

Senate Bill No. 1028

CHAPTER 316

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.

[Approved by Governor September 25, 2010. Filed with
Secretary of State September 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1028, 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41095.5. (a) If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily

rate from the date on which the surcharge was due until the date of payment, if all of the following occur:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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