

**Renumber duplicate Section 6480.3 of the Sales and Use Tax Law as Section 6480.9. (Technical)**

**Source: Legislative Section**

Section 6480.3 of the Revenue and Taxation Code was added in 1986 to address prepayment of sales tax on sales of motor vehicle fuel. In 2001, Section 6480.3 was amended by Assembly Bill 309 (Ch. 429, Stats. 2001) to include new terminology. However, due to an oversight, passage of Senate Bill 1901 (Ch. 446, Stats. 2002) added an additional Section 6480.3 authorizing a qualified person to issue an exemption certificate to a diesel fuel supplier with respect to that portion of diesel fuel that the qualified person reasonably expects to sell to farmers and food processors that qualify for the state sales and use tax exemption, under specified conditions. Both statutes in the code are currently listed as 6480.3.

This proposal would amend the section number of the newly added 6480.3 as Section 6480.9 to eliminate the duplicate section numbers.

*Section 6480.3 of the Revenue and Taxation Code is renumbered as Section 6480.9 to read:*

~~6480.3.~~ 6480.9. (a) A person qualified under subdivision (b) may issue a certificate to a seller with respect to the amount of sales tax required to be prepaid pursuant to Section 6480.1 when purchasing diesel fuel from the seller. The certificate shall be completed in accordance with any instructions or regulations as the board may prescribe, and shall clearly specify that the person will purchase the volume of diesel fuel that the person reasonably expects he or she will sell that qualifies for the exemption under Section 6357.1. A seller that receives a properly completed certificate from a person qualified under subdivision (b) shall not be required to collect the prepayment of the retail sales tax otherwise required in Section 6480.1 on that volume of the diesel fuel sold pursuant to the certificate.

(b) A person is qualified for purposes of this section if both of the following conditions are met:

(1) The person sold diesel fuel that was used by the consumer in a manner that qualified, or would have qualified for an exemption under Section 6357.1, and in the prior year, those sales totaled more than 25 percent of the person's total taxable sales.

(2) The person's sales consist primarily of either bulk deliveries of fuel or of fuel sales through a cardlock, keylock, or other unattended mechanism, or both. For purposes of the preceding sentence, "bulk deliveries" means transfers of fuel into storage tanks of 500 gallons or more.

(c) A person issuing a certificate pursuant to this section is liable for sales tax that is imposed under the Bradley-Burns Uniform Local Sales and Use

Tax Law (Part 1.5 (commencing with Section 7200)) or in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)) and sales tax that is imposed under Section 6051.2 or 6201.2, or under Section 35 of Article XIII of the California Constitution.

(d) A person issuing a certificate pursuant to this section shall be liable for sales tax on any portion of the gross receipts derived from the sale of fuel that is not sold in a manner that qualifies for an exemption under Section 6357.1.

(e) A person liable for the sales tax under subdivision (c) or (d) of this section shall report and pay that sales tax with the return for the reporting period in which the person sells the fuel.

(f) Any person who gives a certificate pursuant to this section for purchases of diesel fuel that he or she knows at the time of purchase do not qualify for the exemption from the prepayment pursuant to this section for the purpose of evading payment of the prepayment of the retail sales tax is guilty of a misdemeanor punishable as provided in Section 7153. In addition, the person shall be liable to the state for a penalty of one thousand dollars (\$1,000) for each certificate issued for personal gain or to evade the payment of taxes.