

Amend Revenue and Taxation Code Sections 7360, 8651, and 60050 of the Motor Vehicle Fuel Tax Law, Use Fuel Tax Law, and Diesel Fuel Tax Law, respectively, to make technical and administrative changes related to changes in the fuel tax rates when triggered by a reduction or elimination of the federal fuel taxes (Housekeeping).

Source: Property and Special Taxes Department

DIESEL FUEL TAX LAW

Existing Law. Under existing law, a state excise tax of eighteen cents (\$0.18) is imposed upon each gallon of diesel fuel subject to the tax in Revenue and Taxation Code Sections 60051, 60052, and 60058. If the federal fuel tax is reduced below the rate of fifteen cents (\$0.15) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate is increased by an amount so that the combined state and federal tax rates per gallon equal what it would have been in the absence of the federal reduction. However, the law does not specify when the state excise rate adjustment becomes effective and when the state excise rate adjustment would revert back to the original, unadjusted state rate.

This Proposal. This proposal would specify the effective date of the increase in the diesel fuel tax rate when triggered by a reduction or elimination of the federal diesel fuel tax. This proposal would also specify the circumstance and effective date for which the state tax rate would revert back to the unadjusted rate.

MOTOR VEHICLE FUEL TAX LAW.

Existing Law. Under existing law, a state excise tax of eighteen cents (\$0.18) is imposed upon each gallon of fuel subject to the tax in Sections 7362, 7363, and 7364. If the federal fuel tax is reduced below the rate of nine cents (\$0.09) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the state tax rate is recalculated by an amount so that the total combined state and federal tax rate per gallon equals twenty-seven cents (\$0.27). However, the law does not specify when the state excise rate adjustment becomes effective and when and under what circumstances the state excise rate adjustment would expire and the state rate would revert to the original, unadjusted rate.

This Proposal. This proposal would make the calculation of the adjusted state rate consistent with the diesel fuel tax law method of recalculating the rate when triggered by a reduction of the federal gasoline tax rate by removing the twenty-seven cent (\$0.27) combined rate limit. Additionally, the operative date of the increase would be clarified. Finally, the proposal would specify the circumstance and effective date for which the state tax rate would revert back to the unadjusted rate.

USE FUEL TAX LAW

Existing Law. Under existing law, a state excise tax of eighteen cents (\$0.18) on each gallon is imposed for the use of fuel. In this context, fuel is defined as all other combustible liquid, by whatever name the gas or liquid may be known or sold, of a kind used in an internal combustion engine for the generation of power to propel a motor vehicle on the highways, except fuel that is subject to the diesel fuel tax and motor vehicle fuel tax. If the federal diesel fuel tax is reduced below the rate of fifteen cents (\$0.15) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate is increased by an amount so that the combined state and federal tax rates per gallon equal thirty-three cents (\$0.33). However, the law does not specify when the state excise rate adjustment becomes effective and when the state excise rate adjustment would revert back to the unadjusted state rate.

This Proposal. This proposal would make the computation consistent with the diesel fuel tax law method of recalculating the use fuel tax rate when triggered by a reduction of the federal fuel tax rates, by removing the thirty-three cent (\$0.33) limit. Additionally, the operative date of the increase would be clarified. Finally, the proposal would specify the circumstance and effective date for which the state tax rate would revert back to the unadjusted rate.

Section 7360 of the Revenue and Taxation Code is amended to read:

7360. (a) (1) A tax of eighteen cents (\$0.18) is hereby imposed upon each gallon of fuel subject to the tax in Sections 7362, 7363, and 7364.

(2) If the rate of federal fuel tax imposed on motor vehicle fuel is reduced below the ~~rate of nine cents (\$0.09) per gallon~~ and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the state tax rate imposed by paragraph (1), on and after the date of the reduction, shall be recalculated by an amount so that the combined state tax rate under paragraph (1) and combined with the reduced federal fuel tax rate per gallon equals twenty-seven cents (\$0.27) what the combined state and federal fuel tax rate per gallon would have been in the absence of the federal reduction.

(3) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be so exempt from the increase in the state rate calculated under this section paragraph (2).

(4) The state tax rate calculated under paragraph (2) shall become effective:

(A) In the event that the federal fuel tax and federal allocations for state highway and exclusive public mass transit purposes wholly or in part expire, the first day of the month commencing not less than thirty (30) days after the date the federal fuel tax rate is reduced, and the increase shall remain in effect through the last day of the month in which the federal fuel tax is reinstated.

(B) In the event that the federal fuel tax and federal allocations for state highway and exclusive public mass transit purposes are affirmatively repealed or reduced by an act of Congress, immediately upon the date the federal fuel tax rate is reduced.

(C) In the event that the federal fuel tax and federal allocations for state highway and exclusive public mass transit purposes are affirmatively suspended, either wholly or in part, by an act of Congress, immediately upon the date the federal fuel tax rate is reduced, and the increase shall remain in effect through the last day of the month in which the federal fuel tax is reinstated.

(b) (1) On and after July 1, 2010, in addition to the tax imposed by subdivision (a), a tax is hereby imposed upon each gallon of motor vehicle fuel, other than aviation gasoline, subject to the tax in Sections 7362, 7363, and 7364 in an amount equal to 17 3/10 cents (\$0.173) per gallon.

(2) For the 2011-12 fiscal year and each fiscal year thereafter, the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the amount of revenue loss attributable to the exemption provided by Section 6357.7, based on estimates made by the board, and that rate shall be effective during the state's next fiscal year.

(3) In order to maintain revenue neutrality for each year, beginning with the rate adjustment on or before March 1, 2012, the adjustment under paragraph (2) shall also take into account the extent to which the actual amount of revenues derived pursuant to this subdivision and, as applicable, Section 7361.1, the revenue loss attributable to the exemption provided by Section 6357.7 resulted in a net revenue gain or loss for the fiscal year ending prior to the rate adjustment date on or before March 1.

(4) The intent of paragraphs (2) and (3) is to ensure that the act adding this subdivision and Section 6357.7 does not produce a net revenue gain in state taxes.

Section 8651 of the Revenue and Taxation Code is amended to read:

8651. (a) An excise tax of eighteen cents (\$0.18) is hereby imposed on each gallon of fuel for the use of such fuel as defined in section 8604 ~~at the following rate per gallon:~~

~~(1) Fourteen cents (\$0.14) during 1990, on and after August 1.~~

~~(2) Fifteen cents (\$0.15) during 1991.~~

~~(3) Sixteen cents (\$0.16) during 1992.~~

~~(4) Seventeen cents (\$0.17) during 1993.~~

~~(5) Eighteen cents (\$0.18) on and after January 1, 1994.~~

(b) If the rate of federal fuel tax imposed on diesel and kerosene is reduced below the rate of fifteen cents (\$0.15) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the state tax

rate imposed by this section, ~~on and after the date of the reduction,~~ shall be increased recalculated by an amount so that the combined state tax rate combined with and the reduced federal fuel tax rate per gallon equals what the combined state and federal fuel tax rate per gallon would have been in the absence of the federal reduction.the following:

~~(1) Twenty-nine cents (\$0.29) during 1990, on and after August 1.~~

~~(2) Thirty cents (\$0.30) during 1991.~~

~~(3) Thirty-one cents (\$0.31) during 1992.~~

~~(4) Thirty-two cents (\$0.32) during 1993.~~

~~(5) Thirty-three cents (\$0.33) on and after January 1, 1994.~~

(c) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be exempt from the increase in the state rate calculated under this section subdivision (b).

(d) The state tax rate calculated under subdivision (b) shall become effective:

(1) In the event that the federal fuel tax and federal allocations for state highway and exclusive public mass transit purposes wholly or in part expire, the first day of the month commencing not less than thirty (30) days after the date the federal fuel tax rate is reduced, and the increase shall remain in effect through the last day of the month in which the federal fuel tax is reinstated.

(2) In the event that the federal fuel tax and federal allocations for state highway and exclusive public mass transit purposes are affirmatively repealed or reduced by an act of Congress, immediately upon the date the federal fuel tax rate is reduced.

(3) In the event that the federal fuel tax and federal allocations for state highway and exclusive public mass transit purposes are affirmatively suspended, either wholly or in part, by an act of Congress, immediately upon the date the federal fuel tax rate is reduced, and the increase shall remain in effect through the last day of the month in which the federal fuel tax is reinstated.

Section 60050 of the Revenue and Taxation Code is amended to read:

60050. (a) (1) A tax of eighteen cents (\$0.18) is hereby imposed upon each gallon of diesel fuel subject to the tax in Sections 60051, 60052, and 60058.

(2) If the rate of federal fuel tax imposed on diesel fuel is reduced ~~below the rate of fifteen cents (\$0.15) per gallon~~ and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the state tax rate imposed by paragraph (1), including any reduction or adjustment to the state tax rate pursuant to subdivision (b),~~on and after the date of the reduction,~~ shall be increased recalculated by an amount so that the combined state tax rate under paragraph (1) and combined with the reduced federal fuel tax rate per

gallon equals what if the combined state and federal fuel tax rate per gallon would have been in the absence of the federal reduction.

(3) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be exempt from the increase in the state rate calculated under this section paragraph (2).

(4) The state tax rate calculated under paragraph (2) shall become effective:

(A) In the event that the federal fuel tax and federal allocations for state highway and exclusive public mass transit purposes wholly or in part expire, the first day of the month commencing not less than thirty (30) days after the date the federal fuel tax rate is reduced, and the increase shall remain in effect through the last day of the month in which the federal fuel tax is reinstated.

(B) In the event that the federal fuel tax and federal allocations for state highway and exclusive public mass transit purposes are affirmatively repealed or reduced by an act of Congress, immediately upon the date the federal fuel tax rate is reduced.

(C) In the event that the federal fuel tax and federal allocations for state highway and exclusive public mass transit purposes are affirmatively suspended, either wholly or in part, by an act of Congress, immediately upon the date the federal fuel tax rate is reduced, and the increase shall remain in effect through the last day of the month in which the federal fuel tax is reinstated.

(b)(1) On July 1, 2011, the tax rate specified in paragraph (1) of subdivision (a) shall be reduced to 13.6 cents (\$0.136) and every July 1 thereafter shall be adjusted pursuant to paragraphs (2) and (3).

(2) For the 2012-13 fiscal year and each fiscal year thereafter, the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate reduction in paragraph (1) in that manner as to result in a revenue loss attributable to paragraph (1) that will equal the amount of revenue gain attributable to Sections 6051.8 and 6201.8, based on estimates made by the board, and that rate shall be effective during the state's next fiscal year.

(3) In order to maintain revenue neutrality for each year, beginning with the rate adjustment on or before March 1, 2013, the adjustment under paragraph (2) shall take into account the extent to which the actual amount of revenues derived pursuant to Sections 6051.8 and 6201.8 and the revenue loss attributable to this subdivision resulted in a net revenue gain or loss for the fiscal year ending prior to the rate adjustment date on or before March 1.

(4) The intent of paragraphs (2) and (3) is to ensure that the act adding this subdivision and Sections 6051.8 and 6201.8 does not produce a net revenue gain in state taxes.