

# Memorandum

To: Honorable Diane L. Harkey, Chairwoman  
Honorable George Runner, Vice Chair  
Honorable Fiona Ma, CPA, Second District  
Honorable Jerome E. Horton, Third District  
Honorable Betty T. Yee, State Controller

Date: February 15, 2018

From: Dean R. Kinnee  
Executive Director

Subject: **FUEL TAX SWAP**  
**FEBRUARY 2018 – BOARD MEETING**

Senate Bill 1 and Assembly Bill 102

Last year the Governor signed Senate Bill (SB) 1 (Stats. 2017, Ch. 5), The Road Repair and Accountability Act of 2017, and Assembly Bill 102 (Stats. 2017, Ch. 16), together they require the Board of Equalization (Board) to determine the revenue neutrality adjustment calculation one more time for Motor Vehicle Fuel (MVF) for the fiscal year beginning July 1 2018. SB 1 immediately eliminates the annual revenue neutrality adjustment calculation for diesel fuel.

Motor Vehicle Fuel

Revenue and Taxation Code sections 6357.7 and 7360, commonly referred to as the “fuel tax swap,” require the Board to determine the excise tax rate for MVF on an annual basis. The fuel tax swap eliminates the General Fund portion of the sales and use tax on MVF and raises the excise tax rate with the intent of raising the identical amount of revenue. Legislation set the excise rate on MVF at \$0.353 per gallon in 2010-11, and required the Board to adopt a “revenue-neutral” excise tax rate for each ensuing fiscal year by the first of March.

The calculation requires a forecast of both MVF consumption and price. Staff has adopted the quarterly MVF consumption forecast prepared by the Department of Finance (DOF) for its January 2018-19 budget proposal. DOF’s forecast of MVF consumption and prices projects that the General Fund portion of sales and use tax revenues for 2018-19 would be \$2.235 billion, if they were not replaced by excise tax.

Additionally, current law contains “revenue-neutrality” language requiring a one year look back to determine the difference between the 2016-17 eliminated sales tax on MVF and the new excise tax revenues that resulted from the excise rate that was adopted that year. When both calculations are combined, the revenue-neutral excise tax rate for 2018-19 is \$0.337 per gallon.

Staff recommends that the Board set the excise tax rate on MVF for the period July 1, 2018 through June 30, 2019, at \$0.337 per gallon.

Diesel Fuel

SB 1 increased the excise tax rate for diesel fuel from \$0.16 to \$0.36 per gallon (an increase of \$0.20 per gallon). Additionally, the statewide sales and use tax rate imposed on retail sales of diesel fuel increased from 1.75 percent to 5.75 percent (an increase of 4.00 percent).

No Board action required on diesel fuel.

**Item K1.4**  
**2/27/18**

cc: Ms. Lisa Renati  
Mr. Sean Wallentine  
Ms. Genevieve Jopanda  
Ms. Kari Hammond  
Ms. Yvette Stowers  
Ms. Brenda Fleming  
Mr. Chris Butler

  
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Joann Richmond, Chief  
Board Proceedings Division

*Board Motion to Approve staff  
Recommendation Failed.*

at the 2/27/18 Board Meeting