State Board of Equalization

NEWSLETTER

# Environmental Fees

Annual Issue
January 2008

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Published by the Environmental Fees Division California State Board of Equalization

MIC:48
450 N Street
P.O. Box 942879
Sacramento, CA
94279-0048

## Contents

1. Additional businesses and organizations will be required to pay the environmental fee
2. Annual taxpayers' bill of rights hearings to begin
3. Ewaste fee applies to portable DVD players as of July 1, 2007
4. Morning Star v. BOE and DTSC
5. How the California Tire Fee applies to tires on demonstrator vehicles
6. When is it time to close out your Special Tax or Fee account
7. Courteous behavior in trying times
8. Feedback is appreciated
9. Approved adjustments to fees for 2008

## 1 Additional businesses and organizations will be required to pay the environmental fee

Beginning January 1, 2007, the environmental fee applies to most businesses and organizations in this state that employ 50 or more people who individually work for more than 500 hours during the calendar year. By law, the term "organization" includes a corporation, limited liability company, limited partnership, limited liability partnership, general partnership, and sole proprietorship. The environmental fee has been in effect since 1989, but prior to the enactment of AB 1803 (Stats. 2006, ch.77), the fee had only been applied to corporations. The fee for the 2007 calendar year is due on **February 29, 2008.**

### Which businesses and organizations owe the fee?

In general, you will owe the environmental fee if your business or organization:

- Has 50 or more employees employed in this state working more than 500 hours in a calendar year, and
- Uses, generates, or stores hazardous materials or conducts activities related to those materials.

The Department of Toxic Substances Control (DTSC) has determined that nearly all businesses and organizations use, generate, store, or conduct activities related to hazardous materials.

### What does the fee do?

The environmental fee provides funds for hazardous waste cleanup and pollution prevention programs administered by the DTSC. The Board of Equalization (BOE) is responsible for collecting the fee.

## For more information

More information about this program can be found within publication 90, *Environmental Fee*. To learn about other environmental programs we administer, or to obtain an application or publication, please visit our webpage at *www.boe.ca.gov/sptaxprog/spenvirofees.htm*

## 2 Annual taxpayers' bill of rights hearings to begin

Do you have suggestions for improving our services? Do you want us to look more closely at a tax or fee issue? If you do, come share your ideas and concerns with our Board Members at the annual Taxpayers' Bill of Rights hearings. You may present your proposal orally or in writing.

The annual business and property taxes hearings for 2008 will be held in Culver City on February 26 and in Sacramento on March 18, both at approximately 1:30 p.m. Although you are not required to make advance arrangements to speak, it would help us to prepare if you contact the Taxpayers' Rights Advocate Office at 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.

For more details, please call the Advocate's office or visit us at *www.boe.ca.gov/tra/tra.htm.*

## 3 Ewaste fee applies to portable DVD players as of July 1, 2007

The electronic waste recycling (Ewaste) fee applies when you sell or lease certain video display devices to consumers. The various products covered by the fee are called covered electronic devices (CEDs). These devices contain video displays measuring more than four inches diagonally and include computer monitors, laptop computers, "bare" cathode ray tubes and televisions with liquid crystal displays (LCD), plasma screens, and cathode ray tubes.

On an annual basis, the DTSC may add electronic devices that they determine contain hazardous substances to the roster of CEDs. In 2007, the DTSC added portable DVD players with LCD screens to the list. As of July 1, 2007, these DVD players are subject to the Ewaste fee.

For more detailed information on CEDs, please call the DTSC's Public and Business Liaisons at 800-728-6942 (800-72TOXIC) or see *www.dtsc.ca.gov.*

Revenue from the Ewaste fee is used to recycle the types of products covered under the program. For more information on the Ewaste fee, please visit our website at *www.boe.ca.gov* and type in ewaste in the search box.

## Contact Information Board of Equalization

**Environmental Fees Division**
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**Taxpayers' Rights Advocate**
Call toll-free for help with disagreements you have not been able to resolve through normal channels: 888-324-2798

**Tax Evasion Hotline:** 888-334-3300

## For More Information

**Internet:**

**To download form and publications:**
Visit our website at *www.boe.ca.gov/cgi-bin/pubs.cgi* for publications. Forms are available at *www.boe.ca.gov/cgi-bin/form_search.cgi.*

**To receive a publication by mail:**
To order printed copies of publications online, please visit *www.boe.ca.gov/cgi-bin/form_search.cgi*. You may also call 800-400-7115 at any time to leave a recorded request for a specific form, publication, or regulation.

For other information on the Board and the programs we administer, please visit *www.boe.ca.gov.*

**Information Center: 800-400-7115**
**TDD/TTY: 800-735-2929**

**To speak to a representative:**
Call between 8:00 a.m. and 5:00 p.m.(Pacific time), Monday-Friday, except state holidays.

**Department of Toxic Substances Control (DTSC)**
**Telephone:** 800-61TOXIC (800-618-6942)
**Internet:** *www.dtsc.ca.gov*

**U.S. Environmental Protection Agency (U.S. EPA)**
**Telephone:** 415-495-8895

## 4 Morning Star v. BOE and DTSC

The California Supreme Court recently decided a case related to the environmental fee, the *Morning Star Company v. State Board of Equalization and Department of Toxic Substances Control* (38 Cal. 4th 324). The company sued to obtain a refund of environmental fees it had paid. Morning Star complained that the DTSC had violated the state's Administrative Procedures Act by determining which corporations must pay the fee without first adopting a regulation.

The court partially agreed. It required the DTSC to develop and adopt regulations to define which businesses are subject to the fee. But the court also allowed the BOE to continue collecting the fee without any change until the regulations were completed.

The DTSC complied with the court order and a regulation has been issued and approved with an effective date of December 7, 2007. The regulation makes no changes to the current fee structure and does not narrow the scope of persons subject to the environmental fee. It also does not change the way the BOE collects the fee

The final version of the regulation and the final Statement of Reasons can be found at the DTSC webpage at *www/dtsc.ca.gov/LawsRegsPolicies/index.cfm.*

## 5 How the California Tire Fee applies to tires on demonstrator vehicles

Tires on demonstrator vehicles are considered new tires and are subject to the California Tire Fee. The fee is due and must be paid by the dealership when the vehicle is brought into service as a demonstrator vehicle.

But what about the spare tire? Typically a spare tire stored in the demonstrator vehicle is considered a new tire. The tire fee is normally not due on the spare tire until the time of the sale of the demonstrator vehicle.

However, if the dealer mounts a new spare tire on a demonstrator vehicle while it is being used as such, the dealer should self-report and pay the fee just as with the four tires originally mounted on the vehicle.

## 6 When is it time to close out your Special Tax or Fee account?

If your business is registered with an environmental fee account, you should notify the BOE's Environmental Fees Division to close your account when any one of the following occurs:

- You are no longer actively engaged in business.
- You sell your business or stock of goods to someone else.
- You change the type of ownership for your business (for example, from a sole proprietorship to a corporation or partnership).
- When your partnership agreement calls for dissolution of the partnership and the formation of a new partnership or when a change in partner(s) occurs.

If you fail to notify us of these changes you may be liable for tax, interest, and penalties which are incurred after you no longer own or operate the business.

Under the Hazardous Substances Tax Law, environmental feepayers are required to file a close-out return. This return is due and payable on the last day of the month following the end of the quarterly period in which the transfer or closure takes place.

If you have other BOE accounts or permits that need to be closed, we can forward this information to any BOE units that handle these accounts. Just let us know which programs or provide us with the account numbers.

If you want more information about the environmental fee program, please visit our website at *www.boe.ca.gov/sptaxprog/spenvirofees.htm* or you may call our Information Center at 800-400-7115.

## 7 Courteous behavior in trying times

Some observers have noted that courtesy is decreasing in our society as our lives become more complex. We know that you may find yourself frustrated with the difficulties of the tax law 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 statement made to a BOE employee that seems remotely like a threat—even a statement made in jest—will be referred to our Internal Security and Audit Division for investigation.

## 8 Feedback is appreciated

We'd like to remind you that BOE policy prevents our employees from accepting gifts of any type. So, if you're grateful to someone for "going the extra mile" to help you with a complicated issue, please consider commenting by using our online form, *www.boe.ca.gov/info/survey.htm.*

This same form can be used if you have a customer service complaint.

9

## APPROVED ADJUSTMENTS ACTIVITY FEES (§25205.7)

For the Period 01/01/2008 to 12/31/2008

| ACTIVITY FEES: | 2007 FEES | APPROVED INCREASE | 2008 FEES |
|---|---|---|---|
| Land Disposal Facility Permit Application Fee | | | |
| Large Facility: | $513,913 | $15,849 | $529,762 |
| Medium Facility: | 299,220 | 9,228 | 308,448 |
| Small Facility: | 140,312 | 4,327 | 144,639 |
| Incineration Facility Requiring a Permit | | | |
| Large Facility: | 307,673 | 9,489 | 317,162 |
| Medium Facility: | 179,194 | 5,526 | 184,720 |
| Small Facility: | 84,523 | 2,607 | 87,130 |
| Storage or Treatment Facility Permit Application Fee | | | |
| Large Facility: | 101,431 | 3,128 | 104,559 |
| Medium Facility: | 52,407 | 1,616 | 54,023 |
| Small Facility: | 28,739 | 886 | 29,625 |
| Standardized Permit Facility Application Fee | | | |
| Series A: | 43,168 | 1,331 | 44,499 |
| Series B: | 26,950 | 831 | 27,781 |
| Series C: | 7,181 | 221 | 7,402 |
| Transportable Treatment Unit Permit Application Fee | | | |
| Large Unit: | 101,431 | 3,128 | 104,559 |
| Medium Unit: | 50,714 | 1,564 | 52,278 |
| Small Unit: | 21,978 | 678 | 22,656 |
| Facility Postclosure Permit Application Fee | | | |
| Large Facility: | 50,714 | 1,564 | 52,278 |
| Medium Facility: | 30,430 | 938 | 31,368 |
| Small Facility: | 13,521 | 417 | 13,938 |

## APPROVED ADJUSTMENTS ENVIRONMENTAL FEES (§25205.6)

For the Period 01/01/2008 to 12/31/2008

| NUMBER OF EMPLOYEES: | 2007 FEES | APPROVED INCREASE | 2008 FEES |
|---|---|---|---|
| 50 to 74 | $262 | $8 | $270 |
| 75 to 99 | 462 | 14 | 476 |
| 100 to 249 | 922 | 28 | 950 |
| 250 to 499 | 1,976 | 61 | 2,037 |
| 500 to 999 | 3,689 | 114 | 3,803 |
| 1,000 or more | 12,522 | 386 | 12,908 |

## APPROVED ADJUSTMENTS OCCUPATIONAL LEAD POISONING PREVENTION FEE (§105190)

For the Period 01/01/2008 to 12/31/2008

| NUMBER EMPLOYEES | 2007 FEES | APPROVED INCREASE | 2008 FEES |
|---|---|---|---|
| Category A: | | | |
| Number of Employees: | | | |
| 10 to 99 | $270 | $ 8 | $278 |
| 100 to 499 | 542 | 17 | 559 |
| 500 or more | 1,353 | 42 | 1,395 |
| Category B: | | | |
| Number of Employees: | | | |
| 10 to 99 | 388 | 12 | 400 |
| 100 to 499 | 1,083 | 33 | 1,116 |
| 500 or more | 3,099 | 96 | 3,195 |

## APPROVED ADJUSTMENTS FACILITY FEE, GENERATOR FEE, DISPOSAL FEE, PERMIT BY RULE, AND CONDITIONAL AUTHORIZATION FOR PERIODS

01/01/2008 TO 12/31/2008

| HAZARDOUS WASTE FEE | 2007 FEES | APPROVED INCREASE | 2008 FEES |
|---|---|---|---|
| FACILITY FEE BASE RATE (§25205.2) | $26,613 | $821 | $27,434 |
| GENERATOR FEE BASE RATE (§25205.5) | 3,701 | 114 | 3,815 |
| DISPOSAL FEE BASE RATE (§25174.2)* | 114.81 | 3.54 | 118.35 |
| PERMIT BY RULE (§25205.14) | 1,291 | 40 | 1,331 |
| CONDITIONAL AUTHORIZATION (§25205.14) | 1,291 | 40 | 1,331 |

**Please note, in contrast to the other base rates, which are rounded to the nearest dollar, the Disposal Fee base rate is rounded to the nearest cent. This is a result of the Disposal Fee being computed for each ton of hazardous waste.*

### How are we doing?

We are committed to providing top-quality public service. Please let us know how we are doing by sending us your comments or suggestions. Please go online to fill out a brief *Customer Survey Form* at *www.boe.ca.gov/info/survey.htm.*