

ASSEMBLY BILL

No. 2612

**Introduced by Assembly Member Brewer
(Coauthor: Assembly Member Maldonado)**

February 25, 2000

An act to amend Section 6591.5 of, and to add Section 6902.5 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2612, as introduced, Brewer. Sales and use taxes: interest.

The Sales and Use Tax Law provides that interest is paid by taxpayers with respect to underpayments of tax at the modified adjusted rate, as defined by reference to a specified federal statute, and that interest is paid to taxpayers with respect to overpayments of tax 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 establishes procedures for the approval by the State Board of Equalization of refunds to persons required to file returns.

This bill would provide that any person filing a claim for a refund shall be entitled to a hearing before the board.

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



1 ~~overpayments of tax shall be equal to the bond equivalent~~
2 ~~rate of 13-week treasury bills auctioned, rounded to the~~
3 ~~nearest full percent (or if a multiple of one-half of 1~~
4 ~~percent, the rate shall be increased to the next highest full~~
5 ~~percent), as follows:~~

6 ~~(A) The bond equivalent rate of 13-week treasury bills~~
7 ~~established at the first auction held during the month of~~
8 ~~January shall apply for the following July 1 to December~~
9 ~~31, inclusive.~~

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

14 ~~(2) For the period July 1, 1991, through June 30, 1992,~~
15 ~~the rate to be paid by the state upon overpayments of tax~~
16 ~~shall be equal to the bond equivalent rate of 13-week~~
17 ~~treasury bills established at the auction held on July 1,~~
18 ~~1991, rounded to the nearest full percent (or if a multiple~~
19 ~~of one-half of 1 percent, the rate shall be increased to the~~
20 ~~next highest full percent).~~

21 ~~(e) For purposes of this part, and any other provision~~
22 ~~of law referencing this method of computation, in~~
23 ~~computing the amount of any interest required to be paid~~
24 ~~by the state or by the taxpayer, or any other amount~~
25 ~~determined by reference to that amount of interest, that~~
26 ~~interest and that amount shall be computed as simple~~
27 ~~interest, not compound interest.~~

28 SEC. 2. Section 6902.5 is added to the Revenue and
29 Taxation Code, to read:

30 6902.5. Any person filing a claim for a refund pursuant
31 to Section 6902 shall be entitled to a hearing before the
32 board.

