

Fuel Taxes Newsletter

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■ Underground Storage Tank Maintenance Fee

1. Tank Owner Responsibilities

Owners of underground storage tanks are required to register with the Board for an underground storage tank account and are responsible for filing returns and paying the Underground Storage Tank Maintenance Fee, based on the number of gallons of petroleum products placed into their tanks.

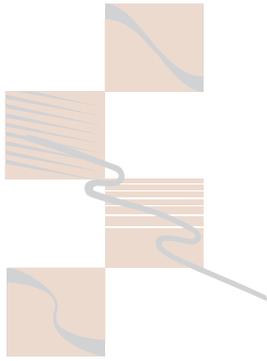
Since the inception of the Underground Storage Tank Maintenance Fee, we have had difficulty identifying the owners of underground storage tanks. To eliminate confusion in identifying who is responsible for paying the fee, owners and operators should maintain clear documentation regarding ownership. For example, records could include tank installation contracts, lease contracts, underground storage tank permit applications filed with the local agency, and any other documentation indicating ownership. Without documentation to the contrary, the Board will generally presume that the owner of the real property on which the tank is located is the owner of the underground storage tank.

2. Statute of Limitations is Eight Years for Unregistered Tanks

We have discovered some unregistered tank owners as a result of information obtained from related sales and use tax audits and when a subsequent owner registers a tank. In the case of failure to file a return, the statute of limitations for a notice of determination is eight years. Penalty and interest will also apply.

As a reminder, owners of underground storage tanks are responsible for filing returns and payment of the fee. Operators who receive this newsletter but do not own tanks should provide a copy of this article to the owner so that the individual is made aware of his or her responsibility to register with the Board and pay the fee.





3. What is an Underground Storage Tank?

An underground storage tank is defined as any tank (or combination of tanks) that is used to store petroleum products and is located substantially or totally beneath the ground's surface. The definition also applies to pipes that are connected to such tanks. Certain vaulted belowground tank systems can be exempted from the fee if approved by the local permitting agency as a system which:

- Provides adequate secondary containment
- Permits visual inspection of the entire surface(s) of the tanks, including the underside and all connected piping, and is inspected on a daily basis

■ Motor Vehicle Fuel Tax and Diesel Fuel Tax Programs

4. Two-Party Exchange Transaction Reporting Requirements

General Reporting Requirements

In California, when a two-party exchange transaction occurs, there are actually three participants in the exchange: the delivering supplier, the receiving supplier, and the terminal operator. Each of these participants has a reporting requirement that must be met before there is a valid two-party exchange.

The delivering supplier must report the fuel for which it is the position holder in the terminal that has been disbursed in a two-party exchange transaction. Compliance with this reporting requirement permits it to transfer the liability for the tax on this transaction to the receiving supplier. The delivering supplier reports the ex-tax delivery of fuel on Schedule 6X, "Gallons Delivered to Suppliers on Exchange Agreements." The delivering supplier must also report the two-party exchange transaction to the terminal operator and identify the receiving supplier.

The receiving supplier must report the fuel that was received at a terminal as part of a two-party exchange transaction and report the tax liability for that fuel. The receiving supplier reports the ex-tax receipt of fuel on Schedule 2X, "Fuel Received from Suppliers on Exchange Agreements Tax Unpaid." In addition, the receiving supplier must report the disbursement of the fuel on the appropriate disbursement schedule as if it was the position holder at the terminal making a removal subject to all California motor fuels reporting requirements.

If the receiving supplier fails to report or remit taxes in conformity with regulations 1125 and 1423, the delivering supplier shall remain primarily liable for the taxes due on the removal of the fuel from the rack.

The terminal operator must report the terminal disbursement on Schedule 15B, "Terminal Operator Disbursement by Position Holder." However, in addition to reporting the position holder (delivering supplier), the terminal operator must also report the receiving supplier as part of any two-party exchange.

Failure to properly report the two-party exchange transaction by any participant will void the transaction for California fuel tax purposes and the tax liability will revert to the delivering supplier. Interest and penalty charges may apply.

All Three Parties Must Report the Transaction Uniformly

The delivering supplier, receiving supplier, and terminal operator must all report the two-party exchange transaction information using the same document date, bill of lading number, fuel type, mode code, and gallons.

If one or more of the participants in the two-party exchange transaction fails to report uniformly, the Board will deem the transaction as a failure to properly report the exchange transaction.

All Three Parties Must Report Electronically

The delivering supplier, receiving supplier, and terminal operator must all submit their motor fuels tax forms to the Board electronically to be eligible to report a two-party exchange transaction. Those who intend to report two-party exchange activity need to verify with the Board that all other participants in their two-party exchange transaction are reporting electronically. If they do not, please provide them with a copy of this newsletter or have them contact us. We have several electronic filing options available.

If one or more of the participants in the two-party exchange transaction fails to report electronically, the Board will deem the transaction as a failure to properly report.

Electronic filing participants may view a list of eligible two-party exchange participants on the Motor Fuels Electronic Filing website. To do so, log onto the Motor Fuels e-Filing site and select the "Two-party Exchange" link from the Main Menu.

We encourage you to refer to regulations 1125 and 1423 for a complete description of all aspects of two-party exchange activities and reporting in California. The regulations are available on our website at www.boe.ca.gov/sptaxprog/sptaxregs.htm.

Need more information? Give us a call or go online. See the back page for telephone numbers and website addresses.

If you have any questions about this issue or electronic filing, please contact Dan Gostage at 916-445-2869 or at Dan.Gostage@boe.ca.gov.

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

5. Maintain Records That Support Your IFTA Tax Report

Fuel and mileage data that are reported on your IFTA tax reports must be supported by adequate records. The following types of records are particularly important, especially when they are used to support requests for credit or refunds for tax-paid and nontaxable uses of fuel.

Distance Records

You must record miles traveled to substantiate interstate and intrastate travel. Supporting information for *each individual vehicle trip* should include: date of the trip (starting and ending), trip origin and destination (including city and state), routes of travel, beginning and ending odometer readings, total trip miles, distances by jurisdiction, vehicle unit number, vehicle fleet number, and your name.

Retail Over the Road Fuel Purchases

You must maintain complete records for all fuel *purchased, received, and used* in the conduct of your business. Separate totals must be compiled for each fuel type by jurisdiction.

Your fuel records must contain all the following information: date of purchase, name and address of the seller, number of gallons or liters purchased, type of fuel purchased, price per gallon or liter *or total amount of sale*, the unit number of the vehicle into which the fuel was placed, and name of purchaser.

Bulk Fuel

To obtain credit for withdrawals from licensee-owned, tax-paid bulk storage, the following records must be maintained: date of withdrawal, number of gallons or liters withdrawn, fuel type, unit number of the vehicle into which the fuel was placed, and purchase and inventory records showing tax was paid on your bulk fuel purchases.

Other Types of Records

You should also maintain the following records to support your IFTA tax reports: equipment lists that show fleet vehicles (type and model year), Department of Transportation log books, short- and long-term lease contracts, and federal income

tax returns that have depreciation schedules showing company vehicles.

Records Retention Period

You should maintain your records in California for a period of four years from the due date of your quarterly tax report or the date the report was filed, whichever is later.

For information, please see publication 50, *California IFTA Guide to the International Fuel Tax Agreement* (June 2006). You can also download a copy from our website at www.boe.ca.gov/sptaxprog/mciftamain.htm.

■ Aircraft Jet Fuel Tax

6. Attention Aircraft Jet Fuel Dealers – Exempt Sales to Air Common Carriers

Sales of aircraft jet fuel to qualified air common carriers are exempt from the aircraft jet fuel tax. As a jet fuel dealer, you should obtain documentation that establishes the purchaser is a qualified air common carrier. Otherwise, you may be liable for tax on your sales to that purchaser.

If your account is audited, the auditor will look for the following documents:

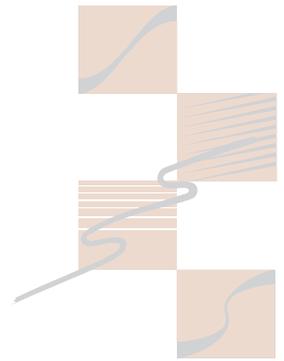
- A copy of an exemption certificate, which includes the statement the air common carrier has a *Certificate of Public Convenience and Necessity* or an *All-Cargo Air Transportation Certificate* issued by the U.S. Department of Transportation (DOT), or
- A copy of the purchaser's *Certificate of Public Convenience and Necessity* or *All-Cargo Air Transportation Certificate* issued by DOT

Importance of the DOT Certificate

To be exempt from liability for the tax, the fuel purchaser must be excluded from the definition of "aircraft jet fuel user." To be excluded from the definition of aircraft jet fuel user as an aircraft common carrier, the purchaser must hold the DOT *Certificate of Public Convenience and Necessity* or *All-Cargo Air Transportation Certificate*. The DOT certificate is not the same as the *Air Carrier Certificate* issued by the Federal Aviation Administration (FAA). The FAA certificate does **not** qualify to exclude an aircraft common carrier from the definition of an aircraft jet fuel user.

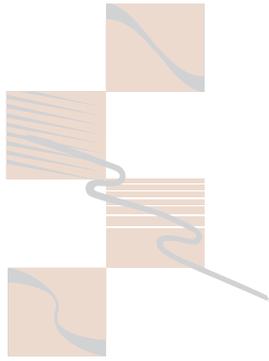
Exemption Certificate

Board Regulation 1137, *Exempt Sales of Jet Fuel*, provides that an aircraft jet fuel dealer may accept an exemption certificate from the purchaser, stating that the jet fuel purchased from the dealer



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Need more information?
Give us a call or go online. See the back page for telephone numbers and website addresses.



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is exempt from the aircraft jet fuel tax as a sale to an air common carrier holding a *Certificate of Convenience and Necessity* or an *All-Cargo Air Transportation Certificate*, issued by DOT.

Regulation 1137 contains a model exemption certificate which air carriers may complete to obtain the exemption. To read or make a copy of Regulation 1137, go to www.boe.ca.gov/sptaxprog/sptaxregs.htm.

An aircraft jet fuel dealer may accept a purchaser's written certification that the fuel purchased is exempt from taxes as a sale to an air common carrier holding a DOT certificate. The certification is valid and may be relied upon by the aircraft jet fuel dealer until revoked in writing by the purchaser. An aircraft jet fuel dealer who relies on the purchaser's certification in good faith is relieved of liability for the tax if the certification is erroneous.

DOT Certificates

In place of the exemption certificate described above, you may keep on file a copy of the purchaser's *Certificate of Public Convenience and Necessity* or an *All-Cargo Air Transportation Certificate* issued to domestic carriers by DOT

Verification of the DOT Certificate

Even though you have a copy of the DOT certificate, you should verify that it is valid. You can check by going online. DOT maintains a list of certificated domestic air carriers at <http://ostpxweb.dot.gov/aviation/certific/certlist.pdf>.

■ All Fuel Tax and Fee Programs

Know Your Rights

7. As a Taxpayer, You Have Many Rights Under the Law

They include the right to:

- Receive information and assistance to help you comply with the law
- Be treated fairly and courteously and receive prompt service
- Appeal a decision or claim a refund as allowed by law

Of course, along with those rights, you have certain responsibilities, including the responsibility to:

- Keep informed about tax laws and regulations
- Report and pay taxes and fees when due
- Maintain adequate records

For more information, order publication 70, *Understanding Your Rights As a California Taxpayer*.

Credit Card Payment Program

We now offer you the option of charging your tax and fee payments using a credit card issued by Discover Network, MasterCard, Visa, or American Express. Our credit card program is another way for you to conveniently pay the taxes and fees. You can make your payments by calling 1-800-2PAY-TAX (800-272-9829), or you can make a payment over the Internet. You will be charged a convenience fee of 2.5 percent of the transaction amount by the credit card processing vendor. This convenience fee is retained by the vendor and is not revenue to the Board. The minimum fee is \$1.

8. How to Charge a Payment on the Internet

Go to www.boe.ca.gov and click on the tab "E-Services" at the top of the screen or on the left-hand side of the page under "Featured Services" click on "Make a Payment," then Credit Card Payments, "Payment using a Touch Tone Phone" or "Payment over the Internet"—whichever is applicable. If "Payment over the Internet" is selected, you then will click on "continue." When you enter the area for making a payment, you will be asked to provide the following information:

- Payment type
- Tax amount
- Penalty amount, if any
- Interest amount, if any
- Tax period ending date
- BOE Account number
- Daytime phone number
- Zip code for the address where your credit card bills are mailed

At the end of your transaction, you will be given a confirmation number that you should retain.

After making your payment, check the box on your return indicating you have paid with your credit card.

To learn more about the credit card payment program, visit the Board's website at www.boe.ca.gov or contact our Information Center at 800-400-7115.

Fuel Taxes Division

916-322-9669

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Board website and Member contact information:

www.boe.ca.gov

Tax Evasion Hotline

888-334-3300

Legislation

www.leginfo.ca.gov

Taxpayers' Rights Advocate

888-324-2798

www.boe.ca.gov/tra/tra.htm

