

AMENDED IN SENATE MAY 3, 2011
AMENDED IN SENATE MARCH 22, 2011

SENATE BILL

No. 421

Introduced by Senator Correa

February 16, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

SB 421, as amended, Correa. Sales and use taxes: *underpayment*: 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 *as modified, plus 3 percentage points*.~~

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 *to add 3 percentage points*.~~

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.** *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 adjusted rate
5 per annum” means the adjusted annual rate established pursuant
6 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 determination
16 specified in Section 6621(b) of the Internal Revenue Code shall
17 be modified to be determined semiannually as follows:

18 (1) The rate for January shall apply for the following July 1 to
19 December 31, inclusive.

20 (2) The rate for July shall apply for the following January 1 to
21 June 30, inclusive.

22 (d) (1) Except as provided in paragraph (2), the rate established
23 for interest to be paid by the state upon overpayments of tax shall
24 be equal to the bond equivalent rate of 13-week treasury bills
25 auctioned, rounded to the nearest full percent (or if a multiple of
26 one-half of 1 percent, the rate shall be increased to the next highest
27 full percent), as follows:

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

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

34 (2) For the period July 1, 1991, through June 30, 1992, the rate
35 to be paid by the state upon overpayments of tax shall be equal to
36 the bond equivalent rate of 13-week treasury bills established at
37 the auction held on July 1, 1991, rounded to the nearest full percent

1 (or if a multiple of one-half of 1 percent, the rate shall be increased
2 to the next highest full percent).

3 (e) For purposes of this part, and any other provision of law
4 referencing this method of computation, in computing the amount
5 of any interest required to be paid by the state or by the taxpayer,
6 or any other amount determined by reference to that amount of
7 interest, that interest and that amount shall be computed as simple
8 interest, not compound interest.

9 ~~SECTION 1. Section 6591.5 of the Revenue and Taxation
10 Code is amended to read:~~

11 ~~6591.5. (a) “Modified adjusted rate per annum” means the
12 adjusted annual rate established pursuant to subdivision (c), plus
13 three percentage points.~~

14 ~~(b) “Modified adjusted rate per month, or fraction thereof”
15 means the modified adjusted rate per annum divided by 12.~~

16 ~~(c) The rate established shall be determined in accordance with
17 the provisions of Section 6621 of the Internal Revenue Code,
18 except that:~~

19 ~~(1) The overpayment rate specified in Section 6621(a)(1) of the
20 Internal Revenue Code shall be modified to be equal to the
21 underpayment rate determined under Section 6621(a)(2) of the
22 Internal Revenue Code.~~

23 ~~(2) The determination specified in Section 6621(b) of the
24 Internal Revenue Code shall be modified to be determined
25 semiannually as follows:~~

26 ~~(A) The rate for January shall apply for the following July 1 to
27 December 31, inclusive.~~

28 ~~(B) The rate for July shall apply for the following January 1 to
29 June 30, inclusive.~~

30 ~~(d) For purposes of this part, and any other provision of law
31 referencing this method of computation, in computing the amount
32 of any interest required to be paid by the state or by the taxpayer,
33 or any other amount determined by reference to that amount of
34 interest, that interest and that amount shall be computed as simple
35 interest, not compound interest.~~