

AMENDED IN ASSEMBLY AUGUST 2, 2010

SENATE BILL

No. 1028

Introduced by Senator Correa

February 12, 2010

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 amended, 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, *until January 1, 2016*, 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. *The bill would*

also specify that the above provisions shall only apply to electronic payments or prepayments of taxes, fees, and surcharges.

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,"~~ "business day"
31 means any day other than a Saturday, Sunday, or any day
32 designated as a state holiday.

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

4 (f) *This section shall only apply to electronic payments or*
5 *prepayments of taxes.*

6 (g) *This section shall be operative only until January 1, 2016.*

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

9 7655.5. (a) If the board finds, taking into account all facts and
10 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 or
14 prepayment was due until the date of payment, if all of the
15 following occur:

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

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

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

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

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

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

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

34 (f) *This section shall only apply to electronic payments or*
35 *prepayments of taxes.*

36 (g) *This section shall be operative only until January 1, 2016.*

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

39 8876.5. (a) If the board finds, taking into account all facts and
40 circumstances, that it is inequitable to compute interest at the

1 modified adjusted rate per month or fraction thereof, as defined
2 in subdivision (b) of Section 6591.5, interest shall be computed at
3 the modified adjusted daily rate from the date on which the tax
4 was due until the date of payment, if all of the following occur:

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

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

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

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

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

17 (d) For purposes of this section ~~“business day,”~~ “*business day*”
18 means any day other than a Saturday, Sunday, or any day
19 designated as a state holiday.

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

23 (f) *This section shall only apply to electronic payments of taxes.*

24 (g) *This section shall be operative only until January 1, 2016.*

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

27 12631.5. (a) If the board finds, taking into account all facts
28 and circumstances, that it is inequitable to compute interest at the
29 modified adjusted rate per month or fraction thereof, as defined
30 in subdivision (b) of Section 6591.5, interest shall be computed at
31 the modified adjusted daily rate from the date on which the tax or
32 prepayment was due until the date of payment, if all of the
33 following occur:

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

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

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,”~~ “*business day*”
8 means any day other than a Saturday, Sunday, or any day
9 designated as a state holiday.

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

13 (f) *This section shall only apply to electronic payments or*
14 *prepayments of taxes.*

15 (g) *This section shall be operative only until January 1, 2016.*

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

18 30281.5. (a) If the board finds, taking into account all facts
19 and circumstances, that it is inequitable to compute interest at the
20 modified adjusted rate per month or fraction thereof, as defined
21 in subdivision (b) of Section 6591.5, interest shall be computed at
22 the modified adjusted daily rate from the date on which the tax
23 was due until the date of payment, if all of the following occur:

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

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

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,”~~ “*business day*”
37 means any day other than a Saturday, Sunday, or any day
38 designated as a state holiday.

39 (e) This section shall not apply to any payment made pursuant
40 to a deficiency determination, a determination where no report or

1 return has been filed, or a jeopardy determination issued by the
2 board.

3 *(f) This section shall only apply to electronic payments of taxes.*

4 *(g) This section shall be operative only until January 1, 2016.*

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

7 32252.5. (a) If the board finds, taking into account all facts
8 and circumstances, that it is inequitable to compute interest at the
9 modified adjusted rate per month or fraction thereof, as defined
10 in subdivision (b) of Section 6591.5, interest shall be computed at
11 the modified adjusted daily rate from the date on which the tax
12 was due until the date of payment, if all of the following occur:

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

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

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,”~~ “*business day*”
26 means any day other than a Saturday, Sunday, or any day
27 designated as a state holiday.

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

31 *(f) This section shall only apply to electronic payments of taxes.*

32 *(g) This section shall be operative only until January 1, 2016.*

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

35 40101.5. (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

1 surcharge was due until the date of payment, if all of the following
2 occur:

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

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

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

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

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

15 (d) For purposes of this section—~~“business day,”~~ “*business day*”
16 means any day other than a Saturday, Sunday, or any day
17 designated as a state holiday.

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

21 (f) *This section shall only apply to electronic payments of*
22 *surcharges.*

23 (g) *This section shall be operative only until January 1, 2016.*

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

26 41095.5. (a) If the board finds, taking into account all facts
27 and circumstances, that it is inequitable to compute interest at the
28 modified adjusted rate per month or fraction thereof, as defined
29 in subdivision (b) of Section 6591.5, interest shall be computed at
30 the modified adjusted daily rate from the date on which the
31 surcharge was due until the date of payment, if all of the following
32 occur:

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

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

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

39 (b) For purposes of this section, “modified adjusted daily rate”
40 means the modified adjusted rate per annum as defined in

1 subdivision (a) of Section 6591.5 determined on a daily basis by
2 dividing the modified adjusted rate per annum by 365.

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

5 (d) For purposes of this section—~~“business day,”~~ “*business day*”
6 means any day other than a Saturday, Sunday, or any day
7 designated as a state holiday.

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

11 (f) *This section shall only apply to electronic payments of*
12 *surcharges.*

13 (g) *This section shall be operative only until January 1, 2016.*

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

16 43155.5. (a) If the board finds, taking into account all facts
17 and circumstances, that it is inequitable to compute interest at the
18 modified adjusted rate per month or fraction thereof, as defined
19 in subdivision (b) of Section 6591.5, interest shall be computed at
20 the modified adjusted daily rate from the date on which the tax or
21 prepayment was due until the date of payment, if all of the
22 following occur:

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

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

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

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

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

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

38 (e) This section shall not apply to any payment made pursuant
39 to a deficiency determination, a determination where no report or

1 return has been filed, or a jeopardy determination issued by the
2 board.

3 *(f) This section shall only apply to electronic payments or*
4 *prepayments of taxes.*

5 *(g) This section shall be operative only until January 1, 2016.*

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

8 45153.5. (a) If the board finds, taking into account all facts
9 and circumstances, that it is inequitable to compute interest at the
10 modified adjusted rate per month or fraction thereof, as defined
11 in subdivision (b) of Section 6591.5, interest shall be computed at
12 the modified adjusted daily rate from the date on which the fee
13 was due until the date of payment, if all of the following occur:

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

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

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

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

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

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

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

32 *(f) This section shall only apply to electronic payments of fees.*

33 *(g) This section shall be operative only until January 1, 2016.*

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

36 46154.5. (a) If the board finds, taking into account all facts
37 and circumstances, that it is inequitable to compute interest at the
38 modified adjusted rate per month or fraction thereof, as defined
39 in subdivision (b) of Section 6591.5, interest shall be computed at

1 the modified adjusted daily rate from the date on which the fee
2 was due until the date of payment, if all of the following occur:

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

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

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

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

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

15 (d) For purposes of this section—~~“business day,”~~ “*business day*”
16 means any day other than a Saturday, Sunday, or any day
17 designated as a state holiday.

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

21 (f) *This section shall only apply to electronic payments of fees.*

22 (g) *This section shall be operative only until January 1, 2016.*

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

25 50112.1. (a) If the board finds, taking into account all facts
26 and circumstances, that it is inequitable to compute interest at the
27 modified adjusted rate per month or fraction thereof, as defined
28 in subdivision (b) of Section 6591.5, interest shall be computed at
29 the modified adjusted daily rate from the date on which the fee
30 was due until the date of payment, if all of the following occur:

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

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

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

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

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

3 (d) For purposes of this section—~~“business day,”~~ “*business day*”
4 means any day other than a Saturday, Sunday, or any day
5 designated as a state holiday.

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

9 (f) *This section shall only apply to electronic payments of fees.*

10 (g) *This section shall be operative only until January 1, 2016.*

11 SEC. 14. Section 55042.5 is added to the Revenue and Taxation
12 Code, to read:

13 55042.5. (a) If the board finds, taking into account all facts
14 and circumstances, that it is inequitable to compute interest at the
15 modified adjusted rate per month or fraction thereof, as defined
16 in subdivision (b) of Section 6591.5, interest shall be computed at
17 the modified adjusted daily rate from the date on which the fee
18 was due until the date of payment, if all of the following occur:

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

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

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

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

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

31 (d) For purposes of this section—~~“business day,”~~ “*business day*”
32 means any day other than a Saturday, Sunday, or any day
33 designated as a state holiday.

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

37 (f) *This section shall only apply to electronic payments of fees.*

38 (g) *This section shall be operative only until January 1, 2016.*

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

1 60207.5. (a) If the board finds, taking into account all facts
2 and 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
6 was due until the date of payment, if all of the following occur:

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

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

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

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

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

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

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

25 (f) *This section shall only apply to electronic payments of taxes.*

26 (g) *This section shall be operative only until January 1, 2016.*