

# Memorandum

To : Honorable Jerome E. Horton, Chairman  
Senator George Runner (Ret), Vice Chair  
Honorable Fiona Ma, CPA, Second District  
Honorable Diane L. Harkey, Fourth District  
Honorable Betty T. Yee, State Controller

Date: February 6, 2015

From : Mark Durham, Manager  
Research and Statistics Section

Subject: **PREPAYMENT OF SALES TAX ON MOTOR VEHICLE FUEL, DIESEL FUEL  
AND JET FUEL**

## **FEBRUARY 2015 BOARD MEETING – AGENDA ITEM**

As amended by Assembly Bill (AB) 2679, Chapter 769, Statutes of 2012, Section 6480.1 of the Revenue and Taxation Code requires the Board of Equalization (Board) to determine annually by March 1 the rate at which sales tax on motor vehicle fuel is to be collected at the time such fuel is first distributed in the state during the twelve-month period beginning the following July 1.

The prepayment rate on fuels does not affect total taxes paid by taxpayers. It only affects the timing of payments made by wholesalers of fuels. Adjusting this rate does not change the total sales tax on motor vehicle fuel, but rather keeps the percentage of tax subject to prepayment reasonably constant when prices of gasoline go up or down over time.

Pursuant to Section 6480.1(g) et.seq, of the Revenue and Taxation Code, in the event the price of fuel decreases or increases, and the established rates result in prepayments which consistently exceed or are significantly lower than the retailers' sales tax liability, the Board may readjust the rate. In consideration of the recent dramatic decreases in fuel prices, we recommend that the Board consider establishing the new rates effective April 1, 2015 through June 30, 2016.

The enactment of AB X8 6 (Ch. 11, Eighth Extraordinary Session of 2009-10) revised the imposition of the sales and use tax and the excise tax on motor vehicle fuel. Among other things, AB X8 6 added Section 6357.7 to the Revenue and Taxation Code to create a state General Fund sales and use tax exemption beginning on July 1, 2010 for sales of motor vehicle fuel. Therefore, the state General Fund tax rate will not be used to calculate the prepayment rate on motor vehicle fuel.

The method by which the rate is to be calculated annually is specified in Section 6480.1. Staff used prices compiled by the U.S. Department of Energy's Energy Information Administration. The rate for the period April 1, 2015 through June 30, 2016 is \$0.05 per gallon, a reduction from the current rate of \$0.065 per gallon.

Section 6480.1 (h) and (i) of the Revenue and Taxation Code requires the Board to determine annually by March 1 the rates at which sales tax on diesel fuel and sales tax on jet fuel are to be collected at the time such fuel is first distributed in the state during the twelve-month period beginning the following July 1.

Notwithstanding, AB 105, effective March 24, 2011, added a sales and use tax surcharge on diesel fuel. For fiscal year 2014-15, the statute requires the surcharge to be reduced from 1.94 percent to 1.75 percent, and each fiscal year thereafter. Therefore, the sales and use tax rate on diesel fuel will include this additional rate of 1.75 percent, for the period April 1, 2015 through June 30, 2016.

The method by which the rate is to be calculated annually is specified in Section 6480.1 (h) and (i). Staff used prices compiled by the U.S. Department of Energy's Energy Information Administration. The rate for the period April 1, 2015 through June 30, 2016 is \$0.225 per gallon for diesel fuel, a reduction from the current rate of \$0.27 per gallon; and \$0.115 per gallon for jet fuel, for the period April 1, 2015 through June 30, 2016, a reduction from the current rate of \$0.175 per gallon.

It is recommended that the Board set the rate of prepayment of sales tax on motor vehicle fuel distributions for the period April 1, 2015 through June 30, 2016 at \$0.05 per gallon.

It is recommended that the Board set the rate of prepayment of sales tax on diesel fuel distributions for the period April 1, 2015 through June 30, 2016 at \$0.225 per gallon.

It is recommended that the Board set the rate of prepayment of sales tax on jet fuel distributions for the period April 1, 2015 through June 30, 2016 at \$0.115 per gallon.

MD:bb:jm

- cc: Ms. Cynthia Bridges
- Mr. Jeff McGuire
- Ms. Susanne Buehler
- Ms. Joann Richmond
- Ms. Michele Pielsticker
- Mr. Brad Miller
- Ms. Kirsten Stark
- Compliance and Technology Section

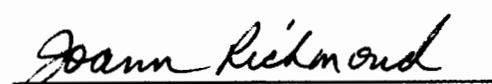
Recommendation by:

  
 \_\_\_\_\_  
 Mark Durham, Manager  
 Research and Statistics Section

Approved:

  
 \_\_\_\_\_  
 Cynthia Bridges  
 Executive Director

Approved:

  
 \_\_\_\_\_  
 Joann Richmond, Chief  
 Board Proceedings Division

BOARD APPROVED  
at the 2/24/15 Board Meeting