



Special Notice

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New Tax Rates for Motor Vehicle Fuel

Assembly Bill x8 6 (Stats 2010, Ch. 11), as amended by Senate Bill 70 (Stats 2010, Ch. 9), amends Revenue and Taxation Code section 7360, and adds Revenue and Taxation Code sections 6357.7, 7361.1, and 7653.1. This legislation provides for both a motor vehicle fuel excise tax rate increase and for a corresponding sales and use tax rate decrease on sales of motor vehicle fuel effective July 1, 2010.

Motor Vehicle Fuel Tax Increase

On July 1, 2010, the excise tax rate on motor vehicle fuel will increase by 17.3 cents (\$0.173) on each gallon of motor vehicle fuel in this state. The combined excise tax rate will be 35.3 cents (\$0.353) per gallon of motor vehicle fuel and will be imposed upon suppliers at the same points of taxation as is the current 18 cents (\$0.18) per gallon tax. Aviation gasoline is excluded from the increase and the tax rate remains unchanged at 18 cents (\$0.18) per gallon.

Suppliers are responsible for paying the increased tax rate of 35.3 cents (\$0.353) on all taxable activities occurring on or after July 1, 2010.

Motor Vehicle Fuel Storage Tax

In addition, this legislation imposes a storage tax of 17.3 cents (\$0.173) per gallon on suppliers, wholesalers, and retailers owning 1,000 gallons or more of tax-paid motor vehicle fuel held in inventory or in transit below the terminal rack as of 12:01 a.m. on July 1, 2010. Suppliers, wholesalers, and retailers are required to file a return to report this tax. The storage tax return and payment are due on or before August 31, 2010. The storage tax does not apply to aviation gasoline.

It is extremely important that each supplier, wholesaler, and retailer has an accurate inventory of motor vehicle fuel it owns on which the 18 cents (\$0.18) per gallon tax has been paid and which is held in transit or storage below the terminal rack as of 12:01 a.m. on July 1, 2010.

Sale and Use Tax Decrease

In addition to the motor vehicle fuel tax rate increase, effective July 1, 2010, the applicable sales and use tax rate imposed on sales of motor vehicle fuel will be lowered from the current state-wide rate of 8.25 percent to 2.25 percent, plus any applicable district taxes. If you have any questions regarding the imposition of district taxes, please see publication 105, *District Taxes and Delivered Sales*.

Generally, sales tax is included in the retail sales price of motor vehicle fuel. Therefore, it is important that retailers remember to apply the new lower sales and use tax rate when calculating the tax collected on sales of motor vehicle fuel sold at retail on or after July 1, 2010, and when computing and reporting the sales tax included deduction. Additionally, it is important that retailers remember that the 17.3 cents (\$0.173) per gallon increase in the motor vehicle fuel tax is included in the gross receipts subject to sales tax.

May 2010

Tax Rate Changes Apply to Motor Vehicle Fuel Only, Excluding Aviation Gasoline

Revenue and Taxation Code section 7326 defines "motor vehicle fuel" to mean gasoline and aviation gasoline. The term "motor vehicle fuel" does *not* include jet fuel, diesel fuel, kerosene, liquefied petroleum gas, natural gas in liquid or gaseous form, alcohol, or racing fuel.

Although diesel fuel and other fuels not specifically defined as motor vehicle fuel may be used to power a motor vehicle, these fuels are not subject to the new higher motor vehicle fuel tax rate or the new lower sales and use tax rate. Changes to the diesel fuel tax rate and the sales and use tax rate applicable to sales of diesel fuel are scheduled to become effective a year later, July 1, 2011. A separate notice will be sent in 2011 discussing these changes.

Sales Tax Prepayment Rate Adjustment

Due to these changes, the sales and use tax prepayment rate for motor vehicle fuel is being adjusted accordingly. The current sales and use tax prepayment rate of 18.5 cents (\$0.185) per gallon will be lowered to 5.5 cents (\$0.055) per gallon effective July 1, 2010. The prepayment rates for aircraft jet fuel and diesel fuel will not change at this time.

Sales of Fuel to Native American Indian Retailers on an Indian Reservation

As a general reminder, sales of motor vehicle fuel and diesel fuel to Native American Indian retailers on an Indian reservation are subject to the imposition of the state excise tax (motor vehicle fuel tax or diesel fuel tax) and the requirement to collect prepaid sales tax. Current law does *not* provide an exemption for collecting prepaid sales tax on sales of fuel to an Indian retailer on an Indian reservation. Although sales tax may not apply to retail sales of fuel by Indian retailers, the Indian retailer is generally required to collect use tax on sales of fuel to non-Indians and Indians not residing on a reservation.

Taxpayer Information Section

If you have any questions regarding this notice, please visit our website at www.boe.ca.gov or call our Taxpayer Information Section at 800-400-7115 (TDD/TTY: 800-735-2929). Customer Service Representatives are available to assist you weekdays from 8:00 a.m. to 5:00 p.m. Pacific time, except state holidays.

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