

ASSEMBLY BILL

No. 1203

Introduced by Assembly Member Gorell
(Principal coauthor: Senator Lieu)

February 22, 2013

An act to add Sections 6595 and 19396 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1203, as introduced, Gorell. Taxation: interest: penalties.

(1) The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or 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 requires the payment of penalties and interest on a failure to timely pay taxes, from the date on which those amounts became due and payable to the state until the date of payment. That law authorizes the State Board of Equalization, in its discretion, to relieve all or any part of those amounts imposed under specified circumstances.

This bill would provide that interest and penalties shall not be assessed against any person for failure to make payments of any taxes imposed under the Sales and Use Tax Law if the tax is required to be collected because of a court decision invalidating a statute, upon which the taxpayer relied, as unconstitutional, as provided.

(2) Under existing law, the Franchise Tax Board administers the Personal Income Tax Law and the Corporation Tax Law. Those laws impose penalties and interest upon taxpayers, as specified in those laws.

This bill would provide, for taxable years beginning on or after January 1, 2014, that penalties and interest shall not be assessed against any taxpayer with regard to any additional tax, as defined, if the additional tax is required to be collected pursuant to a court holding, made on or after January 1, 2014, that invalidates a provision, upon which the taxpayer relied, as unconstitutional, as provided.

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 6595 is added to the Revenue and
2 Taxation Code, to read:

3 6595. Notwithstanding any other law, on or after January 1,
4 2014, interest and penalties shall not be assessed against any person
5 for failure to make payments of any taxes imposed under this part
6 if all of the following apply:

7 (a) The tax is required to be collected from the taxpayer due to
8 a court holding that a statute is unconstitutional.

9 (b) The taxpayer relied on that statute when calculating the
10 amount of tax due.

11 (c) The tax is paid by the taxpayer within 60 days after the board
12 sends a notice of determination to the taxpayer relating to the tax
13 now required to be collected.

14 SEC. 2. Section 19396 is added to the Revenue and Taxation
15 Code, to read:

16 19396. (a) Notwithstanding any other law, on or after January
17 1, 2014, penalties shall not be assessed against any taxpayer with
18 respect to the additional tax of that taxpayer and interest shall not
19 accrue against any taxpayer with respect to the additional tax of
20 that taxpayer for periods prior to the date the taxpayer is notified
21 of the additional tax due for the taxable year if all of the following
22 apply:

23 (1) The additional tax is an increase in tax for a taxable year
24 beginning on or after January 1, 2014, to the extent the increase
25 is attributable to a court holding that a statute is unconstitutional,
26 and the additional tax is required to be collected from the taxpayer
27 due to that holding, as announced by the Franchise Tax Board.

28 (2) The taxpayer relied on that statute when calculating the
29 amount of tax due.

1 (3) The additional tax is paid by the taxpayer within 60 days of
2 the receipt of a notice of proposed assessment by the board or
3 within the time allowed by an installment payment agreement
4 entered into pursuant to Section 19008.

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