

Biodiesel and California Tax

This publication explains how California fuel and sales taxes apply to the production, sales, use, and importation of biodiesel and other biofuels.

What are biodiesel and biofuel?

Biodiesel and biofuel are fuels used as alternatives to petroleum based diesel fuel. The most common are biodiesel, straight vegetable oil (SVO) and waste vegetable oil (WVO). Biodiesel is a fuel made fully or partially from vegetable oils or animal fats. It is typically produced by combining a vegetable oil or animal fat with an alcohol, such as methanol or ethanol, in the presence of a chemical catalyst to produce mono-alkyl esters and glycerin. SVO and WVO may be converted for use as diesel fuel without the processing involved in producing biodiesel; however, modifications to the diesel-powered vehicle may be required for converted SVO and WVO to be successfully used.

Do California taxes apply to biodiesel/biofuels?

Yes. California's fuel and sales taxes apply to biodiesel and other biofuels in California. The following sections explain how the taxes apply and the tax registration and filing requirements.

CALIFORNIA FUEL TAX

Is biodiesel a taxable fuel?

Yes, the diesel fuel tax applies to any fuel suitable for practical and commercial use in a diesel-powered highway vehicle *without further processing or blending*. This includes biodiesel fuels, whether they are called biodiesel, B100, methyl esters or by any other name, and whether or not the fuel meets the specification of ASTM D6751.

Is SVO or WVO considered a taxable fuel?

Yes, once converted for sale or used as a diesel fuel, in a diesel-powered highway

vehicle, raw vegetable oil, whether it is SVO (virgin oil, fresh, or uncooked) or WVO (used cooking oil, "grease", or fryer oil, including tallow fats) is considered a taxable diesel fuel.

At what point does the diesel fuel tax apply to biodiesel, SVO, and WVO?

In general the diesel fuel tax applies at the first point at which diesel fuel, including biodiesel, is:

- Imported into California for sale, use, or storage.
- Removed from a California refinery, biodiesel production facility, or terminal rack, or blended with tax paid diesel.

If you are making your own biodiesel or using SVO or WVO, tax is due when you put the fuel in the tank of your own diesel-powered highway vehicle, or when you *sell or give away* the biodiesel, SVO or WVO, to another person for use in their diesel-powered highway vehicle.

Exempt activities

The diesel fuel tax does not apply to:

- Sales to farmers.
- Sales to exempt bus operators.
- Sales of dyed diesel fuel, which is limited to marine and off-highway use.

There are severe penalties for illegal use of dyed diesel fuel on the highway.

Who must register and pay fuel tax on biodiesel, SVO and WVO?

In general you must register with us if you do any of the following in California:

- Manufacture or produce biodiesel, *even for your own use*.
- Import biodiesel from another state or country.

- Blend biodiesel that has not been taxed as diesel fuel with tax paid petroleum diesel.
- Convert to use, sell or *give away* SVO or WVO that has not been taxed as diesel fuel for use in a diesel-powered highway vehicle.

If you are required to register, we will issue you a *Diesel Fuel Supplier License*. There is no fee for the license but you may be required to post a security deposit. The license application is available on our website by typing BOE-400-FCO in the search box.

Will I have to file diesel fuel tax returns?

Yes. After we issue your supplier license, you will be required to file a Supplier of Diesel Fuel Tax Return. This supplier return will be sent to you automatically once you are registered with us. You must file a return even if you do not owe any tax for the reporting period.

Can I file a claim for refund of tax paid on biodiesel or other biofuels used off-highway or in another tax-exempt manner?

Yes. To file claims for refund of diesel fuel tax you paid on fuel used off-highway or for another exempt manner, you must register with us as a diesel user. You will need to complete and submit the following application from our website by typing BOE-400-FTA in the search box.

Why do I have to pay a fuel tax on biodiesel, SVO or WVO I make for myself or give away?

California fuel taxes pay for the construction and maintenance of state and local roads and highways. The taxes apply to all fuel used on roads and highways, whether the fuel is sold or given away.



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CALIFORNIA SALES TAX

Does sales tax apply to biodiesel sales?

Yes. The sale of biodiesel in California is subject to state and local sales tax, just like the sale of other fuels. For more information, please see publication 25, *Auto Repair Garages and Service Stations*.

Will I need a seller's permit?

You must obtain a seller's permit for biodiesel sales if you sell or trade the biodiesel in California.

You may download a BOE-400-SPA, *California Seller's Permit Application*, from our website, visit one of our field offices, or call our Taxpayer Information Section. There is no fee for the permit, but you may have to post a security deposit.

What is the sales and use tax rate?

The standard, statewide sales and use tax rate is 7.25 percent. But if you make a sale inside a special tax district, the rate will be higher. For a full list of tax rates, see our website or publication 71, *California City and County Sales and Use Tax Rates*.

How does sales tax apply to my biodiesel sales?

If you sell biodiesel directly to consumers, sales tax is due on the selling price of the fuel, including the federal excise tax.

If you sell biodiesel to others who will resell it, you are required to collect a sales tax "prepayment" from each of your customers. The prepayment rate is set each year.

For more information on sales tax prepayments, see our publication 82, *Prepaid Sales Tax and Sales of Fuel*.

How does tax apply when I buy biodiesel ingredients?

If you make biodiesel that you sell or trade and you hold a California seller's

permit, you may purchase your biodiesel ingredients for resale without paying sales tax. You must give the seller a properly completed resale certificate (see Regulation 1668, *Sales for Resale*, and publication 42, *Resale Certificate Tips*).

But if you do not sell or trade your biodiesel, you should expect to pay an amount for sales tax to your ingredient vendor or pay use tax on your out-of-state purchases directly to us.

Seller's permit holders must report the use tax on their sales and use tax returns. If you do not have a seller's permit, you may report the tax on your California state income tax returns or file an BOE-401-DS, *Use Tax Return*, quarterly with us.

For more information, see publication 112, *Purchases from Out-of-State Vendors*.

Exempt transactions

Biodiesel sales to farmers may be partially exempt from sales tax. Sales to water common carriers may be fully exempt. See our publication 66, *Tax Tips for the Agricultural Industry* and Regulation 1621, *Sales to Common Carriers*.

Will I have to file sales and use tax returns?

All seller's permit holders must file sales and use tax returns.

If you are a retailer who sells biodiesel only to consumers, you will report your sales on a sales and use tax return and pay the tax with that return. Most retailers file quarterly.

If you sell biodiesel to businesses or individuals who resell it to other businesses or consumers, you will be required to collect sales tax "prepayments" from those retailers. You will report and pay those prepayments to us on a special prepayment return, usually filed monthly. You can take a credit for any tax prepayment you paid to another fuel seller.

You must file a return even if you do not owe any tax for the period.

Additional resources

See www.boe.ca.gov for electronic versions of the forms and publications referenced in this publication or to order printed copies. Other helpful resources are listed below.

Publications

- 105 District Taxes and Delivered Sales
- 107 Do You Need a California Seller's Permit?

Diesel Fuel Tax Regulations

- 1420 Supplier

Sales and Use Tax Regulations

- 1533.2 Diesel Fuel Used in Farming Activities and Food Processing

For More Information

BOE website and Member contact information: www.boe.ca.gov

Taxpayer Information Section:
800-400-7115

TDD/TTY: 800-735-2929

Representatives can help you from 8:00 a.m. to 5:00 p.m., Pacific time, M-F, except state holidays.

Fuel Taxes Division

Fuel Taxes Division, MIC:30
State Board of Equalization
450 N Street
PO Box 942879
Sacramento, CA 94279-0030

Sales and Use Tax Department

Sales and Use Tax Department, MIC:44
State Board of Equalization
450 N Street
PO Box 942879
Sacramento, CA 94279-0044

Taxpayers' Rights Advocate. Call toll-free for help with problems you have been unable to resolve at other levels: 888-324-2798.

Note: This publication summarizes the law and applicable regulations in effect when the publication was written, as noted in the headers. However, changes in the law and in regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, decisions will be based on the law and not on this publication.