

AMENDED IN SENATE APRIL 8, 2010

SENATE BILL

No. 1110

Introduced by Senator Runner

February 17, 2010

~~An act to amend Section 6593.5 to the Revenue and Taxation Code, relating to taxation.~~ *An act to amend Sections 6225, 6451, 6459, and 6592 of, and to add Sections 6225.1 and 6225.2 to, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1110, as amended, Runner. ~~Sales and use tax: State Board of Equalization: administration: interest: taxes: use tax administration.~~

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. In order to facilitate the collection of the use tax, a qualified purchaser, as defined, is required to register with the State Board of Equalization and to report and pay by April 15 the use tax owed for the previous calendar year, as provided.

This bill would instead require a purchaser that is subject to the tax imposed by the Personal Income Tax Law to file a return for use tax by April 15, following the close of the calendar year, and to file a return made on the basis of a fiscal year by the 15th day of the 4th month following the close of the fiscal year. The bill would require a purchaser that is subject to the tax imposed by the Corporation Tax Law to file a return for use tax by March 15, following the close of the calendar year, and to file a return filed on the basis of the fiscal year by the 15th day of the 3rd month following the close of the fiscal year. The bill would authorize the board to grant a reasonable extension of time for filing

a return under those provisions, as specified, and would delay the imposition of any authorized penalties for taxpayers subject to those requirements until on or after March 16, 2011. The bill would declare that its provisions and retroactive application serve a public purpose, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

~~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 make a technical, nonsubstantive change to that authorization provision.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~^{yes}. State-mandated local program: no.

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

1 SECTION 1. Section 6225 of the Revenue and Taxation Code
2 is amended to read:

3 6225. (a) In order to facilitate the collection of use tax imposed
4 by this part, a qualified purchaser shall register with the board on
5 a form prescribed by the board and shall set forth the name under
6 which the qualified purchaser transacts or intends to transact
7 business, the location of the qualified purchaser’s place or places
8 of business, and other information ~~as that~~ the board may require.

9 (b) Article 1 (commencing with Section 6451) of Chapter 5 of
10 this part shall apply to a qualified purchaser, except that a return
11 showing the total sales price of the tangible personal property
12 purchased by the qualified purchaser, the storage, use, or other
13 consumption of which became subject to the use tax during the
14 preceding calendar year, and which was not paid to a retailer
15 required to collect the tax or which was not paid to a retailer the
16 qualified purchaser reasonably believed was required to collect
17 the tax, shall be filed, together with a remittance of the amount of
18 the tax due, with the board ~~on or before April 15~~ *in accordance*
19 *with paragraphs (1) and (2).*

1 (1) For a purchaser subject to the tax imposed by Part 10
2 (commencing with Section 17001), a return filed pursuant to this
3 section on the basis of the calendar year shall be filed on or before
4 April 15, following the close of the calendar year. A return made
5 on the basis of a fiscal year shall be filed on or before the 15th
6 day of the fourth month following the close of the fiscal year.

7 (2) For a purchaser subject to the tax imposed by Part 11
8 (commencing with Section 23001), a return filed pursuant to this
9 section on the basis of the calendar year shall be filed on or before
10 March 15, following the close of the calendar year. A return made
11 on the basis of the fiscal year shall be filed on or before the 15th
12 day of the third month following the close of the fiscal year.

13 (c) A “qualified purchaser” means a person that meets all of the
14 following conditions:

15 (1) The person is not required to hold a seller’s permit pursuant
16 to this part.

17 (2) The person is not required to be registered pursuant to
18 Section 6226.

19 (3) The person is not a holder of a use tax direct payment permit
20 as described in Section 7051.3.

21 (4) The person receives at least one hundred thousand dollars
22 (\$100,000) in gross receipts from business operations per calendar
23 year.

24 (5) The person is not otherwise registered with the board to
25 report use tax.

26 (d) This section shall not apply to the purchase of a vehicle,
27 vessel, or aircraft as defined in Article 1 (commencing with Section
28 6271) of Chapter 3.5 of this part.

29 SEC. 2. Section 6225.1 is added to the Revenue and Taxation
30 Code, to read:

31 6225.1. (a) For purposes of administering Section 6225, the
32 board may grant a reasonable extension of time for filing a return
33 in the manner and form it determines. Except for a taxpayer
34 residing or traveling abroad, an extension of time shall not be
35 granted for more than six months. For a taxpayer residing or
36 traveling abroad, a return shall be filed no later than the 15th day
37 of the sixth month following the close of the taxable year, unless
38 the requirements for an extension have been fulfilled on or before
39 that date.

1 (b) An extension of time granted pursuant to this section is not
2 an extension of time for payment of the tax required to be paid on
3 or before the due date of the return without regard to extension.
4 Penalties shall be imposed, as provided by law, without regard to
5 any extension granted under this section.

6 (c) A reasonable extension for payment of tax required by
7 Section 6225 may be granted by the board whenever in its judgment
8 good cause exists.

9 SEC. 3. Section 6225.2 is added to the Revenue and Taxation
10 Code, to read:

11 6225.2. Any penalties authorized to be imposed under this part
12 for any period for which taxpayers are subject to the registration
13 and filing requirements of Section 6225 shall not be imposed until
14 on or after March 16, 2011.

15 SEC. 4. Section 6451 of the Revenue and Taxation Code is
16 amended to read:

17 6451. ~~The~~ Except as provided in Sections 6225 and 6225.1,
18 the taxes imposed by this part are due and payable to the board
19 quarterly on or before the last day of the month next succeeding
20 each quarterly period.

21 SEC. 5. Section 6459 of the Revenue and Taxation Code is
22 amended to read:

23 6459. (a) ~~The~~ Except as provided in Section 6225, the board
24 for good cause may extend for not to exceed one month the time
25 for making any return or paying any amount required to be paid
26 under this part. The extension may be granted at any time provided
27 a request therefor is filed with the board within or prior to the
28 period for which the extension may be granted.

29 Any person to whom an extension is granted shall pay, in
30 addition to the tax, interest at the modified adjusted rate per month,
31 or fraction thereof, established pursuant to Section 6591.5, from
32 the date on which the tax would have been due without the
33 extension until the date of payment.

34 (b) The board may grant an extension for more than one month
35 if both of the following conditions occur:

36 (1) A budget for the state has not been adopted by July 1.

37 (2) The person requesting the extension is a creditor of the state
38 who has not been paid because of the state's failure to timely adopt
39 a budget.

1 Any extension granted under this subdivision shall expire no
2 later than the last day of the month following the month in which
3 the budget is adopted or one month from the due date of the return
4 or payment, whichever comes later.

5 Any person to whom an extension has been granted under this
6 subdivision shall pay, in addition to the tax, interest at the modified
7 adjusted rate per month, or fraction thereof, established pursuant
8 to Section 6591.5, from the date on which the tax would have been
9 due without the extension until the date of payment. However, no
10 interest shall be due on that portion of the payment equivalent to
11 the amount due to the person from the state on the due date of the
12 payment.

13 *SEC. 6. Section 6592 of the Revenue and Taxation Code is*
14 *amended to read:*

15 6592. (a) ~~Except as provided in Section 6225.2, if~~ the board
16 finds that a person's failure to make a timely return or payment is
17 due to reasonable cause and circumstances beyond the person's
18 control, and occurred notwithstanding the exercise of ordinary
19 care and the absence of willful neglect, the person shall be relieved
20 of the penalties provided by Sections 6476, 6477, 6479.3, 6480.4,
21 6480.8, 6511, 6565, 6591, 7051.2, 7073, and 7074.

22 (b) Except as provided in subdivision (c) any person seeking to
23 be relieved of the penalty shall file with the board a statement
24 under penalty of perjury setting forth the facts upon which he or
25 she bases his or her claim for relief.

26 (c) The board shall establish criteria that provides for efficient
27 resolution of requests for relief pursuant to this section.

28 *SEC. 7. The Legislature finds and declares that this act and*
29 *its retroactive application are necessary to serve a public purpose*
30 *by ensuring the fair and equitable treatment of taxpayers.*

31 *SEC. 8. This act is an urgency statute necessary for the*
32 *immediate preservation of the public peace, health, or safety within*
33 *the meaning of Article IV of the Constitution and shall go into*
34 *immediate effect. The facts constituting the necessity are:*

35 *In order to address problems relating to administration and*
36 *collection of the use tax and to prevent undue hardship to*
37 *taxpayers, it is necessary that this act take effect immediately.*

38 ~~SECTION 1. Section 6593.5 of the Revenue and Taxation~~
39 ~~Code is amended to read:~~

1 ~~6593.5. (a) The board, in its discretion, may relieve all or any~~
2 ~~part of the interest imposed on a person by this part under the~~
3 ~~following circumstances:~~
4 ~~(1) Where the failure to pay tax is due in whole or in part to an~~
5 ~~unreasonable error or delay by an employee of the board acting in~~
6 ~~his or her official capacity.~~
7 ~~(2) Where failure to pay use tax on a vehicle or vessel registered~~
8 ~~with the Department of Motor Vehicles was the direct result of an~~
9 ~~error by the Department of Motor Vehicles in calculating the use~~
10 ~~tax.~~
11 ~~(b) For purposes of this section, an error or delay shall be~~
12 ~~deemed to have occurred only if no significant aspect of the error~~
13 ~~or delay is attributable to an act of, or a failure to act by, the~~
14 ~~taxpayer.~~
15 ~~(c) Any person seeking relief under this section shall file with~~
16 ~~the board a statement under penalty of perjury setting forth the~~
17 ~~facts on which the claim for relief is based and any other~~
18 ~~information that the board may require.~~
19 ~~(d) The board may grant relief only for interest imposed on tax~~
20 ~~liabilities that arise during taxable periods commencing on or after~~
21 ~~July 1, 1999.~~