



STATE BOARD OF EQUALIZATION

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Executive Director

November 19, 1996

Mr. [Name]

[Faded address text]

Dear Mr. [Name],

Your October 31, 1995 letter to the Fuels Tax Division has been referred to me for reply. Please excuse the delay in responding to your inquiry.

You requested an opinion as to the measure of the Underground Storage Tank Fee (UST) where the content of the tank is a mixture of petroleum, other hazardous materials such as solvents, oils and grease, and water. Your letter requests clarification as to whether the UST Fee is owed on the petroleum portion of the waste or the total waste.

The Underground Storage Tank Maintenance Fee Law is found in both the Revenue and Taxation Code and the Health and Safety Code. The UST Fee is imposed upon "each gallon of petroleum placed in an underground storage tank". (Health & Saf. Code § 25299.41). The governing definition of "petroleum" is "crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure...." (Health & Saf. Code § 25299.22). The word "fraction" refers to the petrochemical process whereby a component of crude oil is separated by fractionation.

We have no authority to prorate the UST Fee based on the percentage of petroleum in an underground storage tank where the tank contains a mixture of waste products. This is in accord with the legislative intent of the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989 as expressed in Health and Safety Code section 25299.10. Through payment of the UST Fee and other owners of underground tanks are encouraged and aided in taking corrective action to remedy leaking tanks.

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I hope this letter satisfies your concerns. Again, I apologize for the delayed response.

Sincerely,



Stella Levy
Tax Counsel

SCL:es

cc: Mr. Ed King (MIC:33)
Mr. Bob Frank (MIC:56)
Ms. Janet Vining