

## SPECIAL TAXES

In 2001-02, the Board administered 18 special tax and fee programs that encompass a broad range of activities and transactions. Revenues from the insurance tax and alcoholic beverage tax and a portion of cigarette tax receipts are allocated to the state's General Fund. Other special taxes and fees fund specific state services, from highway construction to environmental cleanup. The Board administers several programs in cooperation with other state agencies.

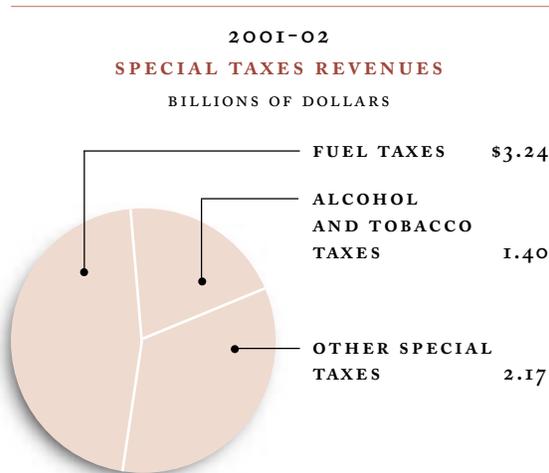
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### REVENUES

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Total revenues for Board-administered special taxes programs were \$6.82 billion in 2001-02, an increase of 4.8 percent from 2000-01. Fuel taxes totaled \$3.24 billion, while alcohol and tobacco taxes totaled \$1.40 billion. Revenue information for each program is found in the next section of this chapter and in the foldout chart inside the back cover of this report. While revenues from the insurance tax, collected by the State Controller's Office, are included in the total special taxes revenue figure above, they are not included in the total Board revenue figures found elsewhere in this report.

*Performance*



### PROGRAMS

This section includes information regarding program revenue, significant program highlights, changes for the fiscal year, and the number of registrants for each program. More detailed information regarding individual tax and fee programs is found in the [foldout tax chart](#) inside the back cover of this report. The chart includes information on what is taxed, who pays, tax and fee rates, year-to-year revenue changes, and how tax revenues from each program are used on behalf of California residents.

#### Motor Vehicle Fuel Tax

Assembly Bill 2114 (Stats. 2000, ch. 1053) repealed the motor vehicle fuel license tax effective December 31, 2001, and replaced it with the similarly named motor vehicle fuel tax, effective January 1, 2002. The new tax moves the taxation point of motor vehicle fuel from the first distribution in the state to removal from the terminal rack or importation into the state, consistent with the taxation of diesel fuel.

Combined revenue from the old and new motor vehicle fuel taxes totaled \$2.77 billion for 2001-02. There were 227 businesses registered for the program at the end of the fiscal year: 96 suppliers and 131 other accounts.

**Aircraft jet fuel tax.** Aircraft jet fuel tax collections for the year totaled \$2.45 million, based on the distribution of 120.2 million gallons of jet fuel. As of June 30, 2002, 196 jet fuel dealers were registered with the Board.

#### Diesel and Use Fuel Taxes

Combined revenues from diesel and use fuel taxes totaled \$468.29 million for 2001-02, including \$54.82 million from the interstate user tax.

**Diesel fuel tax.** Business and individual registration for the diesel fuel tax program totaled 33,942 as of June 30, 2002. Most are registered for fuel tracking or refund purposes. One hundred and six diesel fuel suppliers paid more than 99 percent of the 2001-02 diesel fuel tax receipts.

**Interstate user tax.** Most interstate motor carriers who travel on California highways pay the state's interstate user tax through the International Fuel Tax Agreement (IFTA), a compact among 48 states and 10 Canadian provinces. The vast majority of IFTA revenue comes from diesel fuel use. California-based IFTA licensees numbered 10,895 at the end of the fiscal year. Carriers who travel only between California and Mexico also pay the interstate user tax. There were 936 of these nonIFTA carriers registered as of June 30, 2002.

**Use fuel tax.** At the end of the fiscal year, 1,361 alternative fuel users and 224 fuel vendors were registered with the Board.

**Oil Spill Response, Prevention, and Administration Fees**

**Oil spill response fee.** Oil spill response fees were not collected in 2001-02 since the Oil Spill Response Trust Fund reached its maximum \$50 million level in 1991-92. Thirty-six feepayers were registered at the end of the fiscal year. The Board administers the fee in cooperation with the Department of Fish and Game.

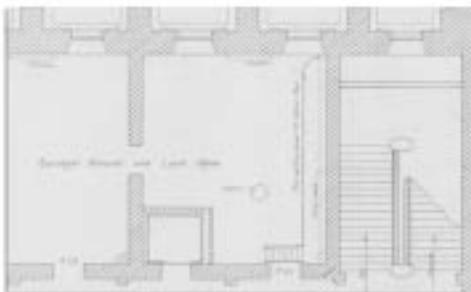
**Oil spill prevention and administration fee.** Revenues for 2001-02 totaled \$19.66 million. The number of registrants for the program totaled 35 at the end of the fiscal year.

**Underground Storage Tank Maintenance Fee**

Revenues totaled \$202.12 million in 2001-02. As of June 30, 2002, 6,737 feepayers with 13,253 tank sites were registered for this program, which the Board administers in cooperation with the State Water Resources Control Board.

**Childhood Lead Poisoning Prevention Fee**

In 2001-02, fee collections totaled \$13.99 million. At the end of the fiscal year, 981 feepayers were registered for the program. The Board administers this fee in cooperation with the Department of Health Services.



**Alcoholic Beverage Tax**

2001-02 alcoholic beverage tax revenues totaled \$292.63 million, a 1.4 percent increase from 2000-01. Program registrants numbered 3,545 at the end of the fiscal year.

2001-02  
ALCOHOLIC BEVERAGE  
APPARENT CONSUMPTION  
MILLIONS OF GALLONS



**Cigarette and Tobacco Products Taxes**

Combined revenues for these taxes totaled \$1.11 billion in 2001-02, including \$1.06 billion from cigarettes and \$50.04 million from other tobacco products. At the end of June 2002, 1,447 taxpayers held permits under this program. This registration figure does not include California cigarette or tobacco product consumers who are required to pay tax on their out-of-state [Internet or mail order] purchases but not to hold permits on an ongoing basis—see “Cigarette Tax Compliance,” page 39. Apparent consumption data is found in Appendix Table 30B, on page A-41.

**Emergency Telephone Users Surcharge**

Total revenues for 2001-02 were \$125.38 million. As of June 30, 2002, 578 telephone service suppliers and three consumers were registered with the Board.

### Energy Resources Surcharge

This fiscal year's revenues totaled \$44.85 million, a decrease of 6.4 percent from 2000-01. At the end of the fiscal year, program registrants included 102 electric utilities and 25 public institutions, water districts, and irrigation districts.

### Insurance Tax

Revenue from this tax, levied against insurance companies in lieu of most other California taxes, totaled \$1.43 billion for year 2001 business. As of June 30, 2002, 1,881 insurance companies were registered to pay the tax. The Board, the State Controller's Office, and the Department of Insurance share administrative responsibilities.

### California Tire Fee

Revenues for this fee totaled \$31.48 million in 2001-02. At fiscal year end, 11,940 businesses were registered for the program, which the Board administers in cooperation with the Integrated Waste Management Board.

### Integrated Waste Management Fee

For 2001-02, revenues totaled \$51.44 million. As of June 30, 2002, 196 facilities were registered for the fee, which is jointly administered by the Board and the Integrated Waste Management Board.

### Natural Gas Surcharge

Revenue for the first full fiscal year of this program totaled \$179.11 million. Program registration as of June 30, 2002, included nine public utility gas corporations and eight consumers who purchase gas through interstate pipelines.

### Hazardous Substances Tax

The Board administers five hazardous waste fee programs in cooperation with the Department of Toxic Substances Control. Fee revenues for 2001-02 and the number of businesses registered at the end of the fiscal year are shown below.

**Activity fees.** Revenue \$198,000. Entities pay the fees based on permit applications and modifications and other applications. They are not required to be registered with the Board on an ongoing basis.

**Disposal fee.** Revenue: \$8.04 million; registered facilities: 12.

**Environmental fee.** Revenue: \$31.66 million; registered corporations: 44,628.

**Facility fee.** Revenue: \$5.60 million, including tiered permit fees for facilities that handle small quantities of waste; program registrants: 142 facilities and 156 tiered permit facilities.

**Generator fee.** Revenue: \$23.04 million; registrants: 7,322 fee payers with a total of 20,218 sites in the state.

### Occupational Lead Poisoning Prevention Fee

Total revenues for 2001-02 were \$2.95 million. At the end of the fiscal year, registration totaled 17,182 businesses. The Board works with the Department of Health Services in administering this fee program.

### Ballast Water Management Fee

Revenue for this program, administered in conjunction with the State Lands Commission, totaled \$2.35 million for 2001-02. Registration totaled 1,776 as of June 30, 2002.

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## OPERATIONS

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Staff in the Board's Excise Taxes, Fuel Taxes, and Environmental Fees divisions, located in the agency's Sacramento headquarters office, provide direct assistance to the businesses that pay special taxes and fees. The Board processed more than 301,618 special taxes program returns during the 2001-02 fiscal year, including 82,815 environmental fees returns, 73,821 excise tax returns, and 144,982 fuel tax returns.

### Audits

Staff in the Excise Taxes, Fuel Taxes, and Environmental Fees divisions have the primary responsibility for auditing special taxes program accounts. This year, special taxes audits revealed more than \$50.7 million in net tax and fee deficiencies. The audit staff identified more than \$9.5 million in refunds due.

### Compliance Activities

Board compliance staff ensure proper registering and licensing of businesses, assist taxpayers in interpreting tax and fee laws and regulations, and provide help with tax and fee returns. Compliance staff also collect delinquent tax and fee payments, while referring suspected tax evasion or fraud cases to the agency's Investigations Division.

#### FUEL TAX COMPLIANCE

Board staff members are stationed at California Highway Patrol (CHP) Truck Inspection Facilities to enforce the state's fuel tax laws. They ensure that motor carriers traveling into California without current fuel tax licenses or fuel trip permits are brought into compliance before they travel on the state's highways. Staff

assess penalties for noncompliance and collect outstanding tax liabilities. In addition, Board personnel at the CHP inspection facilities identify goods and equipment being shipped into California that may be subject to sales or use tax.

#### CIGARETTE TAX COMPLIANCE

Cigarette tax evasion continues as a major challenge in California, especially with the proliferation of cigarette sales over the Internet. This fiscal year, staff in the Board's Excise Taxes Division continued their efforts to identify out-of-state sellers who sell and ship cigarettes to California consumers, who are liable for the excise and use taxes on their purchases. Division staff contact out-of-state sellers and advise them of their reporting requirements under the federal Jenkins Act (15 U.S.C. secs. 375-377). The Act requires persons who sell or transfer cigarettes in interstate commerce to provide the Board with information on their California customers, including purchase information. Staff use this information to contact California purchasers and collect the tax due.

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## APPEALS

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The Board's administrative appeals process is available for those who disagree with audit results or other Board decisions regarding the application of a tax or fee. For details on 2001-02 appeals, see the "Appeals" chapter, which begins on [page 45](#).

The agency offers an administrative settlement program as an alternative method of tax and fee dispute resolution. In 2001-02, the Board approved 18 special taxes or fee settlements. The total settlement amount was \$749,000.

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## LEGISLATION

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### Diesel Fuel Tax Exemptions

Excludes the specified water portion of a diesel fuel/water emulsion from the diesel fuel tax until January 1, 2007, provided the emulsion meets standards set by the California Air Resources Board. The state will continue to receive the excise tax on the diesel portion of the blend.

*Assembly Bill 86xx, Chapter 8 of the Second Extraordinary Session, Statutes of 2001; effective October 3, 2001*

### Inert Waste Exemption

Extends the January 1, 2002, sunset date on the exemption for the use, disposal, or placement of solely inert waste on property with active surface mining operations. The exemption is extended until the Integrated Waste Management Board adopts regulations.

*Assembly Bill 173, Chapter 811, Statutes of 2001; effective January 1, 2002*

### Board-Sponsored Technical Measure

Makes various housekeeping changes to the Motor Vehicle Fuel Tax Law and the Diesel Fuel Tax Law, including the following:

- Adds definitions to the Diesel Fuel Tax Law and revises the Motor Vehicle Fuel Tax Law definitions to allow use of the Internal Revenue Service's Excise Summary Terminal Activity Reporting System (ExSTARS).
- Allows the Board to accept from a person who receives motor vehicle fuel or diesel fuel removed at a refinery or terminal rack an amount equal to the tax due from the refiner or position holder. Operative only if the

Internal Revenue Service authorizes the receiving party to pay federal fuel taxes under a two-party exchange agreement or similar arrangement.

- Aligns the security requirements in the Motor Vehicle Fuel Tax Law and the Diesel Fuel Tax Law and requires the Board to release a taxpayer's security after a three-year period during which the taxpayer has filed all returns and paid all state tax due.
- Allows the Board to accept and authenticate electronically filed returns, reports, declarations, or statements, and allows the Board to be provided with returns filed with ExSTARS if a terminal operator provides consent and authorization.
- Allows a supplier to claim a refund or credit on a fuel return if the supplier can show that it has paid the state excise tax twice on the same amount of motor vehicle fuel.
- Allows the Board to recommend a credit or a refund of amounts overpaid by any person, not just a licensed supplier.
- Confirms the Diesel Fuel Tax Law to the Motor Vehicle Fuel Tax Law by adding throughputters as diesel fuel registrants, imposing the diesel fuel tax on sales to unregistered persons, applying to train operators certain provisions relating to suppliers, and adding relief of jeopardy interest in the case of disaster.
- Renames "highway vehicle operator" to "qualified highway vehicle operator" to allow specified persons to use dyed diesel fuel on the highway without penalty, consistent with federal law, and requires the operators to pay the diesel fuel backup tax.
- Confirms the Diesel Fuel Tax Law to the Motor Vehicle Fuel Tax Law by adding

provisions concerning backup tax liability, penalties, payments, and assessment.

*Assembly Bill 309, Chapter 429, Statutes of 2001; effective October 2, 2001, but operative January 1, 2002*

### **Board-Sponsored Technical and Housekeeping Measure**

With respect to special taxes, this bill

- Clarifies ambiguous language regarding the reporting of the California tire fee and deletes language requiring a 20 percent penalty that conflicts with the Fee Collection Procedures Law.
- Clarifies the reference to “board” in the California Tire Fee Law.
- Authorizes the Board to grant relief of interest imposed due to an audit determination when the fee was not paid due to unreasonable error or delay by a Board employee.
- Confirms relief of interest provisions under the Use Fuel Tax Law with all other Board-administered taxes and fees.
- Adds conforming references to the Cigarette and Tobacco Products Tax Law in order to properly administer Proposition 10.

*Assembly Bill 1123, Chapter 251, Statutes of 2001; effective January 1, 2002*

### **Underground Storage Tank Definition**

Adds nonfarm, nonresidential heating oil tanks to the definition of “underground storage tank” for purposes of imposing the Underground Storage Tank Maintenance Fee.

*Assembly Bill 1465, Chapter 154, Statutes of 2001; effective January 1, 2002*

### **Low-Income Housing Insurance Tax Credit**

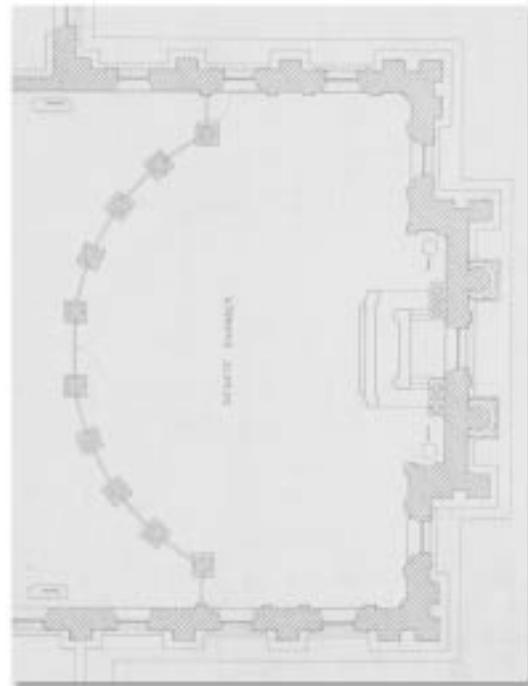
Provides a \$70 million annual maximum combined dollar amount for existing insurance tax credits for low-income housing, beginning with the 2001 calendar year. Adds an annual inflation adjustment based on increases in the Consumer Price Index, beginning in 2002.

*Senate Bill 73, Chapter 668, Statutes of 2001; effective October 10, 2001*

### **Returned Tobacco Products**

Clarifies that when a customer returns tobacco products, a distributor may exclude the wholesale cost of the products from the wholesale cost used to calculate the tax, claim a refund for the excise tax paid on the products’ distribution, or take a credit in lieu of a refund.

*Senate Bill 312, Chapter 426, Statutes of 2001; effective October 2, 2001*



**Insurance Tax Credit**

Extends until January 1, 2007, the insurance tax credit for insurers investing in a community development financial institution that lends to California urban, rural, or reservation-based communities.

*Senate Bill 409, Chapter 535, Statutes of 2001; effective October 5, 2001*

**Federal Telecommunications Act Conformity**

Revises the Emergency Telephone Users Surcharge Law to conform to the Federal Mobile Telecommunications Sourcing Act for taxation of mobile telecommunication services.

*Senate Bill 896, Chapter 638, Statutes of 2001; effective January 1, 2002, but operative August 1, 2002*

**Board-Sponsored Measure**

With respect to special taxes, this bill

- Postpones the hazardous waste generator fee refund application date until after the Department of Toxic Substances Control has determined whether surplus funds are available.
- Allows reimbursement of any reasonable third-party check charges imposed on a taxpayer due to an erroneous levy.
- Clarifies the claim for refund filing period for the Integrated Waste Management Fee Law, Oil Spill Response, Prevention and Administration Fee Law, Underground Storage Tank Fee Law, Fee Collection Procedures Law, and Alcoholic Beverage Tax Law.

*Senate Bill 1185, Chapter 543, Statutes of 2001; effective January 1, 2002*

**REGULATIONS****Cigarette and Tobacco Products Taxes****Various Cigarette Regulations**

Regulations 4018, 4021, 4023, 4055, 4056, 4057, 4059, 4060, 4062, 4063, 4064, 4065, 4080, and 4091 were revised to conform their language to the statute and add gender neutral language.

*Title 18, California Code of Regulations, sections 4018, 4021, 4023, 4055, 4056, 4057, 4059, 4060, 4062, 4063, 4064, 4065, 4080, and 4091; effective February 15, 2002*

**Out-of-State Distributors**

Regulation 4011, *Distributors Not Engaged in Business in this State*, was added to provide that persons who are not engaged in business in this state may apply for a distributor's license, enabling them to collect and pay the excise tax on untaxed cigarettes and tobacco products shipped to customers in California.

*Title 18, California Code of Regulations, section 4011; effective June 12, 2002*

**Cigarette Inventories**

Regulation 4022, *Inventories of Cigarettes*, was amended to define "cycle inventory count system" and "perpetual inventory system" and to clarify related reporting and inventory requirements for cigarette distributors and wholesalers.

*Title 18, California Code of Regulations, section 4022; effective February 15, 2002*

### Records

Regulation 4026, *Records*, was amended to clarify the recordkeeping requirements for cigarette wholesalers and tobacco products distributors and wholesalers, and to make the recordkeeping requirements consistent with Sales and Use Tax Regulation 1698.

*Title 18, California Code of Regulations, section 4026; effective February 15, 2002*

### Manufacturer's Recordkeeping and Reporting

Regulation 4027, *Manufacturer's Records and Monthly Report*, was amended to clarify that tobacco products manufacturers are subject to the same recordkeeping and reporting requirements as cigarette manufacturers.

*Title 18, California Code of Regulations, section 4027; effective February 15, 2002*

### Sales and Gifts of Tobacco Products

Regulation 4034, *Report of Sales to Consumers*, was amended to clarify that persons who sell tobacco products and give gifts of sample tobacco products must collect excise tax in certain circumstances and pay the excise tax on gifts of sample cigarettes.

*Title 18, California Code of Regulations, section 4034; effective February 15, 2002*

### Cigarette Stamp Transfers

Regulation 4047, *Transfer of Stamps*, was amended to permit a distributor to sell, transfer, or exchange loose cigarette tax stamps with the prior written approval of the Board, in conformity with the statute.

*Title 18, California Code of Regulations, section 4047; effective February 15, 2002*



### Cigarette Tax Stamp Units of Sale

Regulation 4056, *Units of Sale; Minimum Sale*, was amended to update the list of types and denominations of cigarette tax stamps the Board makes available for purchase and to delete obsolete references to water-applied stamps and meter register settings.

*Title 18, California Code of Regulations, section 4056; effective February 15, 2002*

### Credit Purchases of Tax Stamps

Regulation 4058, *Application for Credit Purchases*, was amended to increase the maximum amount of tax stamps or meter register settings a distributor may purchase on credit from one and one-half times the distributor's monthly tax liability to twice the distributor's monthly tax liability. In addition, the regulation added a reference to the maximum security requirement limit established by statute.

*Title 18, California Code of Regulations, section 4058; effective February 15, 2002*

### Unused Stamps and Meter Settings

Regulation 4061, *Unused Stamps and Unused Meter Settings*, was amended to clarify current Board procedures and requirements for obtaining a refund or credit of tax represented by unused stamps. The regulation defines "unused

stamp” and specifies how the claimant must treat unused stamps affixed to packages of cigarettes or unused stamps remaining on a roll.  
*Title 18, California Code of Regulations, section 4061; effective June 12, 2002*

#### **Exported Tax-Paid Tobacco Products**

Regulation 4063.5, *Exported Tax-Paid Tobacco Products*, was added to clarify the procedure for a distributor to claim a refund or credit of the excise tax paid on exported tobacco products and to specify the required supporting documentation.

*Title 18, California Code of Regulations, section 4063.5; effective February 15, 2002*

#### **Cigarette and Tobacco Product Samples**

Regulation 4081, *Sample Cigarettes and Tobacco Products*, was amended to clarify a tobacco manufacturer’s liability for the excise tax on tobacco products given away as samples and to specify the labeling requirements for those products. The regulation also refers to the restrictions in state law and the Master Settlement Agreement on distributing samples of cigarettes and tobacco products.

*Title 18, California Code of Regulations, section 4081; effective February 15, 2002*

#### **Receipts for Distributor Sales of Tobacco Products**

Regulation 4092, *Receipts for Tax Paid to Distributors*, was amended to clarify that for tobacco product sales, the distributor must give a receipt to each purchaser from whom it is required to collect the excise tax, as required for cigarette sales.

*Title 18, California Code of Regulations, section 4092; effective February 15, 2002*

#### **Relief from Liability**

Regulation 4098, *Relief from Liability*, was added to describe when a taxpayer may be relieved of liability incurred as a result of the receipt of erroneous written tax advice from the Board.

*Title 18, California Code of Regulations, section 4098; effective February 15, 2002*

### **Fuel Taxes**

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

Regulation 1434, *Sale of Diesel Fuel to the United States and Its Agencies and Instrumentalities*, was added to clarify who should file a claim for refund for the tax on tax-paid diesel fuel sold to the United States and how the claim should be filed. It includes clarification of who should file the claim when purchases are made with an access card.

*Title 18, California Code of Regulations, section 1434; effective June 12, 2002*

#### **Motor Vehicle Fuel Tax and Diesel Fuel Tax**

Motor Vehicle Fuel Tax Regulations 1111, 1122, 1137, and 1177, and Diesel Fuel Tax Regulations 1413 and 1470 were amended to remove obsolete and incorrect references resulting from amendments to the Motor Vehicle Fuel Tax Law (Stats. 2000; ch. 1053 and Stats. 2001; ch. 429) and Diesel Fuel Tax Law (Stats. 2001; ch. 429).

*Title 18, California Code of Regulations, sections 1111, 1122, 1137, 1177, 1413 and 1470; effective June 12, 2002*