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*California Use  
Fuel Tax  
A Guide for Vendors  
and Users*

*May 2008*

*Publication No. 12 • LDA*

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## Preface

This pamphlet is designed to help you understand California's use fuel tax, which is imposed on the sale or use of certain fuels used to propel motor vehicles. It does not include information on the application of tax to diesel fuel, which is subject to the Diesel Fuel Tax, or gasoline, which is subject to the Motor Vehicle Fuel Tax.

The first chapter serves as an introduction to the use fuel tax and covers the kinds of fuel subject to the tax, the tax rates, and those persons responsible for collecting or paying the tax.

Subsequent chapters discuss in more detail the tax collecting, reporting, and payment responsibilities of fuel vendors and users and exempt uses of fuel.

For more information about the Use Fuel Tax Law, please contact the BOE's Motor Carrier Section at the address below, or call 916-322-9669. Staff will be glad to answer your questions. General questions regarding the sales and use tax should be directed to the BOE's Taxpayer Information Section at 800-400-7115. You can also go online to learn more. Go to [www.boe.ca.gov](http://www.boe.ca.gov).

We welcome your suggestions for improving this or any of the BOE's other pamphlets. Please send your suggestions to:

Motor Carrier Section  
State Board of Equalization  
450 N Street MIC 65  
P.O. Box 942879  
Sacramento, CA 94279-0065

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*Note: This pamphlet summarizes the law and applicable regulations in effect when the pamphlet was written, as noted on the cover. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this pamphlet and the law, the latter is controlling.*



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# 1. Use Fuel Tax Overview

Use fuel tax is imposed on the **use** of certain fuels, not on their sale or distribution. Use fuel taxes provide revenue for planning, constructing and maintaining California's publicly funded roadways and public mass transit systems.

The following questions and answers discuss the types of fuel subject to the use fuel tax, those persons responsible for collecting and reporting the tax, the circumstances under which the fuels are taxable, and the rate at which the tax is imposed. You can obtain more details on these topics from the Use Fuel Tax Law and various regulations (see page 19).

## What fuels are subject to use fuel tax?

In general, fuel is subject to use fuel tax if it is:

- Used in an internal combustion engine to propel a motor vehicle on a highway in California; or
- Placed in a container on the vehicle, such as a fuel tank, from which fuel is supplied to run the vehicle on a highway. Fuel placed into containers not connected to the fuel system (for example, auxiliary tanks, drums or jerry cans) may be subject to tax if the fuel is intended for operating the vehicle on a highway.

**Exclusions.** The Use Fuel Tax Law specifically excludes from the use fuel tax:

- Those fuels (primarily gasoline) subject to the motor vehicle fuel tax (MVFT)
- Diesel fuel, which is subject to the diesel fuel tax
- Fuel not used on highways
- Fuel manufactured and used for racing vehicles on racetracks

To determine if the fuel that you sell or use is subject to the use fuel tax, you should check the following lists:

- **Subject to Use Fuel Tax**

- Liquefied petroleum gas (LPG, Propane, Butane)
- Liquid and compressed natural gas (LNG, CNG)
- Kerosene
- Alcohol fuels (ethanol, methanol)
- Blended alcohol fuels with less than 15% gasoline
- Distillate
- Stove oil

- **Not Subject to Use Fuel Tax**

- *Diesel fuel subject to the Diesel Fuel Tax*

- *Fuel Subject to the Motor Vehicle Fuel Tax*

- Gasoline

- Aviation gasoline

- Blended alcohol fuels with more than 15% gasoline

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*Note*  
In this pamphlet, the term *fuel*, unless otherwise noted, refers to products subject to the use fuel tax.

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*Fuel for Nonhighway Use*

Marine bunker fuel, marine gas, and marine diesel oil  
Atmospheric and light cycle oil  
Pipeline transmix

*Please note:* Fuels intended for nonhighway use which, through a blending or other process, become suitable for use on a highway, are subject to use fuel tax. *Exception:* Kerosene, distillate, or stove oil, when not used to propel a motor vehicle, are not subject to the use fuel tax.

If you sell or use a product not listed in this section, please contact the BOE's Motor Carrier Section to determine whether it is subject to use fuel tax.

**How are the terms  
"highway" and  
"motor vehicle"  
defined?**

Under the Use Fuel Tax Law, the terms *highway* and *motor vehicle* are broadly defined.

**Highway.** A highway is any road inside California that is publicly maintained and open to the public for motor vehicle travel. Roads that qualify as highways include both interstate freeways and publicly maintained surface streets. A road within a federal area such as a national forest or military reservation also qualifies as a highway provided it is publicly maintained and open to the public.

Roads that do *not* qualify as highways include

- A road within a national or state forest, such as a logging road, that is privately constructed or maintained
- A road in a federal area that is restricted from public use
- A publicly maintained or constructed roadway that is not open to public vehicular use, for example, a bike path, a freeway under construction, or a street closed for repairs

**Motor vehicle.** A motor vehicle is any self-propelled vehicle *operated or suitable for operation on a highway*. Examples of motor vehicles are automobiles, pickup trucks, and tractor-trailer units. Also included in the category of motor vehicles are forklifts and rubber-tired agricultural or construction equipment which are capable of being driven on highways.

**Not included** in the term motor vehicle are:

- Vehicles that run on stationary rails
- Tracklaying equipment, such as bulldozers

**Am I required to  
register as a vendor  
or user of use fuel?**

Vendors and users, as described in this section, are required to either collect or pay the tax. You may qualify as a vendor, a user, or a vendor and a user.

A **vendor** is defined as any person who sells and delivers fuel into the fuel tank of a motor vehicle. A vendor is required to obtain a vendor permit, collect use fuel tax, and remit it to the Board.

A vendor can be a wholesaler, a retailer such as a service station operator, or a user who sells fuel to other users. Persons who sell fuel through a key or card lock facility or self-service pump are also considered vendors.

It is important to note that not all fuel retailers qualify as vendors. Persons who pump fuel exclusively into vehicles registered for the flat rate annual tax are not vendors. (See page 15 for a discussion of this topic.) Likewise, persons selling fuel only for nonvehicular use, such as retailers who exclusively sell fuel for home heating, cooking, or lighting, are not vendors.

A *user* is any person who uses fuel to propel a motor vehicle on a highway. This includes owners, operators, lessors, or lessees of any vehicle that is operated on a highway. With the exceptions discussed on page 9, users are generally required to obtain a permit, report all taxable use of fuel, and, if necessary, pay use fuel tax to the BOE.

A user does not include a person who uses fuel exclusively for nonvehicular uses such as heating, lighting, or cooking.

**Note—interstate users:** You may qualify for an IFTA (International Fuel Tax Agreement) license and may not need to apply for a use fuel permit. IFTA is an agreement among U.S. states and Canadian provinces that simplifies fuel tax reporting by interstate motor carriers. For more information on IFTA, you should obtain a copy of publication 50, *California IFTA: A Guide to the International Fuel Tax Agreement*, and publication 50-A, *California IFTA: An Introduction to the International Fuel Tax Agreement*. To obtain a copy of either publication, call the BOE's Motor Carrier Section at 916-445-5022. Or go online to [www.boe.ca.gov](http://www.boe.ca.gov).

**Vendor and user.** It is possible to be both a vendor and a user. For example, if you are a wholesaler of fuel and you make bulk sales to end users, retail sales to truck drivers, and also use fuel in your own delivery trucks, you would be required to obtain separate permits as a vendor and a user. If you did not obtain the permits and report and pay the tax, you would be subject to interest and penalties on any unpaid tax. To ensure you are correctly registered, you should carefully review your sales or purchases to determine which permits you may need to obtain.

See Chapter 2, Vendors, or Chapter 3, Users, for information on how to obtain a permit.

If you are required to hold a permit and do not obtain one, you are subject to fines and penalties, including possible imprisonment. These fines and penalties apply whether you are located in the state or are driving into California from another state.

The tax rate depends on the type of fuel:

**Alcohol Fuels (ethanol, methanol, and blended alcohol fuel with less than 15 percent gasoline):** nine cents (\$0.09) per gallon.

**Liquefied Petroleum Gas (LPG) and Liquid Natural Gas (LNG):** six cents (\$0.06) per gallon.

**Compressed Natural Gas (CNG):** seven cents (\$0.07) per 100 cubic feet measured at standard pressure and temperature (14.73 pounds per square inch at 60 degrees Fahrenheit).

**If I qualify as a vendor or user, how do I obtain a permit?**

**What is the rate of use fuel tax?**

*Some fuel uses qualify for a reduced tax rate (partial exemption). See page 13 for more information.*

**How do I obtain returns?**

Once you are registered, we will send returns to you on a monthly, quarterly, or annual basis. You must file your return(s) by the end of the month following each reporting period. You must file a return even if you have no sales or use to report. If you do not file by the due date, you are subject to penalty and interest charges. Continued failure to file can result in the suspension or revocation of your license.

**If I sell fuel, are my sales subject to sales tax?**

If you sell any type of fuel to customers, your sales are generally subject to sales tax and you would qualify as a retailer. As a retailer, you must obtain a seller's permit in addition to your use fuel permit and you must report sales tax to the BOE.

**Prepaid sales tax**

For sales of certain fuels, you may also be required to:

- Charge prepaid sales on your sales to wholesalers or vendors, or
- Pay prepaid sales tax to your suppliers.

For more information on prepaid sales tax, please obtain a copy of publication 82, *Prepaid Sales Tax and Sales of Fuel*. You can call our Taxpayer Information Section for a copy, or you can go online to [www.boe.ca.gov](http://www.boe.ca.gov).

If you have any questions about the application of sales tax, you can call our Taxpayer Information Section at 800-400-7115.

## 2. Vendors

*You are considered a vendor if you sell fuel that you place into the fuel tank of a motor vehicle. Wholesalers, fuel retailers such as service stations, and users who sell fuel can all qualify as vendors. Vendors are required to obtain a Vendor Use Fuel Tax Permit and file returns with the BOE. Vendors who use fuel in motor vehicles must also obtain a user permit. This chapter discusses how to obtain a vendor permit, how tax applies to your transactions, and your responsibilities as a vendor. It also discusses how to take a credit for bad debts.*

### How do I obtain a Vendor Use Fuel Tax Permit?

You must complete form BOE-400-FTA, *California Fuel Taxes/Fees Application*. To obtain a copy, call the Motor Carrier Section or go online. Our telephone number is 916-322-9669. The website address for downloading the application is [www.boe.ca.gov](http://www.boe.ca.gov). The form can be filled out online, but you must print the form out and mail it in.

After your application has been verified, you will be issued a permit.

*Note:*

If you have more than one location, you may obtain a permit for each location.

There is no fee for permits, but the BOE may require a security deposit.

### What kind of information does the application ask for?

The application asks for general information about your business, such as the type of ownership, names of owners or corporate officers, business locations and types of fuel used or sold. You will be asked to provide your social security number. The application must be signed by the owners or corporate officers, who must also certify that the information is correct.

If your business is a corporation that is not publicly traded, you must also provide a copy of your articles of incorporation and the names, addresses, and signatures of all corporate officers. If your business is incorporated in another state, you must provide a certificate of qualification from the office of the Secretary of State.

### Can I keep my permit even if I no longer sell or use fuel?

No. You may retain your permit as long as you are actively engaged in making sales or until it is cancelled, suspended, or revoked by the Board. If you are no longer active as a vendor, you are required to return your permit to the BOE.

### What are my responsibilities as the holder of a Vendor Use Fuel Tax Permit?

As the holder of a vendor use fuel tax permit, you are responsible for

- Collecting use fuel tax from your customers when you pump fuel into the tanks of their motor vehicles, or when you sell it through card or key-lock facilities. You are liable for the tax due even if you fail to collect it from your customers.
- Filing quarterly returns with the BOE. (The BOE may require you to file returns on another basis.) The *Vendor Use Fuel Tax Return*, (form BOE-501-AV), will be sent to you by the BOE after you have registered. Returns are due on or before the last day of the calendar month following each reporting period and must be filed even if you have had no sales. If you do not file the return by the due date, you will be liable for interest and penalty charges. The penalty is 10 percent on the amount that should have been reported. If your failure to file is due to fraud, you are subject to a 25 percent penalty in addition to the 10 percent penalty.
- Remitting tax to the BOE. You are considered to have collected the tax at the time of sale. The proper amount of tax due must be submitted with your tax return.
- Giving receipts to your customers. The receipt must have your name and address, the date of the sale, the gallons and price of the fuel sold, the use fuel tax collected, and the total of the sale.
- Obtaining from your customer a properly completed certificate in which the customer certifies that he or she is entitled to purchase fuel without paying use fuel tax at the time of purchase.
- Keeping adequate records, including documentation for nontaxable sales that are not covered by BOE authorizations. See authorization to sell fuel without collecting use fuel tax (BOE-108-B).

It is important to remember that if you do not meet these responsibilities, the BOE can revoke or suspend your permit.

### What records must I keep?

As a vendor, you must keep complete records of all purchases, inventories, sales or other dispositions of fuel, including fuel inventory that you used for business or personal reasons. Your records must include all:

- Purchases and sales receipts
- Tank gaugings, meter readings, and inventories
- Contracts, purchase orders, and BOE authorizations
- Records of nontaxable sales not covered by BOE authorizations

You must keep and maintain these records for four years unless the BOE authorizes their destruction.

**AUTHORIZATION TO SELL FUEL  
WITHOUT COLLECTING USE FUEL TAX**

VENDOR NAME		VENDOR PERMIT NUMBER
BUSINESS ADDRESS <i>(number and street)</i>		TELEPHONE NUMBER
CITY	STATE	ZIP CODE
USER NAME		USER PERMIT NUMBER
BUSINESS ADDRESS <i>(number and street)</i>		TELEPHONE NUMBER
CITY	STATE	ZIP CODE

As permitted by Sections 8607 and 8653 of the Revenue and Taxation Code, and Use Fuel Tax Regulation 1320, this document authorizes the above-named fuel vendor to sell and deliver fuel into the fuel supply tanks of the users named below. The fuel must be delivered into the vehicles' supply tanks at the location where the vehicles are operated exclusively off the highway by the fuel user whose signature is found on the certificate below. This authorization to sell fuel without collecting use fuel tax is valid only when the user has certified, by signing the certificate, his or her eligibility to purchase fuel without payment of tax to the vendor.

AUTHORIZED SIGNATURE <i>(Board of Equalization representative)</i>	DATE
TITLE	

**CERTIFICATE OF USER**

I hereby certify that:

- I hold a valid California Use Fuel Tax User permit with the number shown above.
- All fuel I will purchase from the above-named vendor, delivered by the vendor into my vehicle fuel tanks, will be used to propel the vehicles off-highway in the state of California.
- I have provided the Board with documentation evidencing my off-highway use of fuel.

USER NAME <i>(name of individual, corporation or partnership)</i>	DATE
AUTHORIZED SIGNATURE AND TITLE <i>(owner, officer, manager, partner)</i>	

## When may I make a sale of fuel without collecting the use fuel tax?

### *Sales to Users Providing Board Authorizations*

Generally, you must collect use fuel tax on fuel you deliver directly into the fuel tanks of motor vehicles, regardless of their location.

However, you are not required to collect use fuel tax on the following transactions:

- Sales of fuel to a user who provides you with a certificate which indicates that the user may purchase fuel without paying tax (see below, “Sales to Users Providing Board Authorizations” )
- Sales of fuel you pump into containers other than fuel tanks of motor vehicles, including bulk storage tanks, equipment not considered to be motor vehicles, and containers such as fuel cans, drums, or barbecue propane tanks
- Sales to the U.S. Government (see below)
- Sales to users who have paid the annual flat rate tax (see below)

You are not required to collect use fuel tax from users who present you with a BOE authorization. Such authorizations are issued to users whose vehicles are used:

- Exclusively off-highway. The fuel must be delivered directly into the users’ vehicle fuel tanks at the location where the vehicles are operated (see page 11).
- In interstate commerce, when the user would consistently pay more tax to vendors than is due on the vehicle’s overall use (see page 11).
- To provide transit services eligible for the reduced use fuel tax rate (see page 12).

### *Sales to the U.S. Government*

You must retain all BOE authorizations in your records, and list sales made to users holding BOE authorizations on your vendor use fuel tax return.

Fuel sold for use by the U.S. Government or one of its agencies or instrumentalities is not subject to use fuel tax. Fuel you pump into the tank of a U.S. Government vehicle is exempt only if purchased with a credit card belonging to the government. If the purchaser pays for the fuel with cash or uses a personal credit card, the fuel is subject to tax.

You must report these exempt sales on your vendor returns.

### *Sales to Users Who Pay the Annual Flat Rate Tax*

You may make nontaxable sales of LPG, LNG, and CNG to users who have paid the annual flat rate tax, provided the vehicle has a current flat rate decal attached. You should document all such sales by recording on your receipt the taxpayer’s permit and decal numbers, and the number of gallons sold. You are required to list the total number of tax-exempt gallons sold on your vendor return.

### How should I report and document nontaxable sales?

You are required to report all nontaxable sales on your vendor return.

To support nontaxable sales reported on your returns, you should retain the following documents:

- Copies of the sales receipts issued to the customers
- Certificates provided to you by your customers for the purchase of tax-exempt fuel

The receipts should have not only your name and address, the name of the purchaser, date of sale, gallons, price, tax and total, but also a statement or code indicating the reason the sale is not taxable. For fuel sales of less than 250 gallons that you pump into containers other than motor vehicle fuel tanks, you should note the type of container into which you place the fuel (for example, storage tank, bulldozer fuel tank, drum). The notation may be either a description or a machine code. If a receipt covers multiple deliveries of fuel when only some were taxable, you must indicate the exempt deliveries.

As noted above, on receipts for fuel pumped into vehicles registered for the annual flat-rate fuel tax, you should note the tax decal number and vehicle license number.

### Must I still pay tax to the state if the sale is a bad debt?

You must report and remit tax to the BOE on all taxable sales of fuel. However, you may claim a credit for an account that qualifies as a bad debt if you have (1) previously reported use fuel tax from the sale and (2) written off the account as a bad debt for income tax purposes. To take this credit, you must complete the following steps:

- You must notify the BOE of the delinquency by listing it on Schedule D of your vendor return and attaching a completed form BOE-120, *Notice of Delinquent Account*.
- If you have notified the BOE of the delinquency (as described above) and written off the account as a bad debt for income tax purposes, you can claim a credit for the tax paid on *Schedule B* of your vendor return.

Generally, you will claim your credit on a return filed after you have notified the BOE of the bad debt. However, you may notify the BOE of the delinquency and claim a bad debt credit on the same return. You must generally claim your credit within three years of the due date of the return for the period in which the original sale occurred.

You can claim a credit only for the amount of tax that applies to the unpaid portion of the account. If, after claiming a credit for tax paid on a bad debt, you collect any of the tax due on the original sale, you must report that amount to the BOE. It must be listed on *Schedule C* of the first return you file after collecting the tax.

For more information on reporting delinquent accounts and claiming credits for bad debts, please contact the Motor Carrier Section at 916-322-9669.

## 3. Users

*You qualify as a user of fuel if you are an owner, operator, lessor or lessee of a motor vehicle that is propelled on a highway by fuel. If you qualify as a user, you may be responsible for obtaining a permit, paying use fuel tax, and filing returns with the BOE. You are not a user if you use fuel solely for nonvehicular purpose such as heating, cooking, or lighting.*

*In addition to general information for users, this chapter provides information on registration requirements and on exempt uses of fuel. If you are selling a vehicle that has been registered under a use fuel tax permit, you should read the information beginning on page 17.*

### Which “users” must register for a permit?

In general, you qualify as a “user” and must register for a permit if you own, operate, or lease a motor vehicle, including equipment such as a forklift or tractor, that is

- Powered by liquefied petroleum gas, liquefied or compressed natural gas, kerosene, or certain alcohol fuels, and
- Operated on a highway in California.

**Exceptions.** You are not required to obtain a permit if your only use of fuel in this state is to operate:

- (1) A vehicle licensed under the International Fuel Tax Agreement (IFTA). See page 3.
- (2) A vehicle registered out of state *if* the vehicle has less than three axles and does not have a gross vehicle weight over 26,000 pounds (11,797 kilograms); or, when used in combination, does not have a combined or registered gross vehicle weight over 26,000 pounds (11,797 kilograms).\*
- (3) A privately operated passenger motor vehicle. Included in this class of vehicles are pickup trucks when used like an automobile for the private transportation of people.\*
- (4) A recreational vehicle. Recreational vehicles include motor homes, pickup trucks with attached campers, and buses when used exclusively for personal pleasure.\*
- (5) A commercial vehicle, including a pickup truck, with an unladen weight of less than 7,000 pounds.\*
- (6) A privately operated two-axle truck that you have rented or leased for a period of 30 days or less.\*

*\* Note—you are required to obtain a use fuel permit (or a four-day trip permit) if the vehicle is fueled from bulk storage.*

### What permit do I need?

As a user, you must obtain one of the following permits to operate your vehicle on a highway in California:

- A California User Use Fuel Tax Permit, or
- A California Fuel trip permit (designed for occasional trips into California)

### **User Use Fuel Tax Permit**

You may apply in person or register by mail. You can place multiple vehicles on the same permit. There is no permit fee for this permit.

To apply, please complete form BOE-400-FTA, *California Fuel Taxes/Fees Application*. You may call the Motor Carrier Section at 916-322-9669 or go online to obtain a copy of the application at [www.boe.ca.gov](http://www.boe.ca.gov). The form can be filled out online, but you must print the form out and mail it in.

After your application has been verified, you will be issued a permit. You may keep your permit as long as you qualify as a user, or until it is revoked or suspended by the BOE. If you no longer operate a vehicle that requires a use fuel tax permit, you must return your permit to the BOE.

The application asks for general information about your business, such as the type of ownership, names of owners or corporate officers, business locations and types of fuel uses or sold. You will be asked to provide your social security number. The application must be signed by the owners or corporate officers, who must also certify that the information is correct.

If your business is a corporation that isn't publicly traded, you must also provide a copy of your articles of incorporation from the California Secretary of State. You must also provide the names, addresses, and signatures of all corporate officers. If your business is incorporated in another state, you must provide a certificate of qualification from the office of the Secretary of State. You may visit the Secretary of State website at [www.sos.ca.gov](http://www.sos.ca.gov) for more information.

### **California Fuel Trip Permit**

You may obtain a California Fuel Trip Permit from commercial permit services, some truck stops, by mail from our Motor Carrier Section, or in person at commercial DMV field offices (visit [www.dmv.ca.gov](http://www.dmv.ca.gov) to locate a DMV field office). Commercial permit services and truck stops may add a service charge to the basic cost of the permit, which is \$30.

The permit is issued for specific dates and is invalid before or after those dates.

As the holder of a user use fuel tax permit, you must

- Pay tax to your fuel vendor, provided the vendor pumps the fuel directly into your motor vehicle fuel tank or you buy it from a card or key-lock facility.
- File tax returns that report the total gallons of fuel placed in your vehicle's fuel tank, including fuel taken from bulk storage. Gallonage should be reported on the basis of the volume without adjustment for temperature fluctuations.
- Remit tax to the BOE. You must pay any tax you owe when you file your return. If you have paid tax to vendors in excess of the amount due, you may claim a credit for overpaid tax.

**What are my responsibilities as the holder of a user use fuel tax permit?**

- Pay tax directly to the BOE, if you purchase fuel for a taxable use and do not pay tax at the time of purchase. This applies to your purchases of fuel in bulk quantities or purchases of fuel dispensed by the vendor into containers other than motor vehicle fuel tanks.
- Provide to your fuel vendor the proper certification for purchasing fuel tax exempt.
- Inform the BOE when you sell or transfer any vehicles registered for the use fuel tax.
- Keep and maintain adequate records.

If you do not fulfill these responsibilities, the BOE may suspend or revoke your permit.

### **What records must I keep?**

You should keep all receipts, invoices and other pertinent documents relating to your purchase and use of fuel. If you are making interstate trips, your records should include your trip log. If you are using fuel from bulk storage, you should keep a log or other records showing the amounts withdrawn and the vehicles into which the fuel is pumped. You must keep and maintain these records for four years unless the BOE authorizes you to dispose of them.

### **Must I always pay the full rate of use fuel tax?**

Yes, unless you qualify for a reduced rate as the operator of :

- A public or private transit company that provides transportation services to students or the public, or
- A vehicle powered by LPG, LNG, or CNG, and you have elected to pay the annual flat-rate fuel tax.

Read on for more information on reduced rates.

### **Are any fuel uses exempt from tax?**

Yes. The following sections contain information on the exempt uses of fuel in a vehicle. If you have questions about any particular exemption, please contact the Motor Carrier Section at 916-322-9669.

#### *Off-highway Use*

Fuel used to operate vehicles off-highway is exempt from use fuel tax. "Off-highway" includes private property, any road or area which is closed to public use, or any place which does not fall within the definition of a highway (see page 2).

#### *Fuel Used Outside California*

If you purchase fuel in California for use both inside and outside the state, you are not liable for tax on the fuel used outside the state. You may claim a credit for the fuel used outside California on your user return.

#### *Vehicles Operating on U.S. Department of Agriculture Highways*

Fuel used in motor vehicles operating on highways under the jurisdiction of the U.S. Department of Agriculture (USDA) is exempt from tax provided the user pays or contributes to the cost of constructing or maintaining the highway under an agreement with the USDA. An example of such highways are logging roads within national forests.

If you are a user eligible for this exemption, you are required to pay the use fuel tax when you purchase the fuel, and to claim a credit on your use fuel tax return. To support your claim, you must keep records that describe the highway, the route traveled, the amounts paid for construction or maintenance

***Vehicle Power  
Takeoff Equipment***

of the highway, and the gallons of fuel used while traveling on the highway. You must also keep a copy of your USDA agreement.

Fuel used in a vehicle for a purpose other than propelling it on a highway is exempt from tax. This includes fuel used to operate power takeoff equipment.

If you operate vehicles having power takeoff equipment, you may claim a deduction on your use fuel tax return for the fuel used to operate the equipment. For information on how to calculate the deduction, please contact the BOE's Motor Carrier Section in Sacramento.

***Agricultural and  
Construction  
Equipment***

Fuel used in agricultural vehicles or construction equipment is exempt from the tax when the equipment is

- Exempt from registration under the Motor Vehicle Code, and
- Operated only incidentally on a highway (see note below).

Examples of such equipment are tractors, swathers, and graders with rubber tires. Equipment running on tracks, such as bulldozers, does not qualify as a motor vehicle. Fuel used in such vehicles is always exempt from tax.

*Note:* Incidental operation means movement between farms or construction sites located close to one another.

***Public Agency  
Vehicles Operating on  
Military Reservations***

Fuel used in any motor vehicles owned by a county, city, district, or other political subdivision or public agency is exempt from tax when the vehicle is operated within a military reservation on roads that are constructed and maintained by the U.S. Government. When any such vehicle is also operated on a public highway in a continuous trip, tax is due on the portion of fuel used on the public highway.

**Are any uses  
eligible for a re-  
duced tax rate (a  
partial exemption)?**

***Transit operators***

Yes. As noted on page 12, the Use Fuel Tax Law provides a partial exemption from tax for certain operators of transit systems. It also allows vehicle owners or operators to pay an annual flat-rate fuel tax. These partial exemptions are explained in more detail below.

Certain public and private operators of transit services are eligible for a reduced rate of use fuel tax at one cent (\$0.01) per gallon, instead of the full rate listed on page 3. Qualifying operators and services include

- Any public entity such as a transit district or authority of city that owns and operates a transit system. The exemption applies whether the public entity provides the service itself or through a wholly-owned nonprofit corporation.
- Any private entity providing transportation service under a contract with a public agency authorized to provide public transportation services. To qualify, the contract must have been entered into after September 26, 1978, and cannot be a general franchise agreement. The reduced rate applies only to that fuel used to provide the contract services.

- Any passenger stage corporation engaging in certain local transit service that is subject to the jurisdiction of the Public Utilities Commission. A “passenger stage corporation” is defined as any person engaged as a common carrier for compensation, in the ownership, control, operation or management of a passenger stage over any public highway in this state between fixed terminals or over a regular route. To qualify, the corporation must be providing the service for hire, compensation, or profit. The service must be exclusively operated, located in urban or suburban areas or between cities in close proximity. In addition, one-way route mileage cannot exceed 50 miles.
- Any common carrier of passengers not qualifying as a passenger stage corporation that operates exclusively within the limits of a single city between fixed terminals or over a regular route. To qualify, 98 percent of the total route mileage must be located within the limits of a single city.
- Any school or community college district, or county superintendent of schools that owns, leases, or operates buses to transport students to and from school or for school related activities.
- Any private company providing transportation for students under contract with a school or community college district, or county superintendent of schools. The contract must have been entered into after October 1, 1984, and the partial exemption applies only to the fuel used to provide services covered by the contract.

*Note:* Charter-party carriers of passengers, as defined in section 5360 of the Public Utilities Code, are not considered transit operators and do not qualify for the reduced use fuel tax rate described above. Nor does the reduced rate apply to carriers that provide the transportation services described in subdivisions (a) and (e) of section 5353 of the Public Utility Code, if such transportation service is rendered as contract carrier and not as common carrier of passengers.

Transit operators qualifying for the exemption must keep all contracts and other relevant documents that will support their claimed exemption. Operators who provide both nonexempt and exempt services must keep records detailed enough to support any claimed exempt fuel use.

If an operator will make consistent overpayments of use fuel tax to his or her suppliers because of the exemption, the operator may obtain authorization from the BOE to purchase fuel without the use fuel tax. To make a tax exempt purchase, the operator must issue a copy of a BOE authorization to the supplier. The operator would then pay any tax liability when filing the use fuel tax return, at the rate of one cent per gallon for exempt use and the full tax rate for any nonexempt use. See *Authorization to Sell fuel Without Collecting Use Fuel Tax* (BOE-108-C).

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**Annual flat rate tax  
(vehicles powered  
by LPG, LNG, or  
CNG)**

As an alternative to paying use fuel tax to vendors, an operator of a vehicle powered by LPG, LNG, or CNG may pay an annual flat rate tax. The tax is based on the type and weight of the vehicle:

<b>Vehicle Type and Size</b>	<b>Fees</b>
All passenger vehicles and vehicles with automobile license plates	\$ 36
Other vehicles with an unladen weight of:	
4,000 lbs. or less	\$ 36
4,001 lbs. to 8,000 lbs.	\$ 72
8,001 lbs. to 12,000 lbs.	\$120
12,001 lbs. or more	\$168

If you qualify for the annual flat rate tax, you must obtain a use fuel permit from the BOE and apply to make payments as an annual flat rate taxpayer. After you have filed the application and paid the tax, the BOE will issue a decal that you must affix to your vehicle. The decal cannot be transferred to another vehicle. The tax covers the twelve month period beginning with the month in which the payment is due. For example, an annual tax due in April covers the period from April 1 through the following March 31.

When an owner or operator elects to pay the annual flat rate fuel tax on more than one vehicle, the owner or operator may request that the BOE prorate the tax due on a vehicle added during the annual period, so that all vehicles have the same annual period. In the year a vehicle is added, the annual flat rate fuel tax for that vehicle is calculated by dividing the fee by 12 and multiplying the resulting amount by the number of months remaining before the beginning of the next annual period. Certain annual taxpayers—for example those who make bulk purchases of fuel—may be required to file annual returns with the BOE.

Registration of a vehicle for the annual flat rate tax is not transferable. If you sell or transfer a vehicle to a new owner, you must inform the BOE within ten days of the transfer date.

If you have questions about whether your fuel use is exempt from tax, please contact the Motor Carrier Section in Sacramento.

Your return provides lines for calculating and claiming a credit for overpaid tax. To obtain a refund, you should complete and file your return and attach a request for a refund to it.

Refunds will be processed by the BOE as soon as possible. You should keep adequate records to support your credit if questions occur. If you have questions about the refund of overpaid taxes reported on your return, please contact the Motor Carrier Section at 916-322-9669.

**How do I claim a  
credit or refund for  
overpayment of tax  
to vendors?**

BOE-108-C (4-96)

**AUTHORIZATION TO SELL FUEL  
WITHOUT COLLECTING USE FUEL TAX**

STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

VENDOR NAME		VENDOR PERMIT NUMBER
BUSINESS ADDRESS ( <i>number and street</i> )		TELEPHONE NUMBER
CITY	STATE	ZIP CODE
USER NAME		USER PERMIT NUMBER
BUSINESS ADDRESS ( <i>number and street</i> )		TELEPHONE NUMBER
CITY	STATE	ZIP CODE

As permitted by Sections 8655 and 8732 of the Revenue and Taxation Code, and Use Fuel Tax Regulation 1319, this document authorizes the above-named fuel vendor to sell and deliver fuel into the fuel supply tanks of certain vehicles without collecting California use fuel tax. The vehicles must be operated by a local transit operator or a school district, community college district, county superintendent of schools, or contract carrier thereof. This authorization to sell fuel without collecting use fuel tax is valid only when the user has certified, by signing the certificate, his or her eligibility to purchase fuel without payment of tax to the vendor.

AUTHORIZED SIGNATURE ( <i>Board of Equalization representative</i> )	DATE
TITLE	

**CERTIFICATE OF USER**

I hereby certify that:

- I hold a valid California Use Fuel Tax User permit with the number shown above.
- All fuel I will purchase from the above-named vendor, delivered by the vendor into my vehicle fuel tanks, will be used to propel the vehicles of a local transit or pupil transportation service.
- I agree to report and pay a tax of one cent on each gallon of use fuel used in the vehicles by a local transit or pupil transportation service. I agree that all other fuel used to operate motor vehicles in operations other than in a local transit or pupil transportation service will be reported by me and taxed at the full rate.

USER NAME ( <i>name of individual, corporation or partnership</i> )	DATE
AUTHORIZED SIGNATURE AND TITLE ( <i>owner, officer, manager, partner</i> )	

### When a vehicle is leased, who is responsible for reporting tax?

Normally, you must report and pay tax as a user if, by the terms of the lease contract, you are responsible for purchasing or supplying fuel for the vehicle. If the contract gives the lessor the responsibility, he or she would be required to register as the user.

Under certain conditions, however, a lessee is considered to be a user, even though the lessor has the responsibility for purchasing or supplying the fuel. Such lessees are called “qualified users.” Usually, qualified users are trucking companies that lease vehicles from owner-operators and have control over the fuel purchased and used by the owner-operator lessors. To be considered a qualified user, a lessee must:

- Hold a user use fuel tax permit and operate under a certificate of public convenience and necessity issued by the California Public Utilities Commission or a similar authorization issued by the Interstate Commerce Commission
- Maintain records that adequately document all the movement of the leased vehicle within this state
- Agree to be responsible for reporting and paying all use fuel tax incurred by the lessor when he or she operates the vehicle on behalf of the lessee
- Inform the lessors of their responsibilities under the qualified user’s program

In addition, the lessor (owner-operator) must:

- Carry the lease agreement in the leased vehicle at all times
- Give the lessee’s name and account number when making credit purchases of fuel
- Use the vehicle only for the lessee’s operation.

If the lessor is operating the vehicle for his or her own business or is operating another vehicle within the state, he or she is a user and must obtain a user permit.

The qualified user program does not apply to trip leases or to leases of less than 31 days.

You must apply to the BOE for qualified user status. In some cases, however, the BOE may consider you a qualified user “in fact” if you meet all the above criteria. In either case, the BOE will send you a letter notifying you of your status and outlining your responsibilities as a qualified user.

### Must I inform the BOE when I sell or transfer a use fuel vehicle?

Yes, if the vehicle must be registered under a use fuel tax permit. As explained on the next page, you must obtain a tax clearance from the BOE before the Department of Motor Vehicles (DMV) will transfer ownership.

The BOE will issue the clearance only after you have paid all use fuel tax due from the operation of the vehicle or you have posted security adequate to cover any tax due.

### **How do I obtain a tax clearance if I transfer ownership of a vehicle?**

To obtain a clearance, you must file form BOE-329, *Request for Certificate of Excise Tax Clearance*, with the Motor Carrier Section in Sacramento. (For a copy, call the Motor Carrier Section at 916-322-9669 or download a copy from our website at [www.boe.ca.gov](http://www.boe.ca.gov).) You may file the form by mail or in person.

The following information must accompany the *Request*:

- Proof of registration. This proof can include a current registration, certificate of ownership, or, if the vehicle is from out-of-state, a certificate of title or origin.
- Selling price and date of sale. You must submit a bill of sale signed by both you and the purchaser and a purchase contract or sales agreement.

If you are leasing the vehicle, you must also provide a copy of the lease agreement. This will enable the BOE to determine whether you or the lessor is the user.

If the vehicle has been out of operation, you or your agent must complete and sign form BOE-28, *Certificate as to the Use of Equipment* (for a copy, call the Motor Carrier Section at 916-322-9669 or download a copy from our website at [www.boe.ca.gov](http://www.boe.ca.gov)). On repossessed vehicles, you should contact the Motor Carrier Section about other documentation which may be needed. You should submit copies of any required documents, not originals.

To help us process your request more quickly, you should provide all the needed information at the time you apply.

Once the BOE has established that you have paid all use fuel tax or you have adequate security for any unpaid tax, you will be issued a form BOE-1138, *Certificate of Excise Tax Clearance*. You must submit this certificate to DMV to complete the transfer or change of registration.

If you have any questions about the clearance process, you should contact the Motor Carrier Section.

## 6. For More Information

### For Questions Regarding Your Account

The BOE's Motor Carrier Section staff provides many services to persons registered under the Use Fuel Tax Law. Please contact them at 916-322-9669 (or fax 916-323-9352) when you need:

- Assistance with completing returns and other forms
- Copies of the Use Fuel Tax Law and regulations
- Information about how to apply the Use Fuel Tax Law
- A use fuel tax clearance

### Written Tax Advice

For your protection, it is best to get tax advice in writing. If you write to the BOE for advice regarding the taxability of a transaction and the BOE's written reply is incorrect, you may be relieved of tax, penalty, or interest charges. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction. You should send your request to

State Board of Equalization, MIC:65  
Motor Carrier Section  
P.O. Box 942879  
Sacramento, CA 94279-0065

### Internet

You can visit our website to download forms and publications, such as the Use Fuel Tax Law and use fuel regulations. Our website address is [www.boe.ca.gov](http://www.boe.ca.gov).

### Taxpayer Information Section

If you have a general tax question or would like to order a publication, please call our Taxpayer Information Section and talk to a customer service representative. Representatives are available from 8:00 a.m. to 5:00 p.m., Monday-Friday, excluding state holidays. Please call:

**800-400-7115**

For TDD assistance (telephone device for the deaf), please call:

From TDD phones:  
800-735-2929

From voice phones.  
800-735-2922

### Tax Evasion Hotline

You can call toll-free to report suspected tax evasion. Call 888-334-3300 during working hours to speak to a representative.

### Faxback Service

Selected forms and notices are available on our automated faxback service. Call 800-400-7115 at any time and choose the fax option.

### Helpful Publications and Regulations

The following regulations and publications may be of interest. To order any of these items, please call our Taxpayer Information Section.

#### Regulations

- 1301 Fuel
- 1302 Motor Vehicle
- 1303 Highway
- 1304 User
- 1305 Fuel Tank

- 1306 Vendor
- 1307 Vendor's Permit
- 1316 Exempt Uses of Fuel in Motor Vehicle
- 1317 Allowance of Credit of Tax Paid to Vendor
- 1318 Vendor's Liability for the Tax
- 1319 Vehicle Fuel Tank Deliveries Without Payment of Tax
- 1320 Vehicle Fuel Tank Deliveries for Off-Highway Use
- 1321 Allowances for Pumping Liquefied Petroleum Gas
- 1322 Consumption of Liquefied Petroleum Gas in Vehicles Fueled from Cargo Tanks
- 1323 Passenger Carriers — Transit Partial Exemption
- 1325 Annual Flat Rate Fuel Tax
- 1331 Return of User
- 1331.1 Privately Operated Passenger Automobiles and Small Commercial Vehicles — When User's Permit and Tax Returns Are Not Required
- 1331.2 Payment by Electronic Funds Transfer
- 1331.5 Weekly Returns and Payments of Vendor
- 1331.6 Credit for Bad Debt Losses of Vendors
- 1332 Records
- 1334 Successor's Liability
- 1335 Relief of Liability
- 4901 Record Keeping Requirements
- 4902 Relief from Liability

#### **Publications**

- 3 *California Use Fuel Tax Law* (extracted from the *Revenue and Taxation Code*)
- 50 *California IFTA: A Guide to the International Fuel Tax Agreement*
- 50-A *California IFTA: An Introduction to the International Fuel Tax Agreement*
- 82 *Prepaid Sales Tax and Sales of Fuel*

#### **Fuel Taxes Newsletter**

As a registered user or vendor, you will receive the annual Fuel Taxes Newsletter, which includes articles on the application of law to specific types of transactions, announcements regarding new and revised publications, and other articles of interest to users or vendors. The newsletter is mailed with your use fuel tax return. The latest newsletter can be downloaded from our web site at [www.boe.ca.gov](http://www.boe.ca.gov).

#### **Taxpayers' Rights Advocate Office**

If you have been unable to resolve a problem with the BOE, or if you would like to know more about your rights under the Use Fuel Tax Law, please contact the Taxpayers' Rights Advocate office for help.

Call 916-324-2798 or toll-free 888-324-2798 (FAX 916-323-3319). Or you can write to: Taxpayers' Rights Advocate, MIC: 70; State Board of Equalization; P.O. Box 942879; Sacramento CA; 94279-0070.