

ASSEMBLY BILL

No. 2375

Introduced by Assembly Member Knight

February 19, 2010

An act to add Section 6593.7 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2375, as introduced, Knight. Sales and use tax: State Board of Equalization: administration: interest.

The Sales and Use Tax Law requires the payment of interest at a specified rate on a failure to timely pay taxes, specified prepayments, and amounts collected as tax under that law, 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 interest imposed under specified circumstances.

This bill would allow the members of the board, meeting as a public body, to relieve all or any part of the interest imposed if the board finds, in its discretion, that a person's failure to make a timely payment, as defined, was due to extraordinary circumstances and that it is inequitable to compute interest in accordance with existing law, and if the person, among other things, pays the amount due on which the interest is imposed and files with the board a statement under penalty of perjury setting forth specified information. By requiring persons to make these statements under penalty of perjury, this bill would expand the circumstances under which a person may be convicted of the crime of perjury and thereby impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 6593.7 is added to the Revenue and
2 Taxation Code, to read:

3 6593.7. (a) If the board finds in its discretion that a person's
4 failure to make a timely payment was due to extraordinary
5 circumstances and that it is inequitable to compute interest in
6 accordance with this part, the board may relieve all or any part of
7 the interest imposed on that payment if all of the following occur:

8 (1) The person was granted relief from all penalties that applied
9 to that payment.

10 (2) The person has paid the payment on which the interest was
11 imposed, or in the case of interest attributable to an unpaid liability
12 for which the person has filed a petition for redetermination, the
13 person pays the amount of the payment due on which the interest
14 was imposed within 30 days after service upon the person of the
15 final order or decision of the board on that petition for
16 redetermination.

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

19 (4) The person files with the board a statement under penalty
20 of perjury setting forth the facts upon which he or she bases his or
21 her claim for relief and any other information which the board may
22 require.

23 (b) For purposes of this section:

24 (1) "Board" means the members of the State Board of
25 Equalization meeting as a public body.

26 (2) "Extraordinary circumstances" means a highly unusual set
27 of facts, which are not commonly associated with a person's failure
28 to make a timely payment.

29 (3) Payment includes any of the following:

30 (A) A payment of tax.

1 (B) A prepayment of tax on which interest is imposed under
2 this part.

3 (C) A payment of an amount of tax required to be collected and
4 paid to the state.

5 (c) Any relief granted under this section may be rescinded, and
6 all interest liabilities may be reestablished, without regard to any
7 statute of limitations that otherwise may be applicable, if the person
8 fails to comply with paragraph (2) of subdivision (a).

9 SEC. 2. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.