

State of California
BOARD OF EQUALIZATION

MOTOR VEHICLE FUEL TAX REGULATIONS

Regulation 1132. SHIPMENTS OUT OF THE STATE.

Reference: Sections 7338, 7401, 7651, 8101, 8102, 8105, 8106.5, 8126, 8128, 8129, 8301 and 8303, Revenue and Taxation Code.

(a) DEFINITIONS.

(1) **EXPORT.** An export of motor vehicle fuel is the delivery or shipment of fuel by the supplier from a point in this state to a point outside of this state. The fuel is not exported if it is diverted in transit or for any reason is not actually delivered out of this state, regardless of documentary evidence held by the supplier respecting delivery of the fuel to a carrier for out-of-state shipment or to a vessel clearing for an out-of-state port.

(2) **CARRIER.** A carrier means a person or firm who is regularly engaged in the business of transporting for compensation property owned by other persons and includes both common and contract carriers. The carrier may be hired by either the purchaser or the supplier.

(b) REQUIREMENTS. A supplier may not claim an export exemption from motor vehicle fuel license tax under Revenue and Taxation Code Section 7401(a)(3) unless the motor vehicle fuel is in fact exported and the export is accomplished in the manner specified in either (1) or (2) below:

(1) The supplier claiming the exemption from tax shows that it delivered the motor vehicle fuel to any vessel clearing from a port of this state for a port outside of this state and the fuel was actually exported from this state in the vessel; or

(2) The supplier claiming the exemption from tax shows that it exported the motor vehicle fuel from this state pursuant to a written contract requiring delivery by the supplier of the fuel to:

(A) the out-of-state point by facilities operated by the supplier,

(B) a carrier for shipment to a consignee at the out-of-state point, or

(C) a customs broker or forwarding agent for shipment to a location outside of this state.

(c) EXPORTS OF EX-TAX FUEL. The tax does not apply to the export of ex-tax motor vehicle fuel actually exported.

A supplier must claim the exemption for the export of ex-tax fuel on the return filed for the period in which the export was made. If a supplier fails to claim the exemption on the return and tax is erroneously paid on the ex-tax export of fuel, a timely claim for refund must be filed with the Board pursuant to Section 8128 of the Motor Vehicle Fuel Tax Law in order to obtain a refund of the amount of taxes so overpaid.

(d) EXPORTS OF TAX-PAID FUEL. In lieu of claiming a refund of tax for exports of tax-paid fuel with the State Controller as provided by Section 8101(b) of the Revenue and Taxation Code, a supplier may take a credit on its return for tax-paid fuel when the fuel is exported to a point outside the state. The credit must be claimed on a return filed within three months after the close of the calendar month in which the tax-paid fuel is exported. If the credit exceeds the taxable gallons of motor vehicle fuel for the period in which the credit may be taken, refund of the tax on the excess gallonage can only be obtained by filing a claim for refund with the State Controller.

Failure to take credit on a return filed within three months after the close of the calendar month in which the tax-paid fuel is exported does not give rise to a right to file a claim for refund with the Board pursuant to Section 8126 of the Revenue and Taxation Code. Instead, claims for refund for tax-paid fuel exported must be filed with the State Controller within three years from the date of purchase of the fuel.

Regulation 1132. (Continued)

(e) DOCUMENTATION REQUIRED FOR SUPPORT. All shipments of motor vehicle fuel to points outside of the state for which tax exemption or credit is claimed on a tax return shall be reported on a schedule accompanying the return for the period for which the exemption or credit is claimed.

The supplier must retain documentation to support the delivery of the fuel by the supplier at an out-of-state location for all exemptions or credits. Documentation may include, but is not limited to, contracts, bills of lading, delivery tickets, or meter readings. The supplier has the burden of providing the proper substantiation and documentation to support the exemption or credit.

History: Effective March 15, 1948.

Amended effective February 16, 1956.

Amended effective October 1, 1959.

Amended November 7, 1963, effective December 12, 1963.

Amended April 9, 1980, effective June 19, 1980. In the first paragraph, subparagraph (a) (2) deleted "as consignor" following "distributor."

Amended February 5, 1986, effective May 1, 1986. In subdivision (a) amended definition of export. In subdivision (b) added explanation of the exemption from tax of ex-tax fuel exported. In subdivision (c) added explanation of how a credit may be taken for tax-paid fuel exported. In subdivision (d) amended explanation concerning documentation required to support an export.

Amended January 8, 1991, effective March 17, 1991. Subsection (a) was divided into two subparagraphs and the definition of the term "carrier" was added as subsection (a) (2). Subsection (c) changed the time limit for taking a credit in lieu of refund and deleted reference to filing a claim if credit was not claimed on a return. Subsection (d) deleted the words "or credit" in the first paragraph.

Amended November 18, 1999, effective February 20, 2000.

Amended March 27, 2002, effective July 11, 2002. Regulation amended to replace references to "distributor" with references to "supplier" throughout regulation, pursuant to statutory changes to the Motor Vehicle Fuel Tax Law that became effective on January 1, 2002. In subdivisions (c) and (d), deleted language pertaining to stock transfers of ex-tax fuel to a point outside California, as the language is no longer relevant, pursuant to changes in the imposition of tax that took effect January 1, 2002.