

## Special taxes and fees news

### Ownership changes for underground storage tanks

The owner of the Underground Storage Tank (UST) is responsible for paying the Underground Storage Tank Maintenance Fee. If you have sold your UST, please notify the Board of Equalization (BOE) immediately so that we may close out your account. If you have purchased a UST, be sure to contact the BOE and register for a new account. Ownership changes include sale of the UST, changes in a partnership, incorporation, and transfers to and from a trust. You should also contact the BOE if you lease the real property on which the UST is located to an operator or make changes to the lease, because the party responsible for paying the UST fee to the BOE may be affected.

Many times after an ownership change, the fees are reported and paid under the old account in error. When this occurs, the new owner's account is designated delinquent and may be liable for penalty and interest charges. Any fees paid in error under an account not registered to the current owner require authorization from the owner of that account in order to transfer those fees to the current owner's account. If your tenant is paying the fee on your behalf, both you and your tenant should contact the BOE to complete Statements of Underground Storage Tank Owner/Operator forms which formally acknowledge that the tenant's payments are being made on behalf of the owner. See [Regulation 1213](#), *Payment of Fee by Operator*, for a sample of the forms you need to complete.

For more information, please refer to [publication 88](#), *Underground Storage Tank Fee*.

### Sales of dyed diesel fuel

Sales of dyed diesel fuel are exempt from the diesel fuel tax if the fuel meets the dyeing requirements of the United States Environmental Protection Agency (EPA) and the Internal Revenue Service (IRS). These sales include fuel that is indelibly dyed by mechanical injection. If you sell dyed diesel fuel, you must post a notice on **all** retail pumps where the fuel is dispensed, stating that the fuel is dyed and is for nontaxable use only. If the fuel is sold from other than a retail pump, you must provide your customer with a sales invoice that states the fuel is dyed and is for nontaxable use only.

### Using dyed diesel fuel on California roads or highways

Using dyed diesel fuel to power vehicles on California roads and highways is not permitted unless you are **authorized to do so by federal and state law and licensed by the BOE**. The penalty for unauthorized use of dyed diesel fuel on California roads and highways is generally imposed against the vehicle owner.

### Dyed diesel fuel penalties

A penalty applies to any person who:

- Sells dyed diesel fuel for any use that is considered a taxable use of the diesel fuel.
- Uses dyed diesel fuel for a taxable use with the knowledge that the diesel fuel was so dyed.
- Knowingly alters, or attempts to alter, the strength or composition of any dye or marker in dyed diesel fuel.
- Fails to provide or post the required notice with respect to sales of dyed diesel fuel. The failure to provide or post the required notice creates a presumption that the diesel fuel will be used for a taxable use.

The penalty for each violation is \$10 for every gallon of dyed diesel fuel involved, or \$1,000, whichever is greater. If you were previously penalized for using dyed diesel fuel in a highway vehicle, the penalty will be multiplied by the total number of violations including the current one. We will notify the IRS, and the IRS may assess you additional penalties under federal law.

### Gas tax swap update

The gas tax swap (also known as the fuel tax swap) legislation was enacted by Assembly Bill x8 6 (Chapter 11, Statutes of 2010) and Senate Bill 70 (Chapter 9, Statutes of 2010). This legislation increases the excise tax and decreases the sales tax on sales of motor vehicle fuel (gasoline) and decreases the excise tax and increases the sales tax on sales of diesel fuel, in two phases. The net result of the gas tax swap is revenue neutral.

The first phase of the gas tax swap, effective July 1, 2010, lowered the statewide sales tax rate to 2.25 percent and raised the state excise tax to 35.3 cents per gallon on sales of motor vehicle fuel.

The second phase, effective July 1, 2011, will be a reduction of the excise tax on diesel fuel to 13.6 cents per gallon and a statewide sales tax rate increase of 1.75 percent on sales of diesel fuel. This phase will also include an adjustment to the excise tax on motor vehicle fuel, effective July 1, 2011, to maintain revenue neutrality.

To maintain revenue neutrality, the state excise tax rates for both motor vehicle fuel (beginning in 2011) and diesel fuel (beginning in 2012) may be adjusted annually March 1, with any new rates effective July 1 of that year. The excise tax rate applicable to motor vehicle fuel effective July 1, 2011, will be \$0.357 cents per gallon.

Aviation gasoline is not affected by the fuel tax swap. In addition, exempt uses of diesel fuel for excise tax purposes will also be exempt from the sales tax rate increase.

Some provisions of the fuel tax swap legislation may be affected by recently passed Proposition 26, that requires that certain state and local tax and fee increases be passed by a two-thirds majority. We will keep you advised as events unfold.

## **Cadmium in children's jewelry**

Did you know that...

As of January 1, 2011, California law restricts cadmium levels in children's jewelry?

If you manufacture, ship, sell, offer for sale, or offer for promotional purposes children's jewelry made with any component or any material that contains the heavy metal cadmium, you must comply with the law.

A person (for example, a manufacturer, retailer, or supplier) who violates this new law may be subject to a penalty of up to \$2,500 per day for each violation.

For more specific information on cadmium in children's jewelry, please visit the Department of Toxic Substances Control's website at [www.dtsc.ca.gov/PollutionPrevention/ToxicsInProducts/Cadmium.cfm](http://www.dtsc.ca.gov/PollutionPrevention/ToxicsInProducts/Cadmium.cfm). You can also reach them by phone, at 800-728-6942, or by email at [leadinjewelry@dtsc.ca.gov](mailto:leadinjewelry@dtsc.ca.gov).

## **New and revised publications June-December 2010**

Pub. 13, *California Electronic Waste Recycling Act of 2003*, 06-10

Pub. 17, *Appeals Procedures: Sales and Use Taxes and Special Taxes*, 08-10

Pub. 20, *California Emergency Telephone Users Surcharge Law*, 06-10

Pub. 21G, *The California State Board of Equalization*, 07-10

Pub. 21SCO, *The California State Board of Equalization*, 07-10

Pub. 36, *Veterinarians*, 08-10

Pub. 60, *California Hazardous Substances Tax Law*, 06-10

Pub. 61, *Sales and Use Taxes: Exemptions and Exclusions*, 09-10

Pub. 66, *Agricultural Industry*, 08-10

Pub. 67EG, *Instructions for Reporting State-Assessed Property, Electric Generation Companies*, 12-10

Pub. 67GE, *Instructions for Reporting State-Assessed Property, Gas and Electric Companies*, 12-10

Pub. 67LE, *Instructions for Reporting State-Assessed Property, Telephone Companies-Local Exchange Carriers*, 12-10

Pub. 67PL, *Instructions for Reporting State-Assessed Property, Intercounty Pipelines and Watercourses*, 12-10

Pub. 67RC, *Instructions for Reporting State-Assessed Property, Telephone Companies-Radio Common Carriers*, 12-10

Pub. 67RF, *Instructions for Reporting State-Assessed Property, Railcar Maintenance Facilities*, 12-10

Pub. 67RR, *Instructions for Reporting State-Assessed Property, Railroad Companies*, 12-10

Pub. 67TC, *Instructions for Reporting State-Assessed Property, Telecommunication Carriers*, 12-10

Pub. 67TR, *Instructions for Reporting State-Assessed Property, Telecommunication Resellers*, 12-10

Pub. 67WT, *Instructions for Reporting State-Assessed Property, Telephone Companies-Wireless Carriers*, 12-10

Pub. 69, *California Integrated Waste Management Fee Law*, 06-10

Pub. 71, *California City and County Sales and Use Tax Rates*, 10-10

Pub. 74, *Closing Out Your Seller's Permit*, 12-10

Pub. 79B, *California Use Tax - For purchases made from out-of-state businesses*, 7-10

Pub. 81, *Franchise and Personal Income Tax Appeals*, 12-10

Pub. 83, *California Tire Fee*, 06-10

Pub. 88, *Underground Storage Tank Fee*, 12-10

Pub. 89ST, *EFT Quick Reference Guide for Special Taxes*, 12-10

Pub. 90, *Environmental Fee*, 11-10

Pub. 91, *California Tire Fee*, 11-10

Pub. 92, *Alcoholic Beverage Tax*, 08-10

Pub. 93, *Cigarette and Tobacco Products Taxes*, 11-10

Pub. 94, *Occupational Lead Poisoning Prevention Fee*, 11-10

Pub. 95, *Electronic Waste Recycling Fee*, 12-10

Pub. 96, *Biodiesel and California Tax*, 11-10

Pub. 111, *Operators of Swap Meets, Flea Markets, and Special Events*, 06-10

Pub. 113, *Coupons, Discounts and Rebates*, 12-10

Pub. 123, *California Businesses: How to Identify California Use Tax Due*, 08-10

Pub. 152, *Cigarette and Tobacco Product Inspections*, 11-10

Pub. 155, *Guidelines for Creating and Revising BOE Documents*, 11-10

Pub. 192, *Incident Management*, 06-10

Pub. 197, *Guiding Principles for the Administration Department Staff*, 09-10

Pub. 200, *BOE Vision Statement*, 08-10

Pub. 201, *Special Taxes and Fees Newsletter*, 12-10

Pub. 204, *Special Taxes and Fees Cigarette and Tobacco Products Newsletter*, 10-10

Pub. 205, *Motor Carrier Section Newsletter*, 12-10

Pub. 206, *Human Trafficking*, 09-10

Pub. 329, *Economic Perspective*, 11-10

Pub. 382, *Strategic Plan*, 07-10

Pub. 382A, *Strategic Plan (trifold)*, 09-10

Pub. 406, *Board Member Orientation Binder*, 11-10

Pub. 416B, *3 Year Business Plan Fiscal Year 2010-2013*, 08-10

## Translated Publications

### **New publications:**

Pub. 30, *Residential Property Assessment Appeals*, 03-03 (Spanish and Chinese)

Pub. 76, *Audits*, 03-10 (Thai)

Pub. 120, *Cell Phones*, 07-07 (Chinese, Korean, Spanish, and Vietnamese)

### **Revised publications:**

Pub. 17, *Appeals Procedures Sales and Use Taxes and Special Taxes*, 08-10 (Spanish and Thai)

Pub. 31, *Grocery Stores*, 05-10 (Spanish)

Pub. 32, *Sales to Purchasers From Mexico*, 05-10 (Spanish)

Pub. 51, *Board of Equalization Resource Guide to Free Tax Products and Services*, 09-09 (Chinese)

Pub. 54, *Tax Collection Procedures*, 10-09 (Chinese and Vietnamese)

Pub. 73, *Your California Seller's Permit*, 05-10 (Spanish and Thai)

Pub. 76, *Audits*, 03-10 (Korean and Spanish)

Pub. 102, *Sales to the United States Government*, 08-09 (Spanish)

Pub. 107, *Do You Need a California Seller's Permit*, 05-10 (Chinese, Korean, and Spanish)

Pub. 109, *Are Your Internet Sales Taxable?*, 08-09 (Spanish)

Pub. 123, *California Businesses: How to Identify California Use Tax Due*, 08-10 (Chinese, Korean, Spanish, and Vietnamese)

Pub. 159, *eFile Guide*, 02-10 (Chinese, Korean, Spanish, Thai, and Vietnamese)

Pub. 164, *SCOP-Statewide Compliance and Outreach Program*, 05-10 (Chinese, Korean, Spanish, and Vietnamese)