

BOARD OF EQUALIZATION RULES FOR TAX APPEALS

California Code of Regulations
Title 18. Public Revenues
Division 2.1. State Board of Equalization – Rules for Tax Appeals
Chapter 2: Sales and Use Tax, Timber Yield Tax, and Special Taxes and Fees

ARTICLE 3: CLAIMS FOR REFUND

5232.4. CONTENTS OF CLAIMS FOR REFUND UNDER DIESEL FUEL TAX LAW.

Notwithstanding section 5232, claims for refund of payments made with respect to the Diesel Fuel Tax Law must be prepared and filed in the following manner:

(a) Diesel Fuel that is Lost, Sold, or Removed.

(1) A claim for refund must satisfy the requirements of paragraph (2) if it is based upon the grounds that:

(A) Tax was imposed on the diesel fuel to which the claim relates; and

(B) The claimant bought or produced the diesel fuel to which the claim relates and the same diesel fuel was:

(i) Used for purposes other than operating motor vehicles upon the public highways of California;

(ii) Exported for use outside of California;

(iii) Used in construction equipment that is exempt from registration under the Vehicle Code;

(iv) Used in the operation of a motor vehicle on any highway that is under the jurisdiction of the United States Department of Agriculture;

(v) Used in any motor vehicle owned by any county, city and county, city, district, or other political subdivision or public agency;

(vi) Sold by a supplier to any consulate office or consulate employee;

(vii) Lost in the ordinary course of handling, transportation, or storage;

(viii) Sold to the United States, its agencies, or instrumentalities;

(ix) Sold to a train operator for use in a diesel-powered train or other off-highway use; or

(x) Removed from an approved terminal at the terminal rack.

(2) A claim for refund based upon the grounds described in paragraph (1) must:

(A) Be prepared and filed on a form prescribed by the Board.

(B) Be accompanied by the original invoice showing the purchase, or, if no original invoice was created, an electronic invoice and the original bill of lading or fuel manifest.

(C) Include the name, address, telephone number, and permit number of the person that sold the diesel fuel to the claimant and the date of the purchase.

(D) Include the claimant's statement that the diesel fuel covered by the claim did not contain visible evidence of dye.

(E) Include a statement by the person who sold the diesel fuel to the claimant that the diesel fuel did not contain visible evidence of dye.

(F) Identify the total amount of diesel fuel covered by the claim.

(G) Describe the use made of the diesel fuel.

(H) Be accompanied by proof that the diesel fuel was exported, if the claim is based upon the grounds that the diesel fuel was exported.

(3) Claims for refund based upon the grounds provided for in paragraph (1) must be filed on a calendar year basis, except that claims for refund of more than \$750 may be filed for a quarter of a calendar year.

(b) Ultimate Vendors of Diesel Fuel. A claim for refund based upon the grounds that the claimant was an ultimate vendor that sold tax-paid diesel fuel to an ultimate purchaser for use on a farm for farming purposes, or use in an exempt bus operation may not be filed for an amount less than \$200 or a period shorter than one week and must:

(1) Be prepared and filed on a form prescribed by the Board.

(2) Contain the claimant's permit number.

(3) Include the name, address, telephone number, and permit number of the person that sold the diesel fuel to the claimant and the date of the purchase.

(4) Include the name, address, telephone number, and federal taxpayer identification number of each farmer or the permit number of each exempt bus operator that bought the diesel fuel from the claimant and the number of gallons of diesel fuel the claimant sold to each.

(5) Include the claimant's statement that the diesel fuel covered by the claim did not contain evidence of visible dye.

(6) Identify the total amount of diesel fuel covered by the claim.

(7) Include the claimant's statement that it has an unexpired exemption certificate described in Revenue and Taxation Code section 60503 and has no reason to believe the certificate is false.

(8) Include the claimant's statement that the amounts claimed have not been refunded to the claimant previously.

(c) Persons filing claims for refund under this section must use the proper form prescribed by the Board and should contact the Fuel Taxes Division for the appropriate form.

(d) Other Claims. Claims for refund under the Diesel Fuel Tax Law that are not described in subdivision (a) or (b) may be filed in the manner provided for in section 5232.

Note: Authority cited: Government Code section 15606; Revenue and Taxation Code section 60601.

Reference: Revenue and Taxation Code sections 60501, 60502, 60505, 60505.5, 60523.

History: 1. New section adopted 9-12-2007; effective 2-6-2008.