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Establishing interest equity on taxes

By Michelle Steel
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San Diego homeowners understand the meaning of Wall Street's credit crunch. Realty Trac, a real estate research firm, reported this week that San Diego County foreclosures have more than tripled in the past year to an astounding 18,409. That news fueled financial advocacy groups to call on state regulators to place a moratorium on all foreclosure proceedings.

Before regulators take such drastic action, they first need to reform the most unscrupulous financial entity of all – an entity that has gouged taxpayers for nearly two decades, charged customers major penalties for minor mistakes, marked up its loans by 120 percent and violated industry standards for interest rates.

No, this entity isn't a fly-by-night mortgage company or payday loan lender; it's California's sales tax agency. Contrary to other tax agencies, the Board of Equalization offers taxpayers inequitable interest rates on tax refunds, and this interest inequity is costing taxpayers millions of dollars every year.

Underestimate your sales taxes? The taxman will slap an interest charge with an 11 percent interest rate on all delinquent taxes plus penalties. But, if the same taxpayer inadvertently overpays taxes, he or she will receive only five percent back from the taxman.

During the 2003-04 fiscal year, the board refunded \$230 million to taxpayers and businesses. Under interest equity, taxpayers would have received an additional \$29 million. During last week's board hearing alone,

the agency reimbursed three dozen taxpayers for tax overpayments. Interest equity would have given them back about \$3.8 million.

Although nobody wants to overpay his or her taxes, overpayments are inevitable. California's complex tax code and severe tax punishments catch many businesses in a tax Catch-22. Option A: overpay your taxes and lose money. Option B: underpay your taxes and risk interest charges and penalties. When businesses are struggling with complicated tax questions, they choose Option A with the hope of later receiving a refund.

Other tax agencies understand this tax predicament, and thus put interest equity into practice. Both the Internal Revenue Service and Franchise Tax Board – the federal and state income tax agencies, respectively – reimburse taxpayers at the same interest rate they charge delinquent taxpayers. Furthermore, current law has safeguards to prevent businesses from intentionally overpaying their taxes and pocketing the interest.

Prior to 1991, even the Board of Equalization charged the same interest rate for tax credits and debits. However, in a tight budget year the Legislature lowered the credit rate to increase state revenues. Since that time, the Legislature has sacrificed fairness for higher revenues.

Sadly, this revenue-generating scheme has ensnared more than just big businesses or average taxpayers. Interest inequity also affects other government institutions. This past meeting, the board reimbursed the University of California Board of Regents \$789,244 in taxes. With interest equity, the UC system would have received an additional \$192,702 in interest, enough to hire two additional full-time professors.

Now is the time for the Legislature to turn its attention to this unfair and inconsistent tax practice. The responsibility for fixing this inequity rests exclusively with our lawmakers. State law ties the Board of Equalization's hands to solely administering the tax laws passed by the Legislature. Government needs to clean its own house before setting its regulators loose on private industry.

Above all else, the tax code must be fair and equitable. California's Taxpayer's Bill of Rights, state law and the Board of Equalization's mission all support this principle. A fair and equitable tax code includes the fair and equitable application of tax interest.

It isn't easy for average taxpayers and small business owners to understand the tax code. Invariably, these taxpayers will make mistakes. When borrowers of all kinds make mistakes, they deserve to be treated in a fair,

honest and equitable manner. The state cannot credibly regulate private industry until it first corrects its own interest inequity.

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