

Memorandum

To : Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chair
Honorable Betty T. Yee, First District
Senator George Runner, Second District
Honorable John Chiang, State Controller

Date: September 1, 2011

From : Robert Ingenito
Chief, Research and Statistics Section

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

SEPTEMBER 21, 2011 - CONSENT AGENDA

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. 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.

The 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, AB8x 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. We have used prices compiled by the U.S. Department of Energy's Energy Information Administration. The calculation of the rate for the period April 1, 2012 through March 31, 2013 yields a figure of \$0.07 per gallon, an increase of 1.5 cents per gallon more than the current rate of \$0.055.

Section 6480.1 (g) and (h) of the Revenue and Taxation Code requires the Board of Equalization to determine annually by November 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 April 1.

Assembly Bill 105, effective March 24, 2011, amended the additional sales and use tax rate on diesel fuel from 1.75 to 1.87 percent, for fiscal year 2011-12. Therefore, the sales and use tax rate on diesel fuel will include this additional rate of 1.87 percent, for the period April 1, 2012 through June 30, 2012.

The method by which the rate is to be calculated annually is specified in Section 6480.1 (g) and (h). We have used prices compiled by the U.S. Department of Energy's Energy Information Administration. The calculation of the rate for the period April 1, 2012 through June 30, 2012 yields a figure of \$0.265 per gallon for diesel fuel, an increase of 1.5 cents more than the current rate of \$0.25 per gallon; and \$0.18 per gallon for jet fuel, for the period April 1, 2012 through March 31, 2013, an increase of 4.0 cents more than the current rate of \$0.14 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, 2012 through March 31, 2013 at \$0.07 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, 2012 through June 30, 2012 at \$0.265 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, 2012 through March 31, 2013 at \$0.18 per gallon.

As noted above, Assembly Bill 105 amended the additional sales and used tax rate on diesel fuel, effective July 1, 2011. The tax rate on diesel fuel will increase again, effective July 1, 2012, from the current increased rate of 1.87 percent to the rate of 2.17 percent. This change in the sales and use tax rate on diesel fuel will require the Board to readjust the prepayment rate on diesel fuel in April of 2012. The readjusted prepayment rate on diesel fuel will be effective from July 1, 2012 through March 31, 2013.

BBJr:jm

- cc: Ms. Kristine Cazadd
- Mr. Jeff McGuire
- Ms. Margaret S. Shedd
- Ms. Susanne Buehler
- Mr. Diane Olson
- Ms. Trista Gonzalez
- Mr. Bill Benson, Jr.
- Compliance and Technology Section

Recommendation by:



Robert Ingenito
Chief, Research and Statistics Section

Approved:



Kristine Cazadd
Interim Executive Director

Approved:

BOARD APPROVED

at the _____ Board Meeting

Diane Olson, Chief
Board Proceedings Division