

Introduced by Senator Correa

February 16, 2011

An act to amend Section ~~6010~~ 6591.5 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 421, as amended, Correa. Sales and use taxes: ~~purchase interest.~~

Existing law provides that interest is paid by taxpayers and feepayers with respect to underpayments of various taxes, surcharges, and fees at the modified adjusted rate, as defined by reference to a specified federal statute, and that interest is paid to taxpayers and feepayers with respect to overpayments of various taxes, surcharges, and fees as determined in accordance with a specified federal statute, which requires that the rate paid on overpayments be based on the rate of 13-week treasury bills, as specified.

This bill would delete the requirement that interest on overpayments be based on the rate of 13-week treasury bills and would instead require that interest on both underpayments and overpayments be determined in accordance with the specified federal statute, as modified.

~~The Sales and Use Tax Law imposes a use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. That law specifies that a "purchase" means and includes, among other things, a transaction whereby the possession of tangible personal property is transferred, but the seller retains the title to the property as security for the payment of the price.~~

~~This bill would make technical, nonsubstantive changes to this definition of purchase.~~

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

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

1 SECTION 1. Section 6591.5 of the Revenue and Taxation Code
2 is amended to read:
3 6591.5. (a) ~~(1)~~ For interest required to be paid to the state
4 upon underpayments of tax to the state, “modified—*Modified*
5 adjusted rate per annum” means the adjusted annual rate established
6 pursuant to subdivision (c), plus three percentage points.
7 ~~(2)~~ For interest required to be paid by the state upon
8 overpayments of tax, “modified adjusted rate per annum” means
9 the adjusted annual rate established pursuant to subdivision (d).
10 (b) “Modified adjusted rate per month, or fraction thereof”
11 means the modified adjusted rate per annum divided by 12.
12 (c) The rate established ~~for interest to be paid upon~~
13 ~~underpayments of tax~~ shall be determined in accordance with the
14 provisions of Section 6621 of the Internal Revenue Code ~~which~~
15 ~~establish the underpayment rate~~, except that the:
16 (1) *The overpayment rate specified in Section 6621(a)(1) of the*
17 *Internal Revenue Code shall be modified to be equal to the*
18 *underpayment rate determined under Section 6621(a)(2) of the*
19 *Internal Revenue Code.*
20 (2) *The determination specified in Section 6621(b) of the*
21 *Internal Revenue Code shall be modified to be determined*
22 *semiannually as follows:*
23 ~~(1)~~
24 (A) The rate for January shall apply for the following July 1 to
25 December 31, inclusive.
26 ~~(2)~~
27 (B) The rate for July shall apply for the following January 1 to
28 June 30, inclusive.
29 ~~(d) (1) Except as provided in paragraph (2), the rate established~~
30 ~~for interest to be paid by the state upon overpayments of tax shall~~
31 ~~be equal to the bond equivalent rate of 13-week treasury bills~~
32 ~~auctioned, rounded to the nearest full percent (or if a multiple of~~

1 one-half of 1 percent, the rate shall be increased to the next highest
2 full percent), as follows:

3 (A) ~~The bond equivalent rate of 13-week treasury bills~~
4 ~~established at the first auction held during the month of January~~
5 ~~shall apply for the following July 1 to December 31, inclusive.~~

6 (B) ~~The bond equivalent rate of 13-week treasury bills~~
7 ~~established at the first auction held during the month of July shall~~
8 ~~apply for the following January 1 to June 30, inclusive.~~

9 (2) ~~For the period July 1, 1991, through June 30, 1992, the rate~~
10 ~~to be paid by the state upon overpayments of tax shall be equal to~~
11 ~~the bond equivalent rate of 13-week treasury bills established at~~
12 ~~the auction held on July 1, 1991, rounded to the nearest full percent~~
13 ~~(or if a multiple of one-half of 1 percent, the rate shall be increased~~
14 ~~to the next highest full percent).~~

15 (e) ~~—~~

16 (d) For purposes of this part, and any other provision of law
17 referencing this method of computation, in computing the amount
18 of any interest required to be paid by the state or by the taxpayer,
19 or any other amount determined by reference to that amount of
20 interest, that interest and that amount shall be computed as simple
21 interest, not compound interest.

22 SECTION 1. ~~Section 6010 of the Revenue and Taxation Code~~
23 ~~is amended to read:~~

24 6010. ~~“Purchase” means and includes:~~

25 (a) ~~Any transfer of title or possession, exchange, or barter,~~
26 ~~conditional or otherwise, in any manner or by any means~~
27 ~~whatsoever, of tangible personal property for a consideration.~~
28 ~~“Transfer of possession” includes only transactions found by the~~
29 ~~board to be in lieu of a transfer of title, exchange, or barter.~~

30 (b) ~~When performed outside this state or when the customer~~
31 ~~gives a resale certificate pursuant to Article 3 (commencing with~~
32 ~~Section 6091) of Chapter 2, the producing, fabricating, processing,~~
33 ~~printing, or imprinting of tangible personal property for a~~
34 ~~consideration for consumers who furnish either directly or~~
35 ~~indirectly the materials used in the producing, fabricating,~~
36 ~~processing, printing, or imprinting.~~

37 (c) ~~A transaction whereby the possession of property is~~
38 ~~transferred, but the seller retains the title as security for the payment~~
39 ~~of the price.~~

- 1 ~~(d) A transfer for a consideration of tangible personal property~~
- 2 ~~that has been produced, fabricated, or printed to the special order~~
- 3 ~~of the customer, or of any publication.~~
- 4 ~~(e) Any lease of tangible personal property in any manner or~~
- 5 ~~by any means whatsoever, for consideration, except a lease of:~~
- 6 ~~(1) Motion pictures or animated motion pictures, including~~
- 7 ~~television, films, and tapes.~~
- 8 ~~(2) Linen supplies and similar articles when an essential part of~~
- 9 ~~the lease agreement is the furnishing of the recurring service of~~
- 10 ~~laundrying or cleaning the articles.~~
- 11 ~~(3) Household furnishings with a lease of the living quarters in~~
- 12 ~~which they are to be used.~~
- 13 ~~(4) Mobile transportation equipment for use in transportation~~
- 14 ~~of persons or property as defined in Section 6023.~~
- 15 ~~(5) Tangible personal property leased in substantially the same~~
- 16 ~~form as acquired by the lessor or leased in substantially the same~~
- 17 ~~form as acquired by a transferor, as to which the lessor or transferor~~
- 18 ~~has paid sales tax reimbursement or has paid use tax measured by~~
- 19 ~~the purchase price of the property. For purposes of this paragraph,~~
- 20 ~~“transferor” shall mean the following:~~
- 21 ~~(A) A person from whom the lessor acquired the property in a~~
- 22 ~~transaction described in subdivision (b) of Section 6006.5.~~
- 23 ~~(B) A decedent from whom the lessor acquired the property by~~
- 24 ~~will or the laws of succession.~~
- 25 ~~(6) A mobilehome, as defined in Sections 18008 and 18211 of~~
- 26 ~~the Health and Safety Code, other than a mobilehome originally~~
- 27 ~~sold new prior to July 1, 1980, and not subject to local property~~
- 28 ~~taxation.~~
- 29 ~~(7) Paragraphs (1) and (5) and Section 6094.1 do not apply to~~
- 30 ~~rentals or leases of video cassettes, video tapes, and video discs~~
- 31 ~~for private use under which the lessee or renter does not obtain or~~
- 32 ~~acquire the right to license, broadcast, exhibit, or reproduce the~~
- 33 ~~video cassette, video tape, or video disc.~~

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