

Amend Sections 9405, 9407, 9411, 9420 and 9432 of the Revenue and Taxation Code to properly reference the International Fuel Tax Agreement. (Housekeeping)

Source: Fuel Taxes Division

Existing Law:

Under current law, Section 9405 of the Revenue and Taxation Code states that Chapter 2, Part 3.5, Division 2 of the Revenue and Taxation Code shall be administered in conjunction with the *IFTA Articles of Agreement*, the Use Fuel Tax Law, and the Diesel Fuel Tax Law. “IFTA” is defined in Section 9411 to mean the International Fuel Tax Agreement, which is a document that is comprised of three separate parts—the *Articles of Agreement*, the *Procedures Manual* and the *Audit Manual*.

By referencing only the *IFTA Articles of Agreement* in Section 9405, existing law too narrowly defines the governing document. To correct this, Section 9411 should be amended to properly define the International Fuel Tax Agreement. Also, Sections 9405, 9407, 9420 and 9432 should be amended to properly reference the International Fuel Tax Agreement. The reference to IFTA Articles of Agreement in current law does not completely identify the International Fuel Tax Agreement, which by its terms includes all of the governing documents (e.g. the *Articles of Agreement*, the *Procedures Manual* and the *Audit Manual*). These suggested changes are consistent with changes recommended in the Final Report (April 1999) prepared by the National Conference of State Legislatures titled “*IFTA Legislation and State Constitutional Provisions Project*”.

Under the current law, Section 9420 states that all interstate users who choose to obtain an IFTA permit from the Board shall apply for a license and secure decals for their vehicles. The rest of the section uses the term license instead of permit. A license is what is issued to an IFTA licensee. Therefore, the term IFTA “permit” should be changed to IFTA “license” to conform with the rest of the law and the IFTA Agreement.

This Proposal:

This proposal would clarify the definition and reference to the International Fuel Tax Agreement. The proposal would also clarify that the license for the IFTA is a license and not a permit in Section 9420.

Section 9405 of the Revenue and Taxation Code is amended to read:

9405. This chapter shall be administered in conjunction with IFTA ~~Articles of Agreement~~, the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), and the Diesel Fuel Tax Law (Part 31 (commencing with 60001)). Whenever the Use Fuel Tax Law or the Diesel Fuel Tax Law is inconsistent with IFTA ~~Articles of Agreement~~ or this chapter, IFTA ~~Articles of Agreement~~ or this chapter shall prevail except where prohibited by the California or United States Constitution.

Section 9407 of the Revenue and Taxation Code is amended to read:

9407. (a) The ~~IFTA International Fuel Tax Agreement~~, for the purposes of this chapter, may be used to:

- (1) Determine the base state jurisdiction for motor carriers engaged in interstate commerce.
- (2) Impose recordkeeping requirements.
- (3) Specify audit procedures.
- (4) Establish procedures for the exchange of information.
- (5) Identify interstate motor carriers.
- (6) Define motor vehicles and fuels subject to the provisions of the agreement.
- (7) Determine bond requirements.
- (8) Specify reporting requirements, due dates of returns, interest and penalty rates, and provisions for failure to file returns.
- (9) Specify methods for collection of taxes, interest, and penalties.
- (10) Determine methods for the distribution of taxes and interest collected or assessed to the appropriate jurisdictions.
- (11) Deny, suspend, or cancel benefits under the agreement to any interstate motor carrier who violates the provisions of the agreement.

(b) The board may adopt regulations to administer the provisions of this chapter.

Section 9411 of the Revenue and Taxation Code is amended to read:

9411. "IFTA" means the International Fuel Tax Agreement. The International Fuel Tax Agreement consists of the Articles of Agreement, the Procedures Manual and the Audit Manual, as amended from time to time.

Section 9420 of the Revenue and Taxation Code is amended to read:

9420. Except for trip permits as provided in Sections 8708 and 60122, all interstate users who choose to obtain an IFTA ~~license permit~~ from the board shall apply for a license and secure decals for their vehicles. Application for the license and decals shall be made annually on forms prescribed by the

board. The application shall be under oath and shall contain that information as the board deems necessary. Upon receipt of the application, and upon payment of any required reinstatement fee, the board may issue to the applicant a license and decals.

The decals issued to the interstate user shall be placed on both exterior sides of the vehicle cab. Failure to display the decals in the required location may subject the interstate user to the purchase of a trip permit. The transfer of decals from one interstate user to another interstate user is prohibited. All decals shall remain the property of the state and may be recalled for any violation of the provisions of the IFTA ~~Articles of Agreement~~.

A fee to be determined by the board shall be charged for the annual license and a set of two decals issued prior to and during the calendar year that the license and decal is valid. The board may also prescribe procedures and set a fee for the issuance of a 30-day IFTA temporary license or replacement decals.

Section 9432 of the Revenue and Taxation Code is amended to read:

9432. The board shall transmit all moneys received by it under this chapter to the Treasurer to be deposited in the State Treasury. The board in accordance with the Treasurer shall set up a reserve account in the State Treasury to disburse those moneys as needed. After distribution payments to other jurisdictions and refunds authorized by the IFTA ~~Articles of Agreement~~, the balance remaining in the reserve account shall be transferred, except as provided in Section 9433, to the Motor Vehicle Fuel Account in the Transportation Tax Fund.