

Memorandum

To : Ms. Kristine Cazadd
Interim Executive Director

Date: April 11, 2011

From : Robert Ingenito
Chief, Research and Statistics Section

Subject: **READJUSTMENT TO THE PREPAYMENT OF SALES TAX ON DIESEL FUEL**
Item N – Consent Agenda; April 26-27, 2011 Board Meeting

Subdivision (h) 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 diesel 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 diesel fuel sold through service stations, based on specified sources. At its September 15, 2010 meeting, the Board established a prepayment rate of \$0.18 per gallon, to take effect April 1, 2011.

However, Assembly Bill 105, effective March 24, 2011, increased the additional sales and use tax rate on diesel fuel from 1.75 to 1.87 percent, for fiscal year 2011-12.

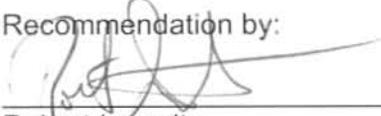
Subdivision (h) of Section 6480.1 of the Revenue and Taxation Code authorizes the Board of Equalization to readjust the sales tax prepayment rate if an increase in the sales tax for sales of diesel fuel is enacted and if the established rate results in or could result in prepayments which are consistently above or below the retailers' sales tax liability. Since the diesel fuel sales tax rate increase of 1.87% effective July 1, 2011 would result in prepayments below the retailer's sales tax liability, it is recommended that the Board readjust the sales tax prepayment rate on diesel fuel.

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, 2011 through March 31, 2012 yields a figure of \$0.25 per gallon. This is an increase of 7 cents more than the current rate of \$0.18 per gallon, as noted above.

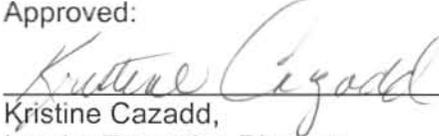
It is recommended that the Board set the rate of prepayment of sales tax on diesel fuel distributions for the period July 1, 2011 through March 31, 2012 at \$0.25 per gallon.

BBJr:ri

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

Recommendation by:


Robert Ingenito
Chief, Research and Statistics Section

Approved:


Kristine Cazadd,
Interim Executive Director

Approved:

Diane Olson, Chief
Board Proceedings Division

BOARD APPROVED
at the _____ Board Meeting