant  
2 to a deficiency determination, or a determination where no return  
3 has been filed.

4 SEC. 9. Section 41095.5 is added to the Revenue and Taxation  
5 Code, to read:

6 41095.5. (a) If the board finds, taking into account all facts  
7 and circumstances, that it is inequitable to compute interest at the  
8 modified adjusted rate per month or fraction thereof, as defined  
9 in subdivision (b) of Section 6591.5, interest shall be computed at  
10 the modified adjusted daily rate from the date on which the  
11 surcharge was due until the date of payment, if all of the following  
12 occur:

13 (1) The payment of the surcharge was made one business day  
14 after the date the surcharge was due.

15 (2) The person was granted relief from all penalties that applied  
16 to that payment of the surcharge.

17 (3) The person files a request for an oral hearing before the  
18 board.

19 (b) For purposes of this section, “modified adjusted daily rate”  
20 means the modified adjusted rate per annum as defined in  
21 subdivision (a) of Section 6591.5 determined on a daily basis by  
22 dividing the modified adjusted rate per annum by 365.

23 (c) For purposes of this section, “board” means the members  
24 of the State Board of Equalization meeting as a public body.

25 (d) For purposes of this section “business day,” means any day  
26 other than a Saturday, Sunday, or any day designated as a state  
27 holiday.

28 (e) This section shall not apply to any payment made pursuant  
29 to a deficiency determination, or a determination where no return  
30 has been filed.

31 SEC. 10. Section 43155.5 is added to the Revenue and Taxation  
32 Code, to read:

33 43155.5. (a) If the board finds, taking into account all facts  
34 and circumstances, that it is inequitable to compute interest at the  
35 modified adjusted rate per month or fraction thereof, as defined  
36 in subdivision (b) of Section 6591.5, interest shall be computed at  
37 the modified adjusted daily rate from the date on which the tax or  
38 prepayment was due until the date of payment, if all of the  
39 following occur:

1 (1) The payment of tax or the prepayment was made one  
2 business day after the date the tax or prepayment was due.

3 (2) The person was granted relief from all penalties that applied  
4 to that payment of tax or prepayment.

5 (3) The person files a request for an oral hearing before the  
6 board.

7 (b) For purposes of this section, “modified adjusted daily rate”  
8 means the modified adjusted rate per annum as defined in  
9 subdivision (a) of Section 6591.5 determined on a daily basis by  
10 dividing the modified adjusted rate per annum by 365.

11 (c) For purposes of this section, “board” means the members  
12 of the State Board of Equalization meeting as a public body.

13 (d) For purposes of this section “business day,” means any day  
14 other than a Saturday, Sunday, or any day designated as a state  
15 holiday.

16 (e) This section shall not apply to any payment made pursuant  
17 to a deficiency determination, a determination where no report or  
18 return has been filed, or a jeopardy determination issued by the  
19 board.

20 SEC. 11. Section 45153.5 is added to the Revenue and Taxation  
21 Code, to read:

22 45153.5. (a) If the board finds, taking into account all facts  
23 and circumstances, that it is inequitable to compute interest at the  
24 modified adjusted rate per month or fraction thereof, as defined  
25 in subdivision (b) of Section 6591.5, interest shall be computed at  
26 the modified adjusted daily rate from the date on which the fee  
27 was due until the date of payment, if all of the following occur:

28 (1) The payment of the fee was made one business day after the  
29 date the fee was due.

30 (2) The person was granted relief from all penalties that applied  
31 to that fee payment.

32 (3) The person files a request for an oral hearing before the  
33 board.

34 (b) For purposes of this section, “modified adjusted daily rate”  
35 means the modified adjusted rate per annum as defined in  
36 subdivision (a) of Section 6591.5 determined on a daily basis by  
37 dividing the modified adjusted rate per annum by 365.

38 (c) For purposes of this section, “board” means the members  
39 of the State Board of Equalization meeting as a public body.



1 (d) For purposes of this section “business day,” means any day  
2 other than a Saturday, Sunday, or any day designated as a state  
3 holiday.

4 (e) This section shall not apply to any payment made pursuant  
5 to a deficiency determination, a determination where no return has  
6 been filed or a jeopardy determination issued by the board.

7 SEC. 12. Section 46154.5 is added to the Revenue and Taxation  
8 Code, to read:

9 46154.5. (a) If the board finds, taking into account all facts  
10 and circumstances, that it is inequitable to compute interest at the  
11 modified adjusted rate per month or fraction thereof, as defined  
12 in subdivision (b) of Section 6591.5, interest shall be computed at  
13 the modified adjusted daily rate from the date on which the fee  
14 was due until the date of payment, if all of the following occur:

15 (1) The payment of the fee was made one business day after the  
16 date the fee was due.

17 (2) The person was granted relief from all penalties that applied  
18 to that fee payment.

19 (3) The person files a request for an oral hearing before the  
20 board.

21 (b) For purposes of this section, “modified adjusted daily rate”  
22 means the modified adjusted rate per annum as defined in  
23 subdivision (a) of Section 6591.5 determined on a daily basis by  
24 dividing the modified adjusted rate per annum by 365.

25 (c) For purposes of this section, “board” means the members  
26 of the State Board of Equalization meeting as a public body.

27 (d) For purposes of this section “business day,” means any day  
28 other than a Saturday, Sunday, or any day designated as a state  
29 holiday.

30 (e) This section shall not apply to any payment made pursuant  
31 to a deficiency determination, a determination where no return has  
32 been filed, or a jeopardy determination issued by the board.

33 SEC. 13. Section 50112.1 is added to the Revenue and Taxation  
34 Code, to read:

35 50112.1. (a) If the board finds, taking into account all facts  
36 and circumstances, that it is inequitable to compute interest at the  
37 modified adjusted rate per month or fraction thereof, as defined  
38 in subdivision (b) of Section 6591.5, interest shall be computed at  
39 the modified adjusted daily rate from the date on which the fee  
40 was due until the date of payment, if all of the following occur:

- 1 (1) The payment of the fee was made one business day after the
- 2 date the fee was due.
- 3 (2) The person was granted relief from all penalties that applied
- 4 to that fee payment.
- 5 (3) The person files a request for an oral hearing before the
- 6 board.
- 7 (b) For purposes of this section, “modified adjusted daily rate”
- 8 means the modified adjusted rate per annum as defined in
- 9 subdivision (a) of Section 6591.5 determined on a daily basis by
- 10 dividing the modified adjusted rate per annum by 365.
- 11 (c) For purposes of this section, “board” means the members
- 12 of the State Board of Equalization meeting as a public body.
- 13 (d) For purposes of this section “business day,” means any day
- 14 other than a Saturday, Sunday, or any day designated as a state
- 15 holiday.
- 16 (e) This section shall not apply to any payment made pursuant
- 17 to a deficiency determination, a determination where no return has
- 18 been filed or a jeopardy determination issued by the board.
- 19 SEC. 14. Section 55042.5 is added to the Revenue and Taxation
- 20 Code, to read:
- 21 55042.5. (a) If the board finds, taking into account all facts
- 22 and circumstances, that it is inequitable to compute interest at the
- 23 modified adjusted rate per month or fraction thereof, as defined
- 24 in subdivision (b) of Section 6591.5, interest shall be computed at
- 25 the modified adjusted daily rate from the date on which the fee
- 26 was due until the date of payment, if all of the following occur:
- 27 (1) The payment of the fee was made one business day after the
- 28 date the fee was due.
- 29 (2) The person was granted relief from all penalties that applied
- 30 to that fee payment.
- 31 (3) The person files a request for an oral hearing before the
- 32 board.
- 33 (b) For purposes of this section, “modified adjusted daily rate”
- 34 means the modified adjusted rate per annum as defined in
- 35 subdivision (a) of Section 6591.5 determined on a daily basis by
- 36 dividing the modified adjusted rate per annum by 365.
- 37 (c) For purposes of this section, “board” means the members
- 38 of the State Board of Equalization meeting as a public body.

1 (d) For purposes of this section “business day,” means any day  
2 other than a Saturday, Sunday, or any day designated as a state  
3 holiday.

4 (e) This section shall not apply to any payment made pursuant  
5 to a deficiency determination, a determination where no return has  
6 been filed or a jeopardy determination issued by the board.

7 SEC. 15. Section 60207.5 is added to the Revenue and Taxation  
8 Code, to read:

9 60207.5. (a) If the board finds, taking into account all facts  
10 and circumstances, that it is inequitable to compute interest at the  
11 modified adjusted rate per month or fraction thereof, as defined  
12 in subdivision (b) of Section 6591.5, interest shall be computed at  
13 the modified adjusted daily rate from the date on which the tax  
14 was due until the date of payment, if all of the following occur:

15 (1) The payment of tax was made one business day after the  
16 date the tax was due.

17 (2) The person was granted relief from all penalties that applied  
18 to that payment of tax.

19 (3) The person files a request for an oral hearing before the  
20 board.

21 (b) For purposes of this section, “modified adjusted daily rate”  
22 means the modified adjusted rate per annum as defined in  
23 subdivision (a) of Section 6591.5 determined on a daily basis by  
24 dividing the modified adjusted rate per annum by 365.

25 (c) For purposes of this section, “board” means the members  
26 of the State Board of Equalization meeting as a public body.

27 (d) For purposes of this section “business day,” means any day  
28 other than a Saturday, Sunday, or any day designated as a state  
29 holiday.

30 (e) This section shall not apply to any payment made pursuant  
31 to a deficiency determination, a determination where no return has  
32 been filed or a jeopardy determination issued by the board.