

ASSEMBLY BILL

No. 693

Introduced by Assembly Member Silva

February 26, 2009

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.

LEGISLATIVE COUNSEL'S DIGEST

AB 693, as introduced, Silva. 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 late.

This bill would allow 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.

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

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

11 6591.6. (a) If the board finds, taking into account all facts and
12 circumstances, that it is inequitable to compute interest at the
13 modified adjusted rate per month or fraction thereof, as defined
14 in subdivision (b) of Section 6591.5, interest shall be computed at
15 the modified adjusted daily rate from the date on which the tax or
16 prepayment was due until the date of payment, if all of the
17 following occur:

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

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

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

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

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

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

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

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

3 7655.5. (a) If the board finds, taking into account all facts and
4 circumstances, that it is inequitable to compute interest at the
5 modified adjusted rate per month or fraction thereof, as defined
6 in subdivision (b) of Section 6591.5, interest shall be computed at
7 the modified adjusted daily rate from the date on which the tax or
8 prepayment was due until the date of payment, if all of the
9 following occur:

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

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

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

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

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

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

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

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

30 8876.5. (a) If the board finds, taking into account all facts and
31 circumstances, that it is inequitable to compute interest at the
32 modified adjusted rate per month or fraction thereof, as defined
33 in subdivision (b) of Section 6591.5, interest shall be computed at
34 the modified adjusted daily rate from the date on which the tax
35 was due until the date of payment, if all of the following occur:

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

38 (2) The person was granted relief from all penalties that applied
39 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.

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.

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

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

6 30281.5. (a) If the board finds, taking into account all facts
7 and circumstances, that it is inequitable to compute interest at the
8 modified adjusted rate per month or fraction thereof, as defined
9 in subdivision (b) of Section 6591.5, interest shall be computed at
10 the modified adjusted daily rate from the date on which the tax
11 was due until the date of payment, if all of the following occur:

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

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

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

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

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

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

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

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

33 32252.5. (a) If the board finds, taking into account all facts
34 and circumstances, that it is inequitable to compute interest at the
35 modified adjusted rate per month or fraction thereof, as defined
36 in subdivision (b) of Section 6591.5, interest shall be computed at
37 the modified adjusted daily rate from the date on which the tax
38 was due until the date of payment, if all of the following occur:

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

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

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

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

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

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

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

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

19 40101.5. (a) If the board finds, taking into account all facts
20 and circumstances, that it is inequitable to compute interest at the
21 modified adjusted rate per month or fraction thereof, as defined
22 in subdivision (b) of Section 6591.5, interest shall be computed at
23 the modified adjusted daily rate from the date on which the
24 surcharge was due until the date of payment, if all of the following
25 occur:

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

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

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

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

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

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

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

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

6 41095.5. (a) If the board finds, taking into account all facts
7 and circumstances, that it is inequitable to compute interest at the
8 modified adjusted rate per month or fraction thereof, as defined
9 in subdivision (b) of Section 6591.5, interest shall be computed at
10 the modified adjusted daily rate from the date on which the
11 surcharge was due until the date of payment, if all of the following
12 occur:

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

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

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

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

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

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

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

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

33 43155.5. (a) If the board finds, taking into account all facts
34 and circumstances, that it is inequitable to compute interest at the
35 modified adjusted rate per month or fraction thereof, as defined
36 in subdivision (b) of Section 6591.5, interest shall be computed at
37 the modified adjusted daily rate from the date on which the tax or
38 prepayment was due until the date of payment, if all of the
39 following occur:

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

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

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

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

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

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

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

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

22 45153.5. (a) If the board finds, taking into account all facts
23 and circumstances, that it is inequitable to compute interest at the
24 modified adjusted rate per month or fraction thereof, as defined
25 in subdivision (b) of Section 6591.5, interest shall be computed at
26 the modified adjusted daily rate from the date on which the fee
27 was due until the date of payment, if all of the following occur:

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

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

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

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

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

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

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

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

9 46154.5. (a) If the board finds, taking into account all facts
10 and circumstances, that it is inequitable to compute interest at the
11 modified adjusted rate per month or fraction thereof, as defined
12 in subdivision (b) of Section 6591.5, interest shall be computed at
13 the modified adjusted daily rate from the date on which the fee
14 was due until the date of payment, if all of the following occur:

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

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

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

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

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

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

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

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

35 50112.1. (a) If the board finds, taking into account all facts
36 and circumstances, that it is inequitable to compute interest at the
37 modified adjusted rate per month or fraction thereof, as defined
38 in subdivision (b) of Section 6591.5, interest shall be computed at
39 the modified adjusted daily rate from the date on which the fee
40 was due until the date of payment, if all of the following occur:

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

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

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

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

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

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

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

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

21 55042.5. (a) If the board finds, taking into account all facts
22 and circumstances, that it is inequitable to compute interest at the
23 modified adjusted rate per month or fraction thereof, as defined
24 in subdivision (b) of Section 6591.5, interest shall be computed at
25 the modified adjusted daily rate from the date on which the fee
26 was due until the date of payment, if all of the following occur:

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

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

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

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

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

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

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

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

9 60207.5. (a) If the board finds, taking into account all facts
10 and circumstances, that it is inequitable to compute interest at the
11 modified adjusted rate per month or fraction thereof, as defined
12 in subdivision (b) of Section 6591.5, interest shall be computed at
13 the modified adjusted daily rate from the date on which the tax
14 was due until the date of payment, if all of the following occur:

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

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

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

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

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

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

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