

ENVIRONMENTAL FEES NEWSLETTER

STATE BOARD OF EQUALIZATION

Semiannual Issue
January 2001

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1. EFT payments now mandatory for certain accounts

If your average monthly liability for a Board of Equalization-administered fee is at least \$20,000, you are now required to make your fee payments by electronic funds transfer (EFT). You *must* use EFT for every return payment or prepayment due on or after February 1, 2001. Businesses not required to pay by EFT can still choose to do so.

We have mailed notices to businesses we have identified as mandatory EFT accounts. If you believe you fall under the new requirement and you did not receive a notice, or if you have any questions regarding EFT payments, please contact our Environmental Fees Division (see page 3).

2. Who counts as an employee for the environmental fee?

Corporations must pay the environmental fee if they have 50 or more employees who each worked more than 500 hours in California during the

year. The fee amount is based on the number of qualifying employees.

But who is considered the employer for purposes of calculating the environmental fee? While there is no specific definition of "employer" or "employee" in the Hazardous Substances Tax Law or Health and Safety Code, we refer to the California Labor Code and common law to determine if an employment relationship exists between your corporation and an individual who performs work for you.

The Labor Code defines employment as a contract under which one party (the employer) engages another party (the employee) to do something for the benefit of the employer or a third person. This contract can be a written or oral agreement.

Under common law, several factors are considered in determining whether you are the employer of a person who performs work for you. Two significant factors that support the existence of an employer-employee relationship are (1) you can hire and fire the person, and (2) you can control how the work is performed.

If you have questions regarding how many of the people who worked for you in 2000 will be considered your employees for purposes of calculating the environmental fee, please contact our Environmental Fees Division. General information on the fee is found in publication 90, *Environmental Fee*, available from our Information Center and on our Internet site (see page 3).

3. Ballast water management fee update

Last January, the Board of Equalization was charged with collecting a





new ballast water management fee from owners and operators of certain oceangoing vessels (see July 2000 issue of this newsletter). On July 7, the governor signed Assembly Bill 2380, which provides us with the fee collection and administrative authority to fully implement the fee.

AB 2380 provides that

- The ballast water management fee will be due and payable 30 days from the date of assessment.
- Penalty and interest charges will apply to late payments.
- The Board has the authority to collect on delinquent accounts.
- The Ballast Water Management Fee Program includes all of the provisions of the Taxpayers' Bill of Rights.
- The Board has the authority to refund amounts overpaid or paid in error.
- A feepayer who disagrees with a billing may appeal the assessment.

4. New legislation takes effect

In addition to AB 2830, discussed in the previous article, the following legislation went into effect on January 1, 2001.

AB 2894 (Stats. 2000, ch. 923). This bill

- Requires feepayers whose estimated monthly fee liability averages \$20,000 or more to pay fees by EFT.
- Adds a provision for a 10 percent penalty for failure to file a return or prepayment by the due date.

AB 2898 (Stats. 2000, ch. 1052). Among other things, this bill

- Authorizes the Board to establish criteria to more efficiently provide penalty relief.
- Provides relief to a feepayer when an employer withheld delinquent fees

from that person's pay but failed to remit the amounts to the Board.

- Provides penalty relief when a feepayer complies with an installment payment agreement.
- Prohibits tax preparers from disclosing confidential taxpayer information.
- Changes the effective date for reimbursement of fees and expenses to the issue date of the notice of determination, jeopardy determination, or denial of claim for refund.
- Suspends the statute of limitations on filing refund claims during periods of feepayer disability.
- Requires the Board to issue annual statements to feepayers who have installment payment agreements.

5. Generator fee applies to used oils; recycled used motor oils may be exempt

The generator fee applies to used industrial oils and certain other hazardous waste fluids. Certain used motor oils are exempt from the fee when removed from a vehicle and recycled (see next page).

Oils and other fluids subject to the generator fee

Used industrial oils

- Hydraulic oils
- Compressor oils
- Turbine oils
- Gear oils
- Bearing oils
- Electrical oils
- Refrigeration oils
- Metalworking oils
- Railroad oils

Other used fluids, oils, and related waste

- Antifreeze
- Brake fluid

For copies of legislative bills . . .

. . . please write:

Department
of General
Services,
Legislative Bill
Room
State Capitol,
Room B-32
Sacramento,
CA 95814

. . . or check the

Internet:

www.leginfo.ca.gov

*Be sure to download
the final, chaptered
version of the bill.*



- Other automotive wastes
- Fuels
- Grease
- Solvents
- Wastewater
- Oils mixed with hazardous waste
- Oils with a flash point below 100° F
- Oils containing at least 5 ppm PCBs
- Used oil processing bottoms
- Tank bottoms
- Used oil-refining distillation bottoms
- Oily wastes that are not used oil
- Oil containing more than 1,000 ppm total halogens, unless it can be shown that the oil does not contain hazardous wastes

Exemption for recycled used motor oil

The recycled used motor oil exemption applies to oil removed from automobiles, motorcycles, trucks and similar vehicles, locomotives, boats, and self-propelled, off-road equipment (used on or off road). To qualify for the exemption, the oil must be recycled by an oil recycler who holds a permit issued by the Department of Toxic Substances Control (DTSC).

Used motor oils exempt from the generator fee when recycled include:

- Vehicle crankcase oils
- Engine lubricating oils
- Transmission fluids
- Gearbox and differential oils

Please note: Other oils may be exempt. For more information, contact the DTSC.

If you wish to claim a generator fee exemption for qualifying used motor oil you will need to provide documentation with your generator fee return. Please include the written description of the used oil that appears on the hazardous waste manifest. Be sure to retain any other documents that support the exemption. You may be asked to provide them to validate your claim.

Contact Information

Board of Equalization

Environmental Fees Division

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State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0057
916-323-9555

Internet: www.boe.ca.gov

Information Center

Call anytime to use our automated faxback service or to order a form, regulation, or publication. Center staff can help you weekdays from 8-5 (except State holidays):

1-800-400-7115

TDD assistance for the hearing impaired

1-800-735-2929 (from TDD phone)

1-800-735-2922 (from voice phone)

Taxpayers' Rights Advocate

Call the Board of Equalization's Taxpayers' Rights Advocate's office if you need help with a problem that you have been unable to resolve at other levels:

1-888-324-2798 (toll-free)

Tax Evasion Hotline

1-888-334-3300 (toll-free)

Department of Toxic Substances Control (DTSC)

Telephone: 1-800-61TOXIC
(1-800-618-6942)

Internet: www.dtsc.ca.gov

US Environmental Protection Agency (EPA)

Telephone: 415-495-8895

Remember:

Be sure to put your name and account number on your check so we can credit your payment to the proper account.



6. Hazardous Substances Fee Rates — January 1, 2001

The Health and Safety Code provides for annual adjustment of the rates for the disposal fee, tiered permit fee, facility fee, generator fee, environmental fee, and occupational lead poisoning prevention fee. The adjustments are based on changes in the cost of living as measured by the California Consumer Price Index. The following tables show adjusted hazardous substances fee rates for calendar year 2001 and the 2000 rates for the occupational lead poisoning prevention fee.

DISPOSAL FEE Rate Per Ton		FACILITY FEE Base rate \$21,956		
CATEGORY	2001 FEE RATE	CATEGORY	2001 FEE	
Non-RCRA waste		Disposal	\$ 219,560	
Non-RCRA hazardous waste	\$ 15.45	Large Onsite Treatment	65,868	
Non-RCRA hazardous waste, generated in a cleanup action	5.72	Large Offsite Treatment	65,868	
RCRA waste		Small Treatment	43,912	
Hazardous waste not elsewhere classified (RCRA waste)	38.27	Mini Treatment	10,978	
RCRA waste treated to be non-RCRA or nonhazardous	15.45	Large Storage	43,912	
RCRA waste generated in a cleanup action and treated to be non-RCRA or nonhazardous	5.72	Small Storage	21,956	
Other waste		Mini Storage	5,489	
Mining waste	12.31	Postclosure < 5 years		
Extremely hazardous waste	189.44	Small	5,725*	
Restricted hazardous waste	189.44	Medium	11,450*	
Solid waste residues resulting from incineration or dechlorination	4.74	Large	17,175*	
		Postclosure > 5 years		
		Small	3,050*	
		Medium	6,100*	
		Large	10,300*	
		Standardized		
		Series A	11,730	
		Series B	5,497	
		Series C	4,617	
		Series C small quantity	2,308	
		* Postclosure fees due are 50% of those shown if lead agency is not DTSC		
GENERATOR FEE Base rate \$3,054		TIERED PERMIT FEE		
WASTE TONNAGE GENERATED	2001 FEE RATE	PERMIT TYPE	2001 FEE	
5 – 24.9 tons	\$ 153	Permit-by-Rule (Facility and TTU)	\$ 1,065	
25 – 49.9 tons	1,222	Conditional Authorization	1,065	
50 – 249.9 tons	3,054	Conditional Exemption	38	
250 – 499.9 tons	15,270	Commercial Laundry	38	
500 – 999.9 tons	30,540			
1,000 – 1,999.9 tons	45,810			
2,000 or more tons	61,080			
ENVIRONMENTAL FEE		OCCUPATIONAL LEAD POISONING PREVENTION FEE		
NUMBER OF EMPLOYEES	2001 FEE	NUMBER OF EMPLOYEES	2000 FEE CATEGORY A	2000 FEE CATEGORY B
1 – 49	\$ 0	10 – 99	\$ 220	\$ 315
50 – 74	217	100 – 499	441	880
75 – 99	381	500 or more	1,100	2,519
100 – 249	761			
250 – 499	1,631			
500 – 999	3,044			
1,000 or more	10,331			