State of California

Board of Equalization
Legislative and Research Division

Memorandum

To : Mr. Ramon J. Hirsig
Executive Director

Date: March 25, 2010

From : Robert Ingenito
Chief, Research and Statistics Section

Subject: READJUSTMENT TO THE PREPAYMENT OF SALES TAX ON MOTOR VEHICLE FUEL

April 13, 2010 - CONSENT AGENDA

Subdivision (f) of Section 6480.1 of the Revenue and Taxation Code requires the Board of Equalization to determine annually by November 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 April 1. That rate is determined in part by using the combined state and local sales tax rate and applying that rate to the average selling price of all grades of gasoline sold through a self-service station, based on specified sources. At its October 6, 2009 meeting, the Board established a prepayment rate of $0.185 per gallon, to take effect April 1, 2010.

Recent enactment of AB8x 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, AB8x6 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. As a result, the prepayment rate of $0.185 per gallon previously established by the Board requires an adjustment to account for this sales tax exemption. Without an adjustment, the prepayments required pursuant to Section 6480.1 would consistently exceed the retailers' sales tax liability, and result in numerous claims for refund and possible cash flow difficulties for many retailers.

SB 70 (Ch. 9, Stats. 2010, in effect March 23, 2010) was enacted as a clean up measure to AB8x6, and, among other things, authorizes the Board of Equalization to readjust the sales tax prepayment rate if an exemption from sales tax for sales of motor vehicle fuel is enacted and if the established rate results in or could result in prepayments which consistently exceed the retailers' sales tax liability. Since the six percent sales tax exemption for sales of gasoline beginning July 1, 2010 would result in excess prepayments, it is recommended that the Board readjust the rate.

The method by which the prepayment rate is to be calculated is specified in Section 6480.1. We have used prices compiled by the U.S. Department of Energy's Energy Information Administration. The calculation of the rate for the period July 1, 2010 through March 31, 2011 yields a figure of $0.055 per gallon. This is a decrease of 13 cents less than the current rate of $0.185 per gallon, as noted above.

It is recommended that the Board set the rate of prepayment of sales tax on motor vehicle fuel distributions for the period July 1, 2010 through March 31, 2011 at $0.055 per gallon.

VS:cee

cc: Ms. Randie Henry
Ms. Margaret S. Shedd
Mr. Jeff McGuire
Mr. Diane Olson
Ms. Susanne Buehler
Mr. Bill Benson, Jr.
Compliance and Technology Section

Recommendation by:

Robert Ingenito
Chief, Research and Statistics Section

Approved: 3/26/10

Ramon J. Hirsig,
Executive Director

Approved:

Diane Olson, Chief
Board Proceedings Division

BOARD APPROVED

at the 4/13/2010 Board Meeting