ASSEMBLY BILL   No. 2048

Introduced by Assembly Member Donnelly

February 23, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2048, as introduced, Donnelly. State Board of Equalization: administration: interest.

The Sales and Use Tax Law, and other laws by reference to that law, provide that interest is paid by taxpayers and feepayers with respect to underpayments of various taxes, surcharges, and fees at a modified adjusted rate per annum, 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.

This bill would instead require that interest on overpayments be determined in the same manner as interest on underpayments is determined.

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
2 Code is amended to read:

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1   6591.5. (a) ~~(1) For interest required to be paid to the state~~
2 ~~upon underpayments of tax to the state, "modified~~ *"Modified*
3 adjusted rate per annum" means the adjusted annual rate established
4 pursuant to subdivision (c), plus three percentage points.
5 ~~(2) For interest required to be paid by the state upon~~
6 ~~overpayments of tax, "modified adjusted rate per annum" means~~
7 ~~the adjusted annual rate established pursuant to subdivision (d).~~
8 (b) "Modified adjusted rate per month, or fraction thereof"
9 means the modified adjusted rate per annum divided by 12.
10 (c) The rate established for interest to be paid upon
11 underpayments of tax shall be determined in accordance with the
12 provisions of Section ~~6621~~ *6621(a)(2)* of the Internal Revenue
13 Code, which ~~establish~~ *establishes* the underpayment rate *under*
14 *that code*, except ~~that the determination specified in~~ *its reference*
15 *to* Section 6621(b) of the Internal Revenue Code, *and the*
16 *determination therein,* shall be modified to be determined
17 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~~
38 ~~(or if a multiple of one-half of 1 percent, the rate shall be increased~~
39 ~~to the next highest full percent).~~

1   *(d) The rate established for interest to be paid on overpayments*
2   *of tax shall be determined in accordance with subdivision (c).*
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.

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