

# SPECIAL TAXES AND FEES

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NEWSLETTER

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### **KEEP A COPY FOR YOUR FILES**

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### **STAY INFORMED**

This newsletter is published each December. Back issues of Environmental Fees, Excise Taxes, and Fuel Taxes newsletters are available on our website.

For more information regarding the special tax and fee programs administered by the Board of Equalization (BOE), please go to [www.boe.ca.gov](http://www.boe.ca.gov). You can also sign up online to receive this newsletter at [Get BOE Updates](#).

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## New Legislation



The following is a summary of law changes enacted during the 2016 California legislative session that affect several BOE special tax and fee programs. The changes described in this article are effective January 1, 2017, unless otherwise noted.

- **Assembly Bill (AB) 1559 (Stats. 2016, Ch. 257, effective September 9, 2016)** authorizes the BOE, in the case of a disaster, to extend the time for a taxpayer or feepayer to file a tax return or report, or to pay the tax, for up to three months. Becomes operative immediately upon enactment.
- **AB 1856 (Stats. 2016, Ch. 98)** allows a taxpayer or feepayer making installment payments on an outstanding liability to file a single claim for refund to cover the period before the determination is paid in full. See related article, "[Beginning January 1, 2017, only a single claim for refund is required for installment payments made toward a billing](#)," in the "General Interest" section for more information.
- **AB 1901 (Stats. 2016, Ch. 662)** makes it a misdemeanor to possess, sell, offer to sell, buy, or offer to buy, any "unaffixed" cigarette tax stamps and authorizes the BOE to seize and destroy these stamps aggregated for reuse purposes. See [Special Notice L-482](#), "[New Law to Help Prevent Cigarette Tax Evasion](#)," issued November 2016, for further information.
- **AB 2153 (Stats. 2016, Ch. 666)** enacts the Lead-Acid Battery Recycling Act of 2016, which imposes a \$1.00 fee on manufacturers and consumers of lead-acid batteries and authorizes the retailer (dealer) to retain 1.5% of the fee as a reimbursement for collection costs. The fee imposition is effective April 1, 2017. See related article, [Lead-Acid Battery Recycling Act of 2016](#).
- **AB 2201 (Stats. 2016, Ch. 264)** reinstates expired provisions that, until January 1, 2016, allowed the BOE, under specified circumstances, to prorate the interest due on a tax or fee electronic payment made one day late where the BOE Members, meeting as a public body, found that it would be inequitable to impose interest for the entire month.
- **AB 2770 (Stats. 2016, Ch. 699)** prohibits cigarette and tobacco products tax revenues from being appropriated to the BOE for administration and enforcement of the Cigarette and Tobacco Products Licensing Act of 2003 (Licensing Act) and requires the BOE to report to the Legislature, Governor, and Department of Finance no later than January 1, 2019, and annually on January 1 thereafter, regarding the funding adequacy of the Licensing Act. Also requires a cigarette and tobacco products retailer that adds an additional retail location to renew the license for that location based on a 12-month period, beginning in the month the retailer obtained its license for its first retail location.
- **ABx2-11 (Stats. 2016, Ch. 6)** revises the Cigarette and Tobacco Products Licensing Act to increase the Cigarette and Tobacco Products Retailer's License application fee from \$100 to \$265 per location, effective June 9, 2016; and imposes an annual \$265 per location Cigarette and Tobacco Products Retailer's License renewal fee, effective January 1, 2017; and increases the Cigarette and Tobacco Products Distributor's and Wholesaler's License application fee from \$1,000 to \$1,200 per location effective June 9, 2016; and increases the annual renewal fees for Cigarette and Tobacco Products Distributor's and Wholesaler's Licenses from \$1,000 to \$1,200 per location, effective January 1, 2017. See related article, [Cigarette and tobacco products license fee increase](#), in the Cigarette and Tobacco Products section for further information.
- **Senate Bill (SB) 839 (Stats. 2016, Ch. 340)** eliminates the flat-rate hazardous waste application fee option for persons who apply for, or request, specified hazardous waste permits, variances, or waste classification determinations from the Department of Toxic Substances Control (DTSC). Also requires a person to enter into a reimbursement agreement with DTSC to reimburse DTSC the costs incurred in processing the application. The fees paid under the reimbursement agreement shall be administered and collected by DTSC rather than the BOE.
- **SB 1481 (Stats. 2016, Ch. 89)** provides cleanup language for the Prepaid Mobile Telephony Services (MTS) Surcharge Collection Act; removes the registration requirement for sellers, other than direct sellers; making de minimis prepaid MTS sales, and limits the circumstances under which a transaction is considered to be a known-address transaction. See [Special Notice L-470](#), "[Law Changes for Sellers of Prepaid Mobile Telephony Services Effective January 1, 2017](#)," issued September 2016, for further information.
- **SBX2-5 (Stats. 2016, Ch. 7)** adds a tobacco products definition to the Stop Tobacco Access to Kids Enforcement (STAKE) Act to include nicotine products, electronic nicotine or other vaporized liquid delivery devices, and any component, part, or accessory of a tobacco product, effective June 9, 2016. Additionally, for retail licensing purposes

only, it modifies the Cigarette and Tobacco Licensing Act's definition of tobacco products to the same definition now included in the STAKE Act. Effective January 1, 2017, retailers of these products are required to obtain a Cigarette and Tobacco Products Retailer's License from the BOE. See related article, [Expanded definition of a "tobacco product" requires licensing for retail sellers](#), in the Cigarette and Tobacco Products section.

## Results of November 8, 2016, General Election Propositions 56 and 64

On November 8, 2016, California voters approved Propositions 56 and 64. The following is a summary of law changes enacted by these propositions that affect BOE special tax and fee programs.

- Proposition 56**, The California Healthcare, Research and Prevention Tobacco Tax Act of 2016, increases the cigarette tax by \$2.00 per pack of 20 cigarettes with equivalent increases on other tobacco products and electronic cigarettes containing nicotine. See related article, ["Tax rate increase on cigarettes and tobacco products, and electronic cigarettes are now subject to tax."](#)
- Proposition 64**, Control, Regulate, and Tax Adult Use of Marijuana Act, establishes a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana.

Effective January 1, 2018, two taxes are imposed upon marijuana and marijuana products: 1) a cultivation tax is imposed upon cultivators of marijuana at the rate of \$9.25 per ounce of dried marijuana flowers and \$2.75 per ounce of dried marijuana leaves; and 2) an excise tax is imposed upon purchasers of marijuana or marijuana products sold in this state at the rate of 15 percent of the gross receipts of any retail sale by a dispensary or other persons required to be licensed to sell marijuana and marijuana products directly to a purchaser.

Effective November 9, 2016, sales of medical marijuana and medical marijuana products to a qualified patient (or primary caregiver) were exempted from the sales and use tax.

See the BOE online industry guide, [Medical Cannabis Businesses](#), for information relating to medical cannabis and keep checking the BOE website for more information as we will continue to update it.

## Cigarette and Tobacco Products Taxes and Licensing



### Cigarette and tobacco products license fee increase

On June 9, 2016, the Cigarette and Tobacco Products License application fee increased for cigarette and tobacco products retailers, wholesalers, and distributors; and the reinstatement fee was eliminated for retailers. Beginning January 1, 2017, retailers will be required to pay an annual renewal fee and the annual renewal fee for wholesalers and distributors will increase. The new fee amounts are shown below.

License Type	Fees For January 1, 2008, through June 8, 2016	Fees for June 9, 2016, through December 31, 2016	Fees Effective on or after January 1, 2017
Retailer (Application Fee)	\$100 per location	\$265 per location	\$265 per location
Retailer (Renewal Fee)	None	None	\$265 per location per year
Retailer (License Reinstatement Fee)	\$100 per location	N/A	N/A
Wholesaler/Distributor (Application Fee)	\$1,000 per location	\$1,200 per location	\$1,200 per location
Wholesaler/Distributor (Renewal Fee)	\$1,000 per location per year	\$1,000 per location per year	\$1,200 per location per year

For more information on cigarette and tobacco products licensing, view the BOE's [Cigarette and Tobacco Products Industry Guide](#).

## Expanded definition of a “tobacco product” requires licensing for retail sellers

The definition of a tobacco product per Business and Professions Code (BPC) section [22950.5\(d\)](#) has expanded for cigarette and tobacco products retail licensing purposes. A tobacco product now includes:

1. Any product containing, made, or derived from nicotine that is intended for human consumption.
2. Any electronic smoking or vaping device that delivers nicotine or other vaporized liquids.
3. Any component, part, or accessory of a tobacco product, whether or not sold separately.

Examples include, but are not limited to: eCigarettes, atomizers, vaping tanks or mods, and eLiquid or eJuice.

A tobacco product does not include products that the U.S. Food and Drug Administration has approved as cessation products or for other therapeutic purposes (for example, nicotine patches). The new licensing requirement does not apply to medical cannabis products.

Effective January 1, 2017, retail sellers of any products listed above must obtain a Cigarette and Tobacco Products Retailer’s License from the BOE. A license is required for each retail location, is valid for a 12-month period, and must be renewed annually. You must submit the \$265 license fee payment for each retail location and with each yearly renewal application. If you add an additional retail location, your license will be renewed for that location based on a 12-month period. This 12-month period would begin in the month you obtained your license for your first retail location. If you already have a valid Cigarette and Tobacco Products Retailer’s License from the BOE, you may sell these products at the same location under your existing license and do not need to obtain an additional retailer’s license.

Effective January 1, 2017, anyone found selling or gifting any of the products listed above without a valid Cigarette and Tobacco Products Retailer’s License is in violation of the law and subject to a misdemeanor citation and seizure of their inventory. Any tobacco products legally seized by the BOE or other law enforcement agency shall be deemed forfeited and cannot be returned.

For more information on the legislation creating the changes to the definition of tobacco products for retail licensing purposes, review [Senate Bill x2-5](#) (Stats. 2016, Ch. 7) and [Assembly Bill x2-11](#) (Stats. 2016, Ch. 6).

## Cigarettes and tobacco products tax rate increase, and new products subject to tax

Proposition 56 increases the tax rate on cigarettes and other tobacco products, adds electronic cigarettes sold in combination with nicotine, any product containing tobacco, any substance containing nicotine, and little cigars to the definition of “tobacco products” under the Revenue and Taxation Code (RTC) for tax purposes.

### Tax increase

Starting April 1, 2017, the cigarette tax rate will increase from \$0.0435 to \$0.1435 per cigarette. The tax on a package of 20 cigarettes will increase from \$0.87 to \$2.87. On July 1, 2017, the tax rate on tobacco products, which now includes electronic cigarettes sold in combination with nicotine, and little cigars, will increase at a rate equivalent to the tax rate increase on cigarettes.

### Floor stock and stamp adjustment tax

Proposition 56 amends the RTC to require cigarette retailers and wholesalers to take inventory of cigarettes in their possession or control as of 12:01 a.m. on April 1, 2017, and pay the additional tax on their inventory. This is commonly referred to as a “floor stock tax.”

Similarly, cigarette distributors must take inventory of affixed and unaffixed tax stamps in their possession as of 12:01 a.m. on April 1, 2017, and pay the additional tax on the value of the stamps. This is commonly referred to as a “stamp adjustment tax.”

Floor stock and stamp adjustment tax returns will be mailed out prior to April 1, 2017, and will be due, along with payment, by July 1, 2017.

### New tax on electronic cigarettes sold in combination with nicotine

Starting April 1, 2017, distribution of electronic cigarettes sold in combination with nicotine will be subject to the [current tobacco products tax rate](#).

Proposition 56 amended RTC section 30121, subdivision (c) to define electronic cigarettes. “Electronic Cigarettes” means:

- Any device or delivery system sold in combination with nicotine which can be used to deliver to a person nicotine in aerosolized or vaporized form, including, but not limited, to an ecigarette, ecigar, epipe, ehookah, or vape pen.

“Electronic cigarettes” include:

- Any component, part, or accessory of such a device that is used during the operation of the device when sold in combination with any liquid or substance containing nicotine.
- Any liquid or substance containing nicotine, whether sold separately or in combination with any device that could be used to deliver to a person nicotine in aerosolized or vaporized form.

“Electronic cigarettes” do not include:

- Any device not sold in combination with any liquid or substance containing nicotine.
- Any battery, battery charger, carrying case, or other accessory not used in the operation of the device, if sold separately.
- Any product that has been approved by the U.S. Food and Drug Administration for sale as a tobacco cessation product or other therapeutic purposes when that product is marketed and sold solely for such approved use.

For additional information, you may visit our [Cigarette and Tobacco Products Tax Guide](#). If you have questions regarding the tax increase or any provisions of Proposition 56, please visit the [BOE's website](#) as we will continue to update it with more information, or call the Customer Service Center at 1-800-400-7115 (TTY: 711). From the main menu, select the option Special Taxes and Fees. Assistance is available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.

### **New tax guide for cigarettes and tobacco products**

The BOE's new [Cigarette and Tobacco Products Tax Guide](#) is now available at [www.boe.ca.gov](http://www.boe.ca.gov). This guide provides information on tax and licensing requirements.

We will continually update the *Cigarette and Tobacco Products Tax Guide* for tax law changes.

### **New Cigarette and Tobacco Products Tax Regulation 4076, Wholesale Cost of Tobacco Products**

[Cigarette and Tobacco Products Tax Regulation 4076, Wholesale Cost of Tobacco Products](#), was approved and became operative October 1, 2016. The regulation clarifies the wholesale cost of tobacco products and provides methods for estimating or calculating the wholesale cost. See [Special Notice L-469, Clarifying the Wholesale Cost of Tobacco Products](#), issued September 2016.

### **Audit verification of wholesale cost of tobacco products**

Cigarette and tobacco products tax is imposed on any distribution of tobacco products based on the wholesale cost of the product. Generally, wholesale cost is the cost of tobacco products, including the dollar value of any samples, manufacturer's discounts, or trade allowances.

#### **Wholesale cost, distributor**

The wholesale cost of finished tobacco products purchased by a distributor includes the amount paid for the tobacco product and federal excise tax, but does not include transportation charges for shipment within the United States. If the distributor receives any discounts or trade allowances, these must be added to the amount paid when determining "wholesale cost."

To determine the wholesale cost for a distributor, the auditor may use the following methods:

- Review purchase invoices. The wholesale cost of tobacco products is the total invoice amount, including the value of any discounts and federal excise tax, less non-tobacco items and any separately stated shipping or transportation charges. If the separately stated amount for shipping is not described as a shipping or

transportation charge, then it is included in the wholesale cost. Discounts include, but are not limited to, trade allowances, "buy one, get one free" promotional sales, and any free items received from the supplier.

- Discounts or trade allowances: For discounts or trade allowances stated on the distributor's purchase invoice, the discount or allowance is added to the invoice amount in determining the wholesale cost.
- "Buy one, get one free" promotional sales: The wholesale cost for "buy one, get one free" promotional items packaged together as a single unit and labeled with a single UPC barcode is based on the total price of the package. If the "buy one, get one free" tobacco products are packaged separately, the free item is considered a discount and the value of the free item will be added to the invoice amount in determining the wholesale cost.
- Free items: Free items are considered a discount and the related value of the free item is added to the invoice amount in determining the wholesale cost. The value of the discount or free item may be determined through the following methods:
  - Apply the cost of the same item from the same purchase invoice;
  - Apply the cost of the same item listed on other purchase invoices issued by the same supplier or other suppliers;
  - Contact the supplier and ask for the list price of the product at or near the date of the purchase invoice being reviewed;
  - Determine the retail price of the item from the distributor's price list and estimate the wholesale cost by reducing the retail price by the amount of the tax and markup added by the distributor;
  - Hold a discussion with the distributor to determine a mutually agreeable method to determine the wholesale cost; or
  - Determine an average cost of like items on the distributor's purchase invoices and apply the average cost to the free item. This method should be used only if no other methods of determining a wholesale cost are successful.

#### **Wholesale cost, manufacturer/distributor**

If a manufacturer is also the distributor of the tobacco products, the wholesale cost includes all manufacturing costs. This includes the cost of raw materials (including waste materials not incorporated into the final product), cost of labor, direct and indirect overhead costs (including freight-in), federal excise tax, U.S. Customs taxes or fees, and all transportation charges for shipments of materials and unfinished products from the supplier to the manufacturer.

### Wholesale cost, importer/distributor

If an importer is also the distributor of the tobacco products, the wholesale cost includes the amount paid for the tobacco products, federal excise tax, U.S. Customs taxes or fees, and the cost of freight or transportation to import the product into the United States. If the distributor receives any discounts or trade allowances, these must be added to the amount paid when determining "wholesale cost." Wholesale cost excludes domestic freight or transportation charges for shipments of finished products.

### Books and records

The auditor will examine the distributor's books and records for the audit period to ensure the correct tax was paid on the wholesale cost of tobacco products. Cigarette and Tobacco Products Tax [Regulation 4026, Records](#), permits the BOE to access all records, including electronic records and data you maintain. The following list includes the types of records generally reviewed during a tobacco products tax audit:

- Cigarette and Tobacco Distributor, Wholesaler, and Manufacturer/Importer tax returns, supporting schedules and worksheets, and any other documentation used to prepare the returns.
- General ledger, chart of accounts, balance sheets, purchase journal, sales journal, bank statements, credit card statements, cancelled checks, and cash disbursement records.
- Original documents supporting entries to books and records, such as sales and purchase invoices, bills of lading, etc.
- Schedule of claimed exempt distributions and supporting documents, such as sales invoices, purchase invoices, shipping documents, credit memos for returned products, etc.
- Inventory records of all tobacco purchases, including taxed and untaxed tobacco products. Note: Untaxed tobacco products must be segregated and secured separately from tax-paid tobacco, away from the retail area.
- Records supporting imports of tobacco products from outside the United States, including Customs Broker invoices, U.S. Customs importing documents, transportation charges, and the tobacco products purchase invoices, including support for transportation charges.
- List of all tobacco products suppliers and their addresses, including contracts identifying tobacco products purchase amounts and any discounts allowed.
- Copies of the Alcohol and Tobacco Tax and Trade Bureau (TTB) returns and reports.
- Federal and State income tax returns.

Although most tobacco products tax audits can be completed with the above records, the list is not all-inclusive and additional documents may be requested.

If you have any questions or concerns about the audit, be sure to discuss them with the auditor.

## Diesel Fuel Tax



### Safe-harbor percentages and filing a diesel user claim for refund

Filing a claim for refund of the fuel tax paid on diesel fuel used to operate auxiliary equipment has just gotten easier. For transactions occurring on and after April 1, 2016, revised [Regulation 1432](#) includes a list of approved safe-harbor percentages that you can use to calculate the amount of fuel used to operate auxiliary equipment. To determine the gallons used to operate auxiliary equipment, simply multiply the total diesel consumption per auxiliary equipment type by the applicable safe-harbor percentage. Keep in mind that these percentages already account for off-highway use of the motor vehicle, so do not claim an additional amount for off-highway use.

You must file your claim for refund on [BOE-770-DU, Diesel Fuel Claim for Refund on Nontaxable Uses](#). Report tax-paid and ex-tax diesel fuel purchases on Schedules 1A and 2A, respectively, using [BOE-810-FTG, Receipt Schedule](#). Report all transactions supporting the amount claimed on Schedules 12A through 12C and 13J through 13J9, as applicable, using [BOE-810-FTF, Disbursement Schedule](#). Submit all applicable schedules with your claim for refund along with the supporting documents used to complete BOE-770-DU and the schedules. For a list of schedule codes and instructions on how to complete the schedules, please refer to the written instructions provided with the claim form or visit <https://www.boe.ca.gov/info/dfcr/> to view video instructions.

For further information please see the July 2016 Special Notice, [Revision to Regulation 1432, Other Nontaxable Uses of Diesel Fuel in a Motor Vehicle](#).

## Sales of dyed diesel fuel and notification requirements for sellers

Sellers of dyed diesel fuel, whether at a retail gas station or at a commercial cardlock facility, are required to provide notice on all retail pumps where the fuel is dispensed. The notice should state:

**“Dyed diesel fuel, Nontaxable use only, Penalty for taxable use.”**

The notice should be affixed to the pump, either on the face or on the side of the pump just above the nozzle housing, so that it is within easy sight of the person dispensing the dyed diesel fuel, prior to that person dispensing the fuel into the tank of the vehicle. If dyed fuel is dispensed from both sides of the fuel pump, the notice should be affixed to both sides.

For sales *other than from a retail pump*, the dyed diesel fuel notice is required to be included on:

- Shipping papers,
- Bills of lading, and
- Invoices accompanying the sale or removal of dyed diesel fuel.

Any seller that fails to post or provide the required notice on any applicable retail pump or sales document is presumed to know that the fuel will be used for a taxable use and may be required to pay the diesel fuel tax and may be assessed a penalty on every gallon of diesel fuel involved.

For more information, please refer to [BOE-32A, Special Notice: Dyed Diesel Fuel Notification Requirements](#).

## Dyed diesel fuel penalties

A penalty applies to any person who:

- Sells dyed diesel fuel for any use that is considered a taxable use of the diesel fuel, except when the purchaser is authorized by federal and state law to use dyed diesel on California highways.
- Uses dyed diesel fuel for a taxable use with the knowledge that the diesel fuel was dyed.
- Knowingly alters, or attempts to alter, the strength or composition of any dye or marker in dyed diesel fuel.
- Fails to provide or post the required notice with respect to sales of dyed diesel fuel. (The failure to provide or post the required notice creates a presumption that the seller knows the diesel fuel will be used for a taxable use.)

The penalty for each violation is the greater of: \$10 for every gallon of dyed diesel fuel involved, or the product of one thousand dollars (\$1,000) and the total number of penalties, including the penalty currently being determined and any previous penalties. In addition, the BOE will notify the Internal Revenue Service (IRS), and the IRS may assess additional penalties under federal law.

For more information pertaining to dyed diesel fuel, please visit [www.boe.ca.gov](http://www.boe.ca.gov).

## Can I legally use dyed diesel fuel in exempt bus operations or as a government entity in California?

Government entities and certain licensed exempt bus operators may use dyed diesel fuel to operate their buses on California highways. Dyed diesel fuel is generally intended for off-highway use. On-highway use of dyed diesel fuel is only permitted if you are authorized by the Internal Revenue Code or IRS regulations, and licensed by the BOE. Only California government entities licensed under the California Diesel Fuel Tax Law as exempt bus operators or government entities are authorized to use dyed diesel fuel on the highway. Dyed diesel fuel may only be used on the highway in exempt bus operations performed by state or local entities (government entities); generally, this applies to school districts.

For more information, please view our [Diesel Fuel Tax Frequently Asked Questions](#) webpage or call the Motor Carrier Office at 1-916-373-3030.

## Electronic Waste Recycling (eWaste) Fee



### New eWaste recycling fees effective January 1, 2017

Pursuant to [Public Resources Code section 42460](#) et seq., the Department of Resources Recycling and Recovery (CalRecycle) approved an increase in the electronic waste recycling (eWaste) fee rates for all covered electronic devices (CEDs). The BOE is responsible for the collection of the eWaste fee.

Effective January 1, 2017, the eWaste fee will increase for all CEDs. The new rates are as follows:

SCREEN SIZE, MEASURED DIAGONALLY	FEE
More than 4 inches, less than 15 inches	\$ 5.00
15 inches or more, less than 35 inches	\$ 6.00
35 inches or more	\$ 7.00

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## Emergency Telephone Users Surcharge and Prepaid 911 Surcharge for Telecommunication Service Suppliers



### Online filing for the emergency telephone users surcharge return

In January 2016 the Emergency Telephone Users Surcharge Return was revised to include a new column for reporting sales of prepaid mobile telephony services, in accordance with the Prepaid Mobile Telephony Services (MTS) Surcharge Collection Act. Revenue and Taxation Code Section 42010(f)(2) requires direct sellers of prepaid MTS to report the prepaid 911 surcharge electronically on their Emergency Telephone Users Surcharge Return, which is now available at [www.boe.ca.gov](http://www.boe.ca.gov).

The [BOE 501-TE](#), *Emergency Telephone Users Surcharge Return* is available for all telephone service suppliers, including direct sellers, to file online. The new online filing service became available on November 1, 2016. The online filing system is quick, easy, efficient, and available to any service supplier required to file a BOE-501-TE return.

#### How do I file online?

To file your return online, on the [Log In](#) page, enter your Express Login Code (located at the top of your return) and Account Number or your User ID and Password and then click on the reporting period to access the return.

You can create a User ID and Password for your account. On the [Log In](#) page, click the link "Create a User ID" at the bottom of the "Express Login" box. If you already have a User ID and want to add your Emergency Telephone Users Surcharge account, log on with your User ID and Password and click "Link An Account."

Please note, you must be identified with the BOE as the owner, partner, corporate officer, LLC Member, etc., associated with the account to create a User ID. To update your account, or if you need assistance with online filing, contact the BOE's Customer Service Center at 1-800-400-7115 (TTY:711).

### Emergency telephone users (911) surcharge amendments that took effect in 2016

Amendments to three regulations under the Emergency Telephone Users Surcharge Program became effective July 1, 2016. The amendments provide definitions and clarify the Prepaid Mobile Telephony Services (MTS) Surcharge Collection Act as it relates to direct sellers. Direct sellers are defined as prepaid MTS providers or service suppliers that make retail sales of prepaid wireless services directly to consumers.

**Regulation 2401, Definitions** – The amendments define the statutory terms "mobile telephony service," "prepaid mobile telephony service," and "direct seller," and add a reference to [Revenue and Taxation Code section 42004](#), which defines these terms.

**Regulation 2413, Exemptions from Surcharge** – The amendments delete an exemption from the 911 surcharge provided to foreign government officers and employees who are exempt from tax by treaties with the United States since they are not exempt from paying the 911 surcharge under federal law or treaties.

**Regulation 2422, Returns, Reporting, and Payment** – The amendments update Regulation 2422 to clarify the statutes regarding the surcharge reporting requirements of a direct seller of prepaid MTS.

### 2017 surcharge rate information

The Governor's Office of Emergency Services (OES) determines the rate of the emergency telephone users surcharge and the prepaid 911 surcharge component of the prepaid MTS surcharge each year. Visit the BOE's [Tax Rates – Special Taxes and Fees](#) webpage for the new rates that will be in effect for these programs as of January 1, 2017.

## Hazardous Substances Tax/Fees



### New hazardous substances and occupational lead poisoning prevention program fee rates

Visit the BOE's [Tax Rates - Special Taxes and Fees](#) webpage for the new rates that are in effect for these programs as of January 1, 2017.

The BOE administers five programs under the Hazardous Substances Tax Law: four for the California Department of Toxic Substances Control (disposal fee, environmental fee, facility fee, and generator fee) and one (occupational lead) for the California Department of Public Health.

The Hazardous Substances fees and the Occupational Lead Poisoning Prevention fee are adjusted each year by the incremental change in the Consumer Price Index (CPI) published by the California Department of Industrial Relations.

## Lead-Acid Battery Fees



### Lead-Acid Battery Recycling Act of 2016

Beginning April 1, 2017, the Lead-Acid Battery Recycling Act of 2016 (The Act) imposes two new fees on lead-acid batteries:

#### Consumer fee

A \$1.00 California battery fee is imposed on a person who purchases a replacement lead-acid battery from a retail dealer. On April 1, 2022, the California battery fee will increase to \$2.00. The retail dealer is authorized to retain one and one-half percent (1.5%) of the fee as reimbursement for any costs associated with the collection of the fee.

#### Manufacturer fee

The manufacturer battery fee is a \$1.00 fee imposed on a manufacturer for each lead-acid battery sold at retail to a person in California, or sold to a dealer, wholesaler, distributor, or other person for retail sale in California until March 31, 2022, at which time the fee becomes inoperative.

The California battery fee requires dealers to:

- Accept specified types of used lead-acid batteries without charging a fee beginning January 1, 2017.
- Collect the \$1 California battery fee from consumers who purchase a replacement lead-acid battery beginning April 1, 2017.
- Separately state the California battery fee on all transactions, except sales for resale, and if more than one battery is sold in a single transaction, dealers may condense the fee into a single-line item.
- Post specific written notice regarding the nonrefundable California battery fee and refundable deposit, on and after April 1, 2017, where it is clearly visible in the public sales area or include a statement on the purchaser's receipt. Language for this notification is set forth in Health and Safety Code (HSC) section 25215.2 (c).

The manufacturer battery fee requires manufacturers to:

- Notify their dealers, wholesalers, distributors, or other persons they sell to in this state of the Lead Acid Battery Recycling Act requirements by January 1, 2017.
- Pay the \$1 manufacturer battery fee for each lead-acid battery they sell in California from April 1, 2017 through March 31, 2022.
- Collect the \$1 California battery fee from the consumer when making a retail sale of a lead-acid battery.
- Place a recycling symbol and additional information on all replacement lead-acid batteries sold in this state in accordance with HSC §25215.65 beginning July 1, 2017.

Dealers and manufacturers are required to report electronically and remit the fees to the BOE.

Keep checking the BOE website for additional information about the lead-acid battery fees.

## Oil Spill Response, Prevention, and Administration Fees



### Are you exporting crude oil?

On December 18, 2015, Congress enacted legislation regarding the export of U.S. crude oil. If you are exporting crude oil via a California marine terminal, it is subject to the oil spill response, prevention, and administration fees when it is received for export via any mode of transportation at the marine terminal. Under California law, a rebuttable presumption exists that crude oil received at a marine terminal has passed over, across, under, or through waters of the state. You must report on your [Oil Spill Prevention and Administration Fee Return](#) all barrels received via any mode of transportation at the marine terminal. However, a credit may be taken on the return if the fee was previously paid on the crude oil received. You must also report the number of barrels exported by vessel from a California marine terminal on the [Oil Spill Response Fee Annual Information Return](#).

*Note:* If you believe the crude oil did not pass over, across, under, or through waters of the state, you should file a protective claim for refund. Claims for refund or appeals based on the premise that the crude oil did NOT pass over, across, under, or through waters of the state will be forwarded to the Department of Fish and Wildlife’s Office of Spill Prevention & Response (OSPR) for consideration. For further OSPR contact information, visit OSPR’s website at [www.wildlife.ca.gov/ospr](http://www.wildlife.ca.gov/ospr).

## Regional Railroad Accident Preparedness and Immediate Response Fee



### Regional railroad accident preparedness and immediate response fee

The regional railroad accident preparedness and immediate response (RRAPIR) fee imposes a fee on owners of the top 25 most hazardous material commodities transported by rail in California and requires railroad operators to collect the fee from the owner of the hazardous materials.

The Office of Emergency Services (OES) is responsible for establishing the fee schedule and adopting regulations for this fee program. At this time, the program has been delayed until further notice. We will update our tax and fee guide as more information becomes available.

For further information on the RRAPIR fee, visit OES’s website at [www.caloes.ca.gov/cal-oes-divisions/fire-rescue/hazardous-materials/hazmat-by-rail](http://www.caloes.ca.gov/cal-oes-divisions/fire-rescue/hazardous-materials/hazmat-by-rail). Additional information about the program can also be found on BOE’s website at [www.boe.ca.gov/industry/rrapair.html](http://www.boe.ca.gov/industry/rrapair.html).

## Underground Storage Tank Maintenance Fee



### Ownership changes for underground storage tanks

Have you made a change to the property records of your business at the County Recorder's Office? The Underground Storage Tank (UST) Maintenance Fee Program requires a new permit when there has been a change to the registration of the property.

The owner of the UST is responsible for the UST maintenance fee. If you have sold your UST, please notify the BOE immediately. If you have purchased a UST, register for a new account on the BOE website. Ownership changes include sale of the UST, changes in a partnership, incorporation, and transfers to and from a trust. You should also contact the BOE if you lease the real property on which the UST is located to an operator or make changes to the lease, because the party responsible for paying the UST fee to the BOE may be affected.

Oftentimes, fees continue to be paid under the old account after an ownership change. When this occurs, the new owner's account may be designated as delinquent and liable for penalty and interest charges. That is why it is crucial for you to immediately inform the BOE of ownership changes.

Fees paid under an account that is not correctly registered to the current legal owner require authorization from the owner of that account in order to transfer the fees paid to the current account. If your tenant is paying the fee on your behalf, both you and your tenant should contact the BOE to complete *Statements of Underground Storage Tank Owner/Operator* forms which formally acknowledge that the tenant's payments are being made on behalf of the owner. See [Regulation 1213, Payment of Fee by Operator](#), for a sample of the forms. For more information regarding ownership changes, please contact the BOE's Customer Service Center at 1-800-400-7115 (TTY:711). Customer service representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays. Staff can assist you with updating your permit(s) and online registration.

For further information, visit the BOE's [Underground Storage Tank Maintenance Fee](#) webpage.

## Use Fuel Tax



### Requirements for a use fuel permit

If you are a vendor or user of alternative fuels, you may be required to register for a use fuel tax permit with the BOE.

#### Vendor

A vendor is defined as any person who sells and delivers alternate fuel (for example, E85, CNG, LPG, LNG, M85) into the fuel tank of a motor vehicle. As a vendor, you are required to collect and remit to the BOE the use fuel tax on the full volume of alternative fuel sold or dispensed from a retail pump. A vendor is therefore required to register, file tax returns, and remit the tax to the BOE. Vendors must also maintain adequate records for four years.

#### User

A user is any person who uses alternative fuel to propel a motor vehicle. Users are generally required to obtain a permit, report all taxable use of fuel, and if not already paid to a vendor of alternative fuel, pay the use fuel tax to the BOE. Users must also maintain records for four years.

For more information, please visit the BOE's website at [www.boe.ca.gov](http://www.boe.ca.gov), to view [publication 12, California Use Fuel Tax](#), or call the BOE's Motor Carrier Office at 1-916-373-3030.

## General Interest



### Privacy notice

Every year the BOE is required to notify all active accounts of their privacy rights. Please review our [Privacy Notice](#) on our website for information regarding your privacy rights. Your account records are covered by the Information Practices Act (Civil Code section 1798.17) and as such, you are entitled to review your records. If you have additional questions, please contact the BOE's Customer Service Center at 1-800-400-7115 (TTY:711). Customer service representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.

### Refunds of overpayments on returns

If you believe you have made an overpayment on a prior return, do not take a refund by lowering the tax/fee due on a later return. Instead, file a timely claim for refund on [BOE-101, Claim for Refund or Credit](#), or send the BOE a letter. To be timely, you must file your claim within three years from the due date of the return on which you overpaid the tax/fee. Your claim must state all of the following:

- The specific reasons for the overpayment
- The amount overpaid, if known
- The reporting period or periods for which you made the overpayment

You must sign and date your claim. For more information on the refund process, please refer to [Publication 17, Appeals Procedures Sales and Use Taxes and Special Taxes](#).

### Beginning January 1, 2017, only a single claim for refund is required for installment payments made toward a billing

If you have overpaid taxes, fees, surcharges, interest, or penalties to the BOE, you must file a claim for refund within a specified period to receive a refund. Your claim must be in writing and state the specific reasons for the claim.

Beginning January 1, 2017, if you are making installment payments on a final Notice of Determination (billing) and are disputing your tax liability, you may file a single claim for refund that, if filed timely, will cover all future payments applied to that billing, and any prior payments that remain within the applicable statute of limitations. If you are disputing more than one billing, you must file a timely claim for refund for each separate billing.

Prior to January 1, 2017, tax or fee payers were required to file a separate claim for refund for each installment payment in order to protect their right to obtain a refund.

A claim for refund is considered timely if it is filed within the following dates, whichever occurs last:

- Three years from the return due date for the period the claimed overpayment was made,
- Six months from the date of the (claimed) overpayment,
- Six months from the date a billing became final, or
- Three years from the date the BOE collected an involuntary payment by use of enforcement procedures, such as levies or liens.

For more information, please see [Assembly Bill 1856](#), (Stats. 2016, Ch. 98).

### When to notify the Board of Equalization

We all know that if we change our mailing address we need to contact the Post Office, but do you remember to contact the BOE? The BOE needs to know if you have changed your business and/or mailing address, DBA, ownership, or business phone number; added or dropped partners; changed your trusts; or bought/sold additional locations. The BOE's online services need to have a current email address on file. The following cannot be modified on an existing account as these changes require a new account to be issued:

- Tax program
- Ownership type after the first return has been filed
- Incorporation or formation of a Limited Liability Company

Additionally, for some tax or fee programs, you are required to register for a new account, license, or permit if you make a business location change.

Please complete [BOE-345-SP, Notice of Business Change](#), which can be downloaded from the BOE's website. This form should be completed and mailed to the address on the form to ensure that the correct changes are made to your account. Staff will contact you if any additional information is needed.

You can subscribe to the BOE's [email lists](#) and receive the latest news, including newsletters, tax and fee updates, public meeting agendas, and other announcements. Check the box(es) and subscribe to one or more items at a time, or click on a link and go to that individual subscription page to sign up.

## Special Taxes Administration – Miscellaneous regulations revised in 2016

### Regulation 4901 – Records

The amendments to Special Taxes Administration – Miscellaneous Regulation 4901, *Records*, define the term electronic cash register, update the terminology used to refer to electronic records, and clarify taxpayers’ record retention requirements.

## New and revised special taxes and fees publications September 2015 to September 2016

Publication Name	Publication Number	Revision Date
<i>Emergency Telephone Users (911) Surcharge and Prepaid 911 Surcharge</i>	39A	11/15
<i>Cigarette Distributor Licensing and Tax Stamp Guide</i>	63	01/15
<i>Sales of Cigarettes and Tobacco Products in California</i>	78	09/16
<i>EFT Quick Reference Guide</i>	89 ST	07/16
<i>Cigarette and Tobacco Products Taxes</i>	93	09/16
<i>Biodiesel and California Tax</i>	96	08/16
<i>Cigarette and Tobacco Product Inspections</i>	152	08/16
<i>Striking Gold in California</i>	170	05/16

## Annual Taxpayers’ Bill of Rights hearings

Do you have suggestions for improving our services? Do you have an idea for changing a tax or fee policy or procedure? If you do, come share your ideas and concerns with our Board Members at our annual Taxpayers’ Bill of Rights hearings. You may present your proposal in person or in writing for either the business or property tax portion of the hearings.

The annual Taxpayers’ Bill of Rights hearings for 2017 are scheduled for July 27 in Irvine and August 29 in Sacramento, both starting at approximately 1:30 p.m.

Although you are not required to make advance arrangements to speak, it will help us to prepare if you contact the [Taxpayers’ Rights Advocate Office](#) at 1-888-324-2798 beforehand to let us know your topic. If your proposal is complex or extensive, we encourage you to submit it in advance and then summarize it in your oral presentation.

Please visit our [Taxpayers’ Bill of Rights Hearings](#) webpage to learn more about the hearings and the rights provided by the Taxpayers’ Bill of Rights, find out how you can receive an email invitation to the 2017 hearings, and read responses to individuals who made presentations at prior hearings.

## Know your rights

As a taxpayer, you have many rights under the law, including the right to:

- Information and assistance to help you comply with the law;
- Fair and courteous treatment and prompt service;
- Confidentiality;
- Appeal a decision or claim a refund as allowed by law; and
- Address your elected Board Members.

Along with those rights, you have responsibilities to:

- Stay informed about tax laws and regulations that affect your business;
- Report and pay taxes and fees when due;
- Promptly respond to BOE attempts to contact you;
- Inform the BOE of changes to your business ownership or address; and
- Maintain adequate records.

For more information see [publication 70](#), *Understanding Your Rights as a California Taxpayer*. You may also call the [Taxpayers’ Rights Advocate Office](#) if you have questions about your rights, or if you have not been able to resolve a problem through normal channels (for example, by speaking to a supervisor). The Advocate Office can be reached toll-free at 1-888-324-2798.

## Civil behavior in trying times

Some observers have noted that civility is decreasing in our society as our lives become more complex. The BOE knows that you may find yourself frustrated with the difficulties of the tax laws or pressed for time when dealing with our staff. Still, we ask that you treat our employees just as you would like to be treated in a business situation. Any threatening statement or gesture made to a BOE employee—even a statement made in jest—will be referred to our Internal Affairs Section for investigation.

## Ethics at work — “Thank you” is enough

We would like to remind you that BOE policy prevents our employees from accepting gifts of any type. If you are grateful to someone for going the extra mile to help you with a complicated issue, a simple “thank you” will do. You may also use the BOE’s online [Customer Service Survey](#) form, *How Are We Doing?—Special Taxes & Fees*, to express yourself.

# ***SPECIAL TAXES AND FEES***

■ December 2016

*NEWSLETTER*

## ***Need more information?***

### **Special Taxes and Fees**

State Board of Equalization, MIC:88  
PO Box 942879  
Sacramento, CA 94279-0088

### **Internet Mail**

[www.boe.ca.gov/email](http://www.boe.ca.gov/email)

### **Customer Service Center:**

**1-800-400-7115 (TTY:711)**

Customer service representatives are available to help you  
from 8:00 a.m. to 5:00 p.m., Pacific time,  
Monday through Friday, except state holidays.

### **Tax Evasion Hotline**

1-888-334-3300

### **Legislation**

[www.leginfo.ca.gov](http://www.leginfo.ca.gov)

### **Taxpayers' Rights Advocate**

[www.boe.ca.gov/tra](http://www.boe.ca.gov/tra)

1-888-324-2798

### **Board Member contact and website**

Visit the BOE's website at [www.boe.ca.gov](http://www.boe.ca.gov) for Board Member information, legislative summaries, regulations, forms and publications, translated publications, and more.

## ***Check out Online Services***

We offer several options to make it easier for you to file your returns and pay your taxes or fees online. You can find them on our website under the [Online Services tab](#).