

Fuel Taxes Newsletter

State
Board of
Equalization

BOARD MEMBERS

Betty T. Yee
First District
San Francisco

Bill Leonard
Second District
Ontario/Sacramento

Michelle Steel
Third District
Rolling Hills Estates

Judy Chu, Ph.D.
Fourth District
Los Angeles

John Chiang
State Controller

EXECUTIVE DIRECTOR
Ramon J. Hirsig

**Publication 341
December 2008**

Volume XIII
Number 2

Final Semi-Annual Issue

Copies available at
www.boe.ca.gov

In This Issue . . .

All Tax and Fee Programs

Annual Taxpayers' Bill of Rights Hearings	1
Special taxes accounts can now make Electronic Funds Transfer (EFT) payments over the Internet!	1
New legislation takes effect January 1, 2009	2
Civil behavior in trying times	2
Thanking our staff—no gifts, please	2

Motor Vehicle Fuel and Diesel Fuel Tax Programs

Fuel imported into California	3
---	---

Diesel Fuel

Qualified highway vehicle operator licenses for "SE" plated vehicles to be canceled	3
Tax rate change for 2009 International Fuel Tax Agreement (IFTA) and interstate user diesel fuel licenses	3
IFTA audits	4

■ All Tax and Fee Programs

Annual Taxpayers' Bill of Rights Hearings

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 can present your proposal orally or in writing.

The annual business and property taxes hearings for 2009 will be held in Sacramento on March 17, 2009 and in Culver City on April 28, 2009. Both hearings will start at or after 1:30 p.m. Please check the BOE's website for addresses.

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 in writing and then summarize it in your oral presentation.

For more details, please call the Taxpayers' Rights Advocate Office or visit us at www.boe.ca.gov (click on the tab "Your Rights" and choose "Taxpayers' Rights Advocate"), where you can also view the office's 2007-08 annual report, which will be available soon.

Special taxes accounts can now make Electronic Funds Transfer (EFT) payments over the Internet!

If you are currently registered to make EFT payments for your special taxes account(s), you can now make your EFT payment over the Internet. Information needed to make an EFT payment over the Internet is included as an addendum to publication 89, *Electronic Funds Transfer Information Guide, Special Taxes*. It can be found on the BOE's website at www.boe.ca.gov. You can enter "publication 89" on the search line. If you prefer, you may still make your EFT payments by telephone at 800-554-7500.





December 2008 Fuel Taxes Newsletter

Know Your Rights

As a taxpayer, you have many rights under the law, including the right to:

- Receive information and assistance to help you comply with the law.
- Be treated fairly and courteously, and receive prompt service.
- Appeal a decision or claim a refund as allowed by law.

Of course, along with those rights, you have certain responsibilities, including the responsibility to:

- Keep informed about tax laws and regulations.
- Report and pay taxes and fees when due.
- Maintain adequate records.

For more information about your rights, you may wish to order publication 70, *Understanding Your Rights as a California Taxpayer*.

If you would like to make your payments via EFT, but are not registered to do so, you will need to complete and return BOE-555-ST, *Authorization Agreement for Electronic Funds Transfer (EFT)*. Once your request is approved and processed, you will be sent a confirmation.

If you have any questions concerning the EFT program or need more information, please contact the appropriate Special Taxes Helpline:

Environmental Fees Division	916-323-9555
Excise Taxes Division	916-327-4208
Fuel Taxes Division	916-322-9669
or	
BOE's Taxpayer Information	800-400-7115

New legislation takes effect January 1, 2009

The following information summarizes the changes in the law that the Legislature enacted during the 2008 legislative session. These changes affect the fuel tax programs administered by the BOE. For copies of these bills, please write to the Legislative Bill Room, 1303 10th Street, Room B32, Sacramento, CA 95814, or you can visit their website, www.leginfo.ca.gov/bilinfo.html.

- Senate Bill 1161 (Stats. 2008, ch. 616) amends the Health and Safety Code provisions relating to the Underground Storage Tank Maintenance Fee Law. The amendments extend the Barry Keene Underground Storage Tank Cleanup Trust Fund Act to January 1, 2016. This bill further revises the definition of "underground storage tank" to specify that the term also includes certain components that are either directly or indirectly connected to the tank. The bill also adds and amends various sections affecting how the trust fund monies may be expended and expands under specific circumstances who may file a claim for corrective action costs.
- Assembly Bill 3079 (Stats. 2008, ch. 306) amends and adds sections to the Motor Vehicle Fuel Tax Law and Diesel Fuel Tax Law to require train operators that may carry motor vehicle fuel, alcohol, aircraft jet fuel, or diesel fuel to obtain a license as a common carrier of petroleum products and to file reports with the BOE regarding those fuels carried by their trains.

Additional information regarding registration and reporting requirements can be found on the BOE's website at www.boe.ca.gov or by contacting us at 916-322-9669.

- Assembly Bill 2047 (Stats. 2008, ch. 222) amends the following programs administered by the Fuel Taxes Division with respect to the BOE's Offer in Compromise (OIC) Program effective January 1, 2009. The Use Fuel Tax Law, Oil Spill Response, Prevention, and Administration Fees Law, Underground Storage Tank Maintenance Fee Law, Fee Collections Procedures Law, and Diesel Fuel Tax Law now allow the BOE, until January 1, 2013, to compromise certain final tax or fee liabilities of (1) businesses that are not discontinued or transferred if the final tax liability arises from transactions in which the taxpayer did not receive tax reimbursement and (2) persons liable as successors. Additionally, the OIC Program has been enhanced to provide more flexibility for tax/feepayers. New guidelines will allow a tax/feepayer to fund an offer in a lump sum or to pay the offered funds in installments over a period of one year. For more information on the OIC Program, please visit our website at www.boe.ca.gov or contact the Offers in Compromise Section at 916-322-7931.

Civil behavior in trying times

Some observers have noted that civility 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.

Thanking our staff—no gifts, please

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 saying so using our online form, www.boe.ca.gov/info/survey.htm. You can also use the form to register a customer service complaint.

■ Motor Vehicle Fuel and Diesel Fuel Tax Programs

Fuel imported into California

Do I report the import?

The person who owns the fuel when it crosses the border and enters the state by land or by flange on the vessel offloading the product to a marine terminal or refinery is the person who is required to be licensed as a supplier with the BOE and to report the import. The buyer of the product is not necessarily the importer. The contract of sale typically identifies when title transfers from the seller to the buyer and this or any similar document should be used to determine who is the owner of the fuel and required to hold a license and to report the import to the BOE.

How do I report?

The reporting requirements for petroleum products imported into California can appear complex, but are, in fact, relatively simple. The short answer is that all taxable, exempt, and reportable products imported into California must be reported on BOE-501-PS, *Supplier of Motor Vehicle Fuel Tax Return*, or BOE-501-DD, *Supplier of Diesel Fuel Tax Return*. Imports must be reported on one of three schedules, depending on whether the product is imported above or below the rack or if the product is a motor vehicle fuel blendstock being imported to an approved refinery or terminal. Use Schedule 3A, *Imports Above the Terminal Rack*, to report ex-tax gallons of fuel imported above the California terminal rack via ship or barge. Imports into California below the terminal rack (via truck or rail) must be reported on Schedule 3X, *Imports Below the Terminal Rack*. The exception to reporting on Schedule 3X is exempt imports of motor vehicle fuel blendstocks into California to an approved refinery or terminal. These imports should be reported on Schedule 3B, *Imports of Out-of-State Tax-Free Motor Vehicle Fuel Blendstocks to an Approved Refinery or Terminal*.

How do I know if my product is taxable, exempt, or reportable?

BOE-810-FTA/FTB, *Product Code Table*, which is available on our website at www.boe.ca.gov, is very useful for making this determination and also provides the product code for each product. It also identifies which tax return the product should be reported on and whether it is taxable, exempt, or reportable. Products identified as

“Other” do not need to be reported by suppliers when imported into California.

What about taxable imports delivered to an approved terminal?

Imports of any taxable product below the rack must be reported on Schedule 3X and the tax paid as described in the previous column. If those products are then delivered to an approved terminal, an additional reporting step is required to avoid paying the excise tax twice. Upon removal at the terminal rack, in addition to reporting the transaction on the proper disbursement schedule, the gallons should be included on summary Schedule S03A, *Tax Credit*, and must be supported by a first taxpayer report.

■ Diesel Fuel Tax Program

Qualified highway vehicle operator licenses for “SE” plated vehicles to be canceled

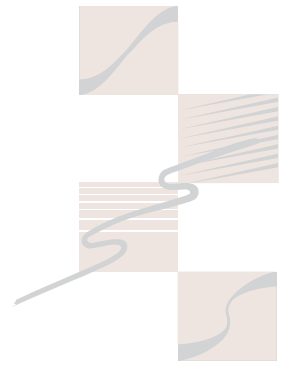
In order to be a “qualified highway vehicle operator,” the vehicle must be qualified to use dyed diesel fuel on the highway by the Internal Revenue Service under section 48.4082-4 of Title 26 of the Code of Federal Regulations.

The federal exemption under section 48.4082-4(c)(6)(i) doesn’t apply to “SE” plated vehicles, including water trucks, because these vehicles must have a registration/identification for highway use. “SE” plated vehicles are not exempt from the restriction on the use of dyed diesel fuel on the highway for federal purposes and, therefore, are not exempt for California purposes. We will no longer issue a qualified highway vehicle license for “SE” plated vehicles and will close existing accounts that are only for “SE” plated vehicles.

In other words, it is **illegal** under California law to operate a water truck or any other “SE” plated vehicle using dyed diesel fuel on any publicly maintained highway. Violation may result in the imposition of both federal and state penalties. If a company foresees ANY situation where their water truck (or any “SE” plated vehicle) will incur ANY travel on a publicly maintained highway, the vehicle must have clear fuel in its tank.

Tax rate change for 2009 International Fuel Tax Agreement (IFTA) and interstate user diesel fuel licenses

The tax you report and pay with your quarterly fuel tax return for diesel fuel that you purchase outside California and use in the state has been increased to 43.7 cents per gallon for the period



December 2008
Fuel Taxes Newsletter

Need more information?
Give us a call or go online. See the back page for telephone numbers and website addresses.



January 1, 2009 through December 31, 2009. You may also claim a credit of 43.7 cents per gallon for the gallons of tax-paid diesel fuel you purchase in California and use both inside and outside the state.

The 43.7 cents per gallon reflects:

- 18 cents per gallon of diesel fuel tax plus
- An additional excise tax of 25.7 cents per gallon. (This amount is equal to 7.25 percent of the average retail price per gallon of diesel fuel sold in California during the preceding 12 months. This amount is calculated each September for the subsequent calendar year.)

If you have any questions concerning this amount, please call the Motor Carrier Section at 916-322-9669 or call the BOE's Taxpayer Information Section at 800-400-7115.

Renew your IFTA credentials to avoid penalty charges

If you have not yet applied for your 2009 IFTA credentials, be sure to do so soon. Your current credentials will expire on December 31, 2008 (unless your credentials are revoked, canceled, or suspended before then). As explained below, you are subject to a penalty charge if you enter California on or after January 1, 2009, without proper IFTA credentials (see grace period information) or a California Fuel Trip Permit.

Grace period for carriers who have applied and paid for their 2009 credentials

You have until February 28, 2009, to display your 2009 decals if you have filed all of your IFTA returns, paid all amounts due, and filed and paid your credential renewal on time. Many IFTA jurisdictions, including California, step up their IFTA credential enforcement beginning on March 1 each year.

Penalty charge

If you're not covered by the grace period or otherwise do not have credentials, you will be assessed a penalty if you enter California without valid IFTA credentials or a California Fuel Trip Permit. The penalty can be calculated two different ways:

- If we determine that you owe a specific amount of tax, the penalty will be 25 percent of the tax amount or \$500, whichever is more.
- If we do not determine the amount of tax you owe, the penalty is \$100. For additional violations, \$100 will be added to the amount

of the penalty for each violation until the penalty reaches the maximum of \$500. For example, the minimum penalty is \$200 for a second violation and \$300 for a third violation. In addition to paying a penalty, you will also be required to purchase a California Fuel Trip Permit to travel in California. The current cost of a permit is \$30 for a single vehicle for a consecutive four-day period.

All amounts assessed upon entering California, the California Fuel Trip Permit fee, and any other outstanding amounts due must be paid before proceeding into the state. Failure to pay may result in your qualified motor vehicle being impounded, posted for sale and sold to pay the indebtedness.

IFTA audits

IFTA audits are conducted to verify that you have correctly reported the fuel used and mileage on your IFTA quarterly tax returns. The BOE audits the records of California IFTA licensees on behalf of all member jurisdictions.

You must maintain complete records of all fuel purchases. For more information on recordkeeping requirements, see publication 50, *California IFTA—Guide to the International Fuel Tax Agreement*, at www.boe.ca.gov/pdf/pub50.pdf.

If your records are unacceptable for audit purposes, the audit staff will determine your liability.

The auditor may:

- Estimate the number of gallons you used based on your driving history or by comparing your operations to similar operations.
- Use a standard of 4.0 miles per gallon.
- Not allow any claims for tax-paid fuel without supporting documentation. You have the burden of proving that your records and statements are correct.

For more information on the BOE's audit program, see publication 76, *Audits*, at www.boe.ca.gov/pdf/pub76.pdf.

■ Last Semi-Annual Issue

This is the last semi-annual issue of the *Fuel Taxes Newsletter*. Starting in 2009, the newsletter will be issued annually in December. If you have any questions in the meantime about the Fuel Taxes Division programs, please visit us on our website at www.boe.ca.gov/sptaxprogs/psfuel.htm.

Fuel Taxes Division 916-322-9669

Board of Equalization, MIC:30
PO Box 942879
Sacramento, CA 94279-0030

BOE Website and Member Contact Information: www.boe.ca.gov

Internet Mail
www.boe.ca.gov/info/email.html

Tax Evasion Hotline
888-334-3300

Legislation
www.leginfo.ca.gov

**Taxpayers' Rights
Advocate**
888-324-2798
www.boe.ca.gov/tra/tra.htm
