

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 05/11)

Fiscal Year 2013-14	BCP No. 2	Org. Code 0860	Department State Board of Equalization	Priority No. 2
Program Transportation Fund Tax Program			Element All Elements	Component N/A

Proposal Title
FUEL TAX SWAP REFUND WORKLOAD

Proposal Summary

The Board of Equalization (BOE) requests the following resources to continue processing workload associated with ABx8-6 and SB-70, the Fuel Tax Swap:

\$506,000 (Motor Vehicle Fuel Account) in Fiscal Year (FY) 2013-14 and \$489,000 (Motor Vehicle Fuel Account) in FY 2014-15 and ongoing to:

- o Establish 2.0 Permanent Associate Tax Auditor positions to replace 2.0 Limited Term Tax Auditor positions expiring June 30, 2013
- o Reclassify 2.0 Tax Technician III positions to Tax Auditor, and
- o Establish 1.0 new Permanent Associate Tax Auditor Position

The Fuel Tax Swap was intended to be revenue neutral.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date

For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the California Technology Agency, or previously by the Department of Finance.

FSR SPR Project No. Date:

If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

Budget Officer	Date	Chief, Financial Management	Date
Deputy Director, Administration	Date	Executive Director	Date

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE CALSTARS Technology Agency

BCP Type: Policy Workload Budget per Government Code 13308.05

PPBA	Date submitted to the Legislature
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STATE BOARD OF EQUALIZATION

FISCAL YEAR 2013-14

TRANSPORTATION FUND TAX PROGRAM

FUEL TAX SWAP REFUND WORKLOAD

A. Proposal Summary

The Board of Equalization (BOE) requests the following resources to continue processing workload associated with ABx8-6 and SB-70, the Fuel Tax Swap:

\$506,000 (Motor Vehicle Fuel Account) in Fiscal Year (FY) 2013-14 and \$489,000 (Motor Vehicle Fuel Account) in FY 2014-15 and ongoing to:

- Establish 2.0 Permanent Associate Tax Auditor (ATA) positions to replace 2.0 Limited Term Tax Auditor (TA) positions expiring June 30, 2013
- Reclassify 2.0 Tax Technician III positions to TA, and
- Establish 1.0 Permanent ATA Position

The Fuel Tax Swap was intended to be revenue neutral.

The BOE is statutorily mandated to administer the Diesel Fuel (DF) Tax program. Currently, the DF Tax Program provides refunds of the DF tax to end users of diesel fuel when the fuel is used in a non-taxable manner, and to sellers making sales of tax-paid diesel fuel under specified conditions to certain classes of purchasers that are exempted from paying the DF tax. The requested positions will ensure that fuel sellers do not suffer adverse cash flows due to delays in processing claims for refund on tax-paid diesel fuel where the tax cannot be recovered on the sale to a consumer, and that claims received from end users will be processed in a timely manner. These positions will further protect the DF revenues by ensuring that refunded amounts are accurate and fully supported, and will allow the BOE to continue to meet its statutory requirement to process Ultimate Vendor claims for refund within 20 days. The BOE does not have sufficient staff or resources that can be redirected to address the increased claims for refund workload resulting from the Fuel Tax Swap without severely impacting the Motor Vehicle Fuel Account (MVF) which is used to fund highway and transit projects.

B. Background/History

The Fuel Tax Swap (ABx8-6 and SB-70, effective July 1, 2010), reduced the state portion of sales and use tax applied to Motor Vehicle Fuel, increased the MVF excise tax rate, and imposed a MVF floor stock tax on gasoline wholesalers and retailers. In addition, the state portion of the sales and use tax on diesel fuel increased and the excise tax on diesel fuel decreased. In order to maintain revenue neutrality, the swap also included a new sales and use tax exemption on sales of diesel fuel used in an exempt manner for excise tax purposes. Beginning July 1, 2012 the state's excise tax on diesel fuel was adjusted to offset the additional revenue generated by the increased sales tax rate imposed on diesel fuel. The DF tax rate will be reviewed and adjusted as necessary on July 1 of each year thereafter to maintain revenue neutrality.

In response to this legislation, the BOE submitted FY 2010-11 Spring Finance Letter (SFL) # 1 "Fuel Swap" and obtained resources to implement the Fuel Swap. In addition to permanent resources, the

Special Taxes Audit and Carrier Division (STACD) received 2.0 Tax Auditors on a 2-year limited term basis to meet increased workload related specifically to diesel fuel tax refunds. Although originally requested on a permanent basis to address the ongoing increasing workload in processing the routine end user refunds, the 2.0 Tax Auditor positions were only authorized for a 2-year limited-term basis. These positions are set to expire on June 30, 2013. Not only does the limited-term nature of the positions not address the ongoing workloads needs, additionally, the BOE's original resource request underestimated the additional workloads resulting from increased complexity of the claims due to Ultimate Vendors and Suppliers of Diesel Fuel (Suppliers) making claims for refund including transactions that have been taxed at multiple tax rates.

Resource History
(Dollars in thousands)

Program Budget	2009-10	2010-11	2011-12	2012-13*
Authorized Expenditures	n/a	\$1,257	\$1,320	\$1,096
Actual Expenditures	n/a	\$1,257	\$1,320	n/a
Revenues	n/a	\$0	\$0	\$0
Authorized Positions	n/a	8.0	10.0	8.0
Filled Positions	n/a	8.0	10.0	8.0
Vacancies	n/a	0.0	0.0	0.0

*If this proposal is not approved.

Workload History

Workload Measure	2009-10	2010-11	2011-12	Est. 2012-13
Claims Received	4,366	4,126	3,885	3,885
Claims Processed	4,157	3,919	3,693	3,693

C. State Level Considerations

The BOE is statutorily mandated to administer the MVF and the DF Tax programs. The Fuel Tax Swap, as established by ABx8-6 and SB-70, impacted segments of the General Fund and Transportation Fund revenues, which are crucial components to annually balancing the State's budget.

This proposal is consistent with the BOE's mission to serve the public through fair, effective, and efficient tax administration. Specifically, this proposal allows the BOE to:

- Be fair and objective in its treatment of all taxpayers and consistent in its administration of the law.
- Be proactive in promoting and encouraging voluntary compliance with the tax laws.
- Provide convenient, timely access to accurate information while ensuring the continued integrity of its operations and confidentiality of taxpayer information.
- Provide high quality customer service through processing diesel fuel tax claims for refund in an efficient and timely manner.

D. Justification

The approval of permanent resources will allow the BOE to meet and adequately address the additional workloads related to diesel fuel tax claims for refund. Claims for refund impacted by the fuel tax swap provisions include the Supplier claims (DD), User claims (DU) and Ultimate Vendor claims (DV). These claims are taking longer to review and process therefore resulting in backlogs and claimants waiting longer for receipt of any approved refunds. The Supplier claims typically involve monthly returns resulting in a credit situation from sales of tax-paid diesel fuel sold in an exempt transaction. Exempt transactions include but are not limited to sales for exports, sales to train operators, the U.S. Government, farmers, and exempt bus operators. Each of these DD claims involve detailed schedules for each type of sale. User claims involve tax-paid diesel fuel used in an exempt manner such as off highway use or to run the power take off equipment. Typical claimants include waste management (garbage) companies, cement companies and construction companies. Many of these claimants' exempt usage is calculated through studies or tests to establish exempt percentages which are submitted to and subject to approval of the BOE. Ultimate Vendor claims involve ex-tax sales of diesel fuel to exempt bus companies and farmers on which the vendor has already paid the diesel fuel tax to the supplier. The BOE is mandated by statute to process the DV claims within 20 days. The complexity in processing each claim type has increased because of the fuel tax swap provisions due to the multiple tax rates in effect and staff's need to determine the tax rate paid on the fuel involved in the claim. Without permanent resources to address the added complexity, the time it takes for a claimant to receive their refund will increase as unworked inventory rises.

E. Outcomes and Accountability

This proposal will allow the BOE to timely and effectively process claims for refunds, reduce the number of days to process a claim, meet statutory deadlines for processing claims, and ensure taxpayers do not suffer adverse cash flow due to delays in processing refunds.

Projected Outcomes

Workload Measure	2012-13	2013-14	2014-15
Claims Received	3,885	3,885	3,885
Claims Processed	3,506	3,885	3,885

F. Analysis of All Feasible Alternatives**Alternative 1 – Provide permanent funding and resources to improve refund processing times for workload related to the statutorily mandated Fuel Tax Swap.**

Alternative 1 requests the following resources to continue processing workload associated with ABx8-6 and SB-70, the Fuel Tax Swap:

\$506,000 (Motor Vehicle Fuel Account) in Fiscal Year (FY) 2013-14 and \$489,000 (Motor Vehicle Fuel Account) in FY 2014-15 and ongoing to:

- Establish 2.0 Permanent Associate Tax Auditor positions to replace 2.0 Limited Term Tax Auditor positions expiring June 30, 2013.
- Reclassify 2.0 Tax Technician III positions to Tax Auditor.
- Establish 1.0 Permanent Associate Tax Auditor Position.

Pros:

- Reduces the number of days to process a Ultimate Vendor claim for refund on tax paid diesel fuel to within 20 days from the current 37 day average.
- Ensures all diesel fuel taxpayers (suppliers, vendors, users) do not suffer adverse cash flow due to delays in processing the claims for refund on tax paid diesel fuel that cannot be recovered on the sale to a consumer.
- Provides the resources needed to timely and efficiently process claims for refunds.
- Provides funding to adequately protect the State's Motor Vehicle Fuel Account and helps balance the State's budget.

Cons:

- Requires additional resources.

Alternative 2 – Provide permanent funding and resources to improve refund processing times for DU and DD workload related to the statutorily mandated Fuel Tax Swap.

This alternative requests \$394,000 in FY 2013-14, and \$377,000 on-going to:

- Establish 2.0 Permanent Associate Tax Auditor positions to replace 2.0 Limited Term Tax Auditor positions to perform detailed review of the DU claims (see Table 1: Permanent Associate Tax Auditor DU Refund Workload Estimates, Page 9).
- Establish 1.0 Permanent Associate Tax Auditor position to process additional workload related to DD claims for refund (see Table 3: Permanent Associate Tax Auditors DD Refund Workload Estimate, Page 11.)

The additional complexity of the claims due to Fuel Swap legislation has resulted in increased processing times and a delay in issuing refunds. This alternative will provide funding to improve the quality of service provided to diesel users and suppliers by reducing processing times. By permanently establishing and upgrading these limited term Tax Auditor positions to Associate Tax Auditors, STACD will ensure the diesel users do not suffer adverse cash flow due to the delay in processing the claims for refund on tax paid diesel fuel that cannot be recovered on the sale to a consumer. However, this alternative does not address additional workloads related to diesel vendors (DV) claims for refunds that resulted from Fuel Swap legislation.

Pros:

- Provides the resources needed to timely and efficiently process claims for refunds by diesel users and suppliers and reduces the number of days to process a DU and DD claims for refund.
- Ensures diesel users and suppliers do not suffer adverse cash flow due to the delay in processing the claims for refund on tax paid diesel fuel that cannot be recovered on the sale to a consumer.
- Provides funding to protect the State's Motor Vehicle Fuel Account and helps balance the State's budget.

Cons:

- Requires additional resources.
- Does not address additional workloads related to diesel vendors (DV) that resulted from Fuel Swap legislation.

Alternative 3 – Provides permanent funding to continue processing workload related to diesel user claims for refund.

This alternative requests \$223,000 in FY 2013-14 and on-going for permanent funding of 2.0 positions and related resources. Under this alternative, the 2.0 limited term Tax Auditors would be made permanent and would continue processing DU claims for refunds. This alternative will provide funding to continue processing additional workload related to processing DU claims for refunds due to Fuel Swap legislation. These positions will process DU claims as efficiently as possible but does not address delays in processing DU claims for refunds caused by increased complexity nor does it address additional workloads related to diesel suppliers (DD) and diesel vendors (DV) claims for refunds.

Pros:

- Provides the resources needed to process claims for refunds by diesel users.
- Provides funding to protect the State’s Motor Vehicle Fuel Account and helps balance the State’s budget.
- Lower cost than Alternative 1 and 2.

Cons:

- Requires additional resources.
- Does not address delays in issuing DF refunds.
- May cause adverse cash flow for taxpayers due to delays in processing the claims for refund on tax paid diesel fuel that cannot be recovered on the sale to a consumer.
- Does not address additional workloads related to diesel suppliers (DD) and vendors (DV) that resulted from Fuel Swap legislation.

G. Implementation Plan

July 2013 and on-going

- Hire and train new staff.
- Continue to answer taxpayer inquires related to refunds.
- Continue to process claims for refunds.

H. Supplemental Information

None Facility/Capital costs Equipment Contracts Other _____

I. Recommendation

Alternative 1 is recommended. This alternative allows the BOE to process all diesel tax claims for refunds efficiently and ensures all diesel fuel taxpayers (suppliers, vendors, users) do not suffer adverse cash flow due to delays in processing the claims for refund.

Workload Detail

Alternative 1 – Provide permanent funding and resources to improve and ensure refund processing times mandates are met for workload related to the Fuel Tax Swap.

This alternative requests \$506,000 in FY 2013-14, and \$489,000 on-going for 3.0 positions and related resources. By providing permanent funding and resources, the BOE will improve the quality of service provided to taxpayers and protect the Motor Vehicle Fuel Account. The annual adjustment to the DF tax rate as a result of the Fuel Tax Swap legislation has increased the complexity and the time to process diesel fuel claims for refund. DU, DV, and DD claims for refund now require additional detail and scrutiny to determine the period in which the tax-paid fuel was sold; used in a non-taxable manner; or was purchased, to determine the applicable tax rate to be used to calculate the refund. These positions will ensure that processing timeframes are met and the claimants do not suffer adverse cash flow due to the increased processing time needed to work the claims.

The following is a summary of the requested positions necessary to administer the Fuel Tax Swap and address the associated workloads. A detailed description of the positions and workload is included.

Special Taxes Audit and Carrier Division

- Establish 2.0 Permanent Associate Tax Auditor positions to replace the 2.0 Limited Term Tax Auditor positions expiring June 30, 2013.
- Reclassify 2.0 Tax Technician III positions to Tax Auditor.
- Establish 1.0 new Permanent Associate Tax Auditor position.

2.0 Permanent Associate Tax Auditors (from limited term Tax Auditor) effective July 1, 2013

As currently staffed, the 2.0 limited-term Tax Auditors (TA) perform desk audits of the end user (DU) claims for refunds filed for use of tax paid diesel fuel used in a non-taxable manner. In the BOE's original workload request (FY 2010-11 SFL #1), staff projected that the average processing times would increase to 3.6 hours per claim. However, due to the complexity of multiple tax rates, the processing times of the claims was underestimated for certain strata of claims. After a year of processing DU claims for refund, STACD staff has been able to analyze the workload in more detail and has determined that the DU claims can be separated into two groups, routine and complex, with claims for refund in excess of \$30,000 falling into the complex category. While our original estimate of 3.6 hours per claim has proven accurate for the processing of routine claims, it was found that staff is expending, on average, 12.6 hours per claim in processing the more complex claims for refund. Due to the increased level of complexity and processing time for each complex claim for refund, STACD requests to establish 2.0 permanent Associate Tax Auditor (ATA) positions to process the more complex DU claims. Staffing at this level will provide the resources to efficiently process the most complex claims for refund filed by claimants under the diesel fuel tax law. The ATA staffing level is the appropriate level to analyze and process these complex claims. This request also includes a request for overtime funding at the Tax Auditor level to allow staff to fully meet the workloads related to the routine DU workloads.

Table 1a: Permanent Associate Tax Auditor DU Refund Workload

Workload Activity	# Claims Processed Annually	Hours Per Item	Total Hours	Total Positions Needed	Perm. Positions Available	Positions Required	Positions Requested
Complex DU Claims for Refunds (>\$30,000)	290	12.6	3,654	2.3	0	2.3	2.0
ATA Overtime Hours Requested				0.3			480

Table 1b: Permanent Tax Auditor DU Refund Workload

Workload Activity	# Claims Processed Annually	Hours Per Item	Total Hours	Total Positions Needed	Perm. Positions Available	Positions Required	Positions Requested
Routine DU Claims for Refund (<\$30,000)	1,952	3.6	7,027	4.4	4.0	0	0
TA Overtime Hours Requested				0.4			640

2.0 Tax Auditor Upgrades (from Tax Technician III) effective July 1, 2013

Prior to the Fuel Swap legislation, 2.0 Tax Technician III's (TT III) were processing an average of 1,368 Diesel Ultimate Vendor (DV) claims for refunds per year. However, the annual adjustment of the tax rate caused by Fuel Swap has made reviewing the claims more complex. In FY 2011-12, these TT III's processed 1,243 DV claims for refunds per year and the average time to process a claim for refund is 37 days. This average is based on analysis of effective date of claim for refund to mailed date. The analysis revealed that increased processing times are again the result of the increased complexity of the claims for refund involving claims with multiple rates and additional schedule detail to be analyzed. In FY 2011-12, STACD received approximately 1,421 DV claims for refund. An ongoing backlog will exist for the DV claims without an augmentation to bring the proper level of staff to work these claims in a timely manner. STACD believes that if both TT III positions are upgraded to Tax Auditor positions, processing time would be cut by one hour per claim. Most Tax Auditors have a college education and possess the analytical skills that will allow for DV claims to be processed more efficiently which in turn will allow for quicker review and quicker approval times. This will ultimately decrease the average number of days it takes to process a refund. The goal is to process all of the DV claims for refund received and to reduce the number of days it currently takes to process a DV claim to ensure the statutory requirement of 20 days is met.

Table 2: Tax Auditor Upgrade Workload

Current Workload Activity	# of Claims Processed	Hours Per Item	Total Hours	Total Positions
Current TT III DV Workload (1800 hrs/PY)	1243	3.4	4226	2.3
Proposed Workload Activity	# Claims Received Annually	Hours Per Item	Total Hours	Total Positions
Proposed Tax Auditor DV Workload (1600 hrs/PY)	1421	2.4	3410	2.0

TA Overtime Hours Requested		0.4		640
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1.0 Associate Tax Auditor (ATA) (new) effective July 1, 2013

As currently staffed, 1.0 ATA processes Supplier (DD) claims for refunds. A review of the workload has shown that processing times has increased due to the complexity of the claims after the fuel swap legislation passed. This has resulted in an increase in the inventory of claims for refunds as well as a delay in issuing DD refunds. In FY 2011-12, STACD staff received 222 credit DD returns claiming refunds. This number is consistent with the number of credit DD returns received in prior years. These claims for refund, depending on complexity, will average from 10 hours up to 20 hours to analyze and process. The complexity varies based on the quantity and complexity of the credits being claimed, compounded by the credits being claimed at multiple rates on some returns. The DD credit return claims for refund are segregated into three categories; highly complex, moderately complex, and routine. Dollar values of the claims are generally an indicator of the complexity involved, and have been used to segregate the claims received for purposes of determining the actual workload.

STACD requests 1.0 ATA to process additional workload related to DD credit return claims for refund as a result longer processing times and additional workloads caused by Fuel Swap.

Table 3: Permanent Associate Tax Auditor DD Refund Workload

Workload Activity	# of Claims Processed	Hours Per Item	Total Hours	Total Positions Needed	Perm. Positions Available	Positions Required	Positions Requested
High Complexity DD Refund Claims Received (>\$30,000)	78	20	1560				
Moderate Complexity DD Refund Claims Received (\$15,000-\$30,000)	35	16	560				
Routine DU Refund Claims Received (<\$15,000)	109	10	1090				
Positions Requested (1600 hrs/PY)			3210	2.0	1.0	1.0	1.0
ATA Overtime Requested							10

DF-46 (REV 05/11)						
Fiscal Summary						
(Dollars in thousands)						
BCP No.	Proposal Title				Program	
2	Fuel Tax Swap Refund Workload				Transportation Fund Tax Program	
Personal Services	Positions			Dollars		
	CY	BY	BY + 1	CY	BY	BY + 1
Total Salaries and Wages ¹	0.0	3.0	3.0		\$295	\$295
Total Staff Benefits ²					\$88	\$88
Distributed Administration					\$37	\$36
Total Personal Services	0.0	3.0	3.0		\$420	\$419
Operating Expenses and Equipment						
General Expense					\$21	\$7
Distributed Administration					\$9	\$9
Printing						
Communications					\$3	\$2
Postage						
Travel-In State						
Travel-Out of State						
Training					\$2	\$2
Facilities Operations					\$34	\$34
Utilities					\$1	\$1
Consulting & Professional Services: Interdepartmental ³						
Consulting & Professional Services: External ³						
Data Center Services					\$14	\$14
Information Technology					\$2	\$1
Equipment ³						
Other/Special Items of Expense: ⁴						
Total Operating Expenses and Equipment					\$86	\$70
Total State Operations Expenditures					\$506	\$489
Fund Source	Item Number					
	Org	Ref	Fund			
General Fund	0860	001	0001			
Special Funds ⁵						
Federal Funds						
Other Funds (Specify)						
Reimbursements	0860	001	0995			
Total Local Assistance Expenditures						
Fund Source	Item Number					
	Org	Ref	Fund			
General Fund						
Special Funds ⁵						
Federal Funds						
Other Funds (Specify)						
Reimbursements						
Grand Total, State Operations and Local Assistance					\$506	\$489
¹ Itemize positions by classification on the Personal Services Detail worksheet.						
² Provide benefit detail on the Personal Services Detail worksheet.						
³ Provide list on the Supplemental Information worksheet.						
⁴ Other/Special Items of Expense must be listed individually. Refer to the Uniform Codes Manual for a list of standard titles.						
⁵ Attach a Fund Condition Statement that reflects special fund or bond fund expenditures (or revenue) as proposed.						

Supplemental Information						
<i>(Dollars in thousands)</i>						
BCP No.	Proposal Title					
2	Fuel Tax Swap Refund Workload					
Equipment				CY	BY	BY +1
Standard Complement					\$75	\$61
Total					\$75	\$61
Consulting & Professional Services						
Total						
Facility/Capital Costs						
Facility					\$34	\$34
Capital Costs					\$1	\$1
Total					\$35	\$35
One-Time/Limited-Term Costs	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>		
Description	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
General Expense		\$13				
Communications		\$1				
Information Technology		\$1				
	0.0	\$15	0.0		0.0	
Full-Year Cost Adjustment	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>		
<i>Provide the incremental change in dollars and positions by fiscal year.</i>						
Item Number	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
Total	0.0		0.0		0.0	
Future Savings	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>		
<i>Specify fiscal year and estimated savings, including any decrease in positions.</i>						
Item Number	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
Total	0.0		0.0		0.0	