



STATE BOARD
OF EQUALIZATION

Fuel Taxes Newsletter

December 2001

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All Fuel Tax and Fee Programs

1. New Legislation Takes Effect

The following summaries reflect legislative changes enacted during the 2001 legislative session affecting the fuel tax programs administered by the Board of Equalization. The changes are effective January 1, 2002, unless otherwise indicated. For copies of bills, please write to the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814. Or you can download information from www.leginfo.ca.gov/bilinfo.html. The Board is in the process of revising motor vehicle fuel and diesel fuel tax regulations to interpret the new laws.

Multiprogram

Assembly Bill 1123 (Stats. 2001, ch 251) expands the circumstances that qualify for relief of interest due to an unreasonable error or delay by the Board.

Senate Bill 1185 (Stats. 2001, ch 543) allows a taxpayer to file with the Board a claim for reimbursement of bank charges and any other reasonable third-party check charge fees incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold by the Board. This bill applies to all programs except Motor Vehicle Fuel Tax.

Underground Storage Tank Maintenance Fee Law

Assembly Bill 1465 (Stats. 2001, ch 154) includes nonresidential heating oil tanks as being subject to the underground storage tank fee. If you are an owner of one of these tanks and are already registered for this fee you will need to begin paying the fee on this new classification starting January 1, 2002. If you have a nonresidential heating oil tank and are not currently registered, you must contact the Fuel Taxes Division at 916-322-9669 before December 31, 2001, to register.

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Diesel Fuel Tax / Motor Vehicle Fuel Tax

Assembly Bill 309 (Stats. 2001, ch 429) makes the following changes:

- Moves the first point of retail sales tax prepayment on fuel to the rack.
- Makes various changes to conform the definitions and exemptions in the Motor Vehicle Fuel Tax Law to the Diesel Fuel Tax Law.
- Allows for a refund or credit of the tax when tax-paid fuel is removed at a terminal rack, but only to the extent that the supplier can show that tax on the same amount of fuel has been paid more than one time by the same supplier.
- Conforms the security provisions in the Motor Vehicle Fuel Tax Law and Diesel Fuel Tax Law.
- Allows a credit for previously taxed motor vehicle fuel in the bulk transfer/terminal system on January 1, 2002, on the floor stock tax return.
- Modifies some penalty provisions.
- Addresses filing returns by electronic media and allows the Board to receive returns filed with the IRS' Excise Summary Terminal Activity Reporting System (ExSTARS) with a terminal operator's consent and authorization.
- Renames "highway vehicle operator" to "qualified highway vehicle operator" to enable specified persons to use and report the use of dyed diesel fuel on the highway without penalty, and to require a qualified vehicle operator to pay backup tax for the use of dyed diesel fuel on the highway.
- Allows the Board to recommend a refund of amounts overpaid by any person, not just a licensed supplier.

Assembly Bill 2114 (Stats. 2000, ch 1053) makes many changes, including the following:

- Moves the point of taxation on motor vehicle fuel to the refinery or terminal rack level, bringing the state excise tax on motor vehicle fuel into uniformity with the state diesel fuel tax and federal fuel tax.
- Conforms the Motor Vehicle Fuel Tax Law to the state Diesel Fuel Tax Law and the

federal tax law with respect to definitions and exemptions.

- Provides for a backup tax, which would apply to gasoline delivered into the fuel tank of a motor vehicle or the sale of motor vehicle fuel when the tax had previously been refunded on the fuel, or the liquid had not been taxed at all.
- Imposes a floor stock tax on all motor vehicle fuel owned on January 1, 2002, by a distributor (supplier) in the distribution chain below the refinery or terminal rack on which tax has not been charged.
- Requires that bulk transport operators, terminal operators, and position holders file reports to the Board on a monthly basis containing detailed information on accountable transactions. Changes will occur in several areas, including new tax returns and schedules, uniform product codes and product descriptions, and automation processes.

Assembly Bill X2 86 (Stats. 2001, ch 8, effective October 31, 2001) exempts the water in a diesel fuel and water emulsion of two immiscible liquids of diesel fuel and water, which emulsion contains an additive that causes the water droplets to remain suspended within the diesel fuel, provided the diesel fuel emulsion meets standards set by the California Air Resources Board. Anyone using or making a diesel and water emulsion fuel should contact the Fuel Taxes Division at 916-322-9669 to inquire about the taxability of the fuel.

2. Deadline Changed for Settlement Request

Taxpayers and practitioners should know that the deadline for requesting settlement of Appeals cases is now 45 days before the first scheduled Board hearing. Previous practice allowed requests 30 days before a Board hearing.

Board hearing notices advise taxpayers of the settlement program and the deadline for requesting settlement. Notices for hearings sent on or after September 12, 2001, will include a 45-day cutoff date for settlement requests. For more information on the Board's settlement program, you may visit our website: www.boe.ca.gov/boe393n.htm. Or call our Information Center at

1-800-400-7115 and request a copy of publication 17, *Appeals Procedures*.

3. Safety of Board Employees

Paying taxes seldom comes under the category of “pleasurable things to do.” Although dealing with the deadlines and legal requirements is not always easy, most people make an effort to carry out these responsibilities calmly and without much friction.

Unfortunately, this is not always the case, as when Board employees are threatened with physical harm. Whether such threats are made in jest or with serious intent, the Board must take them seriously. Employees have a right to feel safe and secure in their jobs. Because of this, it is the Board’s policy that threats to staff, whether made by other employees or from the public, be reported to management and, if necessary, to law enforcement personnel for further action.

There are many administrative procedures in place for resolving disputes and complaints. Taxpayers are encouraged to take full advantage of those procedures.

For more information on your rights as a taxpayer, please call the Information Center and request a copy of Publication 70, *The California Taxpayer’s Bill of Rights*. If you have a problem you have been unable to resolve, you can contact the Taxpayers’ Rights Advocate at 1-888-324-2798.

4. Policy Regarding Employee Solicitation or Acceptance of Gifts

It is against Board policy for an employee to solicit or accept – either directly or indirectly – any gift, favor, entertainment, or any other thing of monetary value from a person whom the employee knows or has reason to believe

- Has, or is seeking to obtain, contractual or other business or financial relations with the Board; or
- Conducts business or other activities that are monitored by the Board, under circumstances from which it reasonably could be substantiated that the gift was intended to influence the employee in his or her official actions or was intended as a reward for any official actions performed by the employee.

If a Board employee violates this policy, it should be reported to Ms. Darlene Allen, Chief, Internal Security and Audit Division. Call 916-445-2918.

Motor Vehicle Fuel Tax Law and Diesel Fuel Tax Law

We have enclosed a special notice for motor vehicle and diesel fuel tax accounts. This notice explains significant changes that will occur January 1, 2002. Please call 916-322-9669 if you have questions regarding this notice.

5. Electronic Filing Is on the Horizon

Starting with the January 2002 reporting period, fuel tax registrants can voluntarily choose to file tax returns, reports, and schedules electronically, via the Internet. As many businesses already know, e-filing is a fast, easy, convenient, and accurate way to report taxes.

To help you prepare for e-filing, we have developed a *Motor Fuels E-Filing Handbook*, which is modeled after the federal electronic filing guide. The handbook is available online at www.boe.ca.gov/electsrv/efiling/taxpcont.htm.

As explained in the handbook, the Board will only accept X12-formatted tax returns and reports transmitted via the Internet. No magnetic tape filing or data stored on a floppy diskette in XML, Excel, Word, Lotus, or other formats will be accepted at this time. If you are interested in using an alternative filing format, please contact the Fuel Taxes Division at 916-322-9669.

We will accept electronic filing for the following returns and reports:

- Supplier of Motor Vehicle Fuel Tax Return (Form BOE-501-PS)
- Supplier of Diesel Fuel Tax Return (Form BOE-501-DD)
- Terminal Operator Information Report (Form BOE-506-PO)
- Vessel/Pipeline Operator Report (Form BOE-506-PC, also known as the Common Carrier Summary Report)

6. New Account Numbers Issued for Motor Vehicle Fuel Accounts and Some Diesel Fuel Accounts

With the implementation of the new Motor Vehicle Fuel Tax Law, and administrative changes affecting the Diesel Fuel Tax Law, beginning in early 2002, some registrants will receive new licenses. Diesel fuel tax returns and reports for all taxpayers will also be revised to include the use of uniform schedules and product codes.

7. New Diesel Fuel Claim for Refund Form

If you export tax-paid diesel fuel or make sales of tax-paid diesel fuel to tax-exempt customers, such as train operators or the U.S. Government, without collecting tax reimbursement, you must use our new claim for refund form, *Claim for Refund on Non-Taxable Sales and Exports of Diesel Fuel* (form BOE-770-DZ) to file a claim for refund. The purpose of this claim form is to allow taxpayers who do not make sales to ultimate purchasers (farmers and exempt bus operators) to have a mechanism to claim a refund for other exempt sales. This new claim for refund form will be available early 2002 and will be available on our website, www.boe.ca.gov.

Underground Storage Tank Maintenance Fee Law

8. Tank Owners Can Authorize the Board To Send Returns to the Tank Operator

Underground storage tank (UST) owners are liable for the Underground Storage Tank Maintenance Fee even if someone else operates the tanks. The owner of the UST may authorize the Board to send returns to the operator if the operator is going to report and pay the fee on behalf of the owner. The owner remains liable for any unpaid fees. Only the returns are mailed to the operator. All other notices are mailed to the owner. To obtain an authorization to mail returns to the operator, please contact the Fuel Taxes Division at 916-322-9669.

International Fuel Tax Agreement (IFTA) / Interstate User Diesel Fuel (DI) License

9. Tax Rate Change for 2002

The tax you report and pay with your quarterly fuel tax return for diesel fuel that you purchase outside California and use in the state has been increased and is now *28.2 cents per gallon* for the period January 1, 2002, through December 31, 2002.

The 28.2 cents per gallon reflects

- 18 cents per gallon of diesel fuel tax and
- An additional excise tax of 10.2 cents per gallon

Reminder: You may claim a credit of 28.2 cents per gallon for the gallons of tax-paid diesel fuel purchased in California and used outside the state.

If you have any questions concerning the new rate, please call the Fuel Taxes Division at 916-322-9669, or call our Information Center, 1-800-400-7115.

For More Information

Fuel Taxes Division. If you have questions or comments, call us at **916-322-9669**. Or write to the following address: Fuel Taxes Division, MIC:30; State Board of Equalization; P.O. Box 942879; Sacramento, CA 94279-0030.

Internet. Visit us at www.boe.ca.gov to obtain information on tax rates, publications, legislation, regulations, telephone numbers, education programs, public meetings, and so forth.

Tax Evasion Hotline. To report suspected tax evasion, please call toll-free, **1-888-334-3300**.

Copies of Legislative Bills. Write to the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814. Or visit the following website: www.leginfo.ca.gov. The Bill Room does not provide copies of Board forms or publications.

Taxpayers' Rights Advocate. If you need help with a problem you have been unable to resolve at other levels, please contact the Advocate's office for assistance. Call **1-888-324-2798**.