

Memorandum

To : Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chair
Honorable Betty T. Yee, First District
Senator George Runner (Ret.), Second District
Honorable John Chiang, State Controller

Date: April 9, 2012

From : Robert Ingenito, Chief
Research and Statistics Section

**Subject: READJUSTMENT TO THE PREPAYMENT OF SALES TAX ON DIESEL FUEL
APRIL 26, 2012 - CONSENT AGENDA – CULVER CITY**

Subdivision (h) of Section 6480.1 of the Revenue and Taxation Code requires the Board of Equalization to determine annually by November 1 the rate at which sales tax on diesel fuel is to be collected at the time such fuel is first distributed in the state during the twelve-month period beginning the following April 1. That rate is determined in part by using the combined state and local sales tax rate and applying that rate to the average selling price of diesel fuel sold through service stations, based on specified sources. At its September 21, 2011 meeting, the Board established a prepayment rate of \$0.265 per gallon, to take effect April 1, 2012 through June 30, 2012.

Current law (Revenue and Taxation Code 6051.8, 6201.8, and 60050, commonly referred to as the "fuel tax swap") increases the sales and use tax on diesel fuel by 2.17 percentage points in 2012-13.

Subdivision (h) of Section 6480.1 of the Revenue and Taxation Code authorizes the Board of Equalization to readjust the sales tax prepayment rate if an increase in the sales tax for sales of diesel fuel is enacted and if the established rate results in or could result in prepayments which are consistently above or below the retailers' sales tax liability. Since the diesel fuel sales tax rate increase of 2.17% effective July 1, 2012 would result in prepayments below the retailer's sales tax liability, it is recommended that the Board readjust the sales tax prepayment rate on diesel fuel.

The method by which the prepayment rate is to be calculated is specified in Section 6480.1. We have used prices compiled by the U.S. Department of Energy's Energy Information Administration. The calculation of the rate for the period July 1, 2012 through March 31, 2013 yields a figure of \$0.29 per gallon. This is an increase of 2.5 cents more than the current rate of \$0.265 per gallon, as noted above.

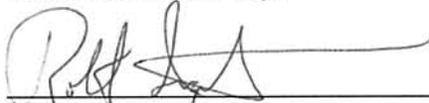
April 9, 2012

It is recommended that the Board set the rate of prepayment of sales tax on diesel fuel distributions for the period July 1, 2012 through March 31, 2013 at \$0.29 per gallon.

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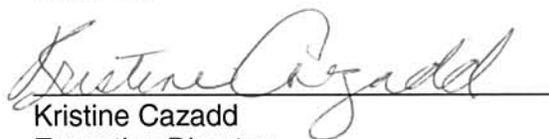
cc: Mr. Jeff McGuire
Ms. Margaret S. Shedd
Ms. Susanne Buehler
Ms. Joann Richmond
Mr. Brad Miller
Mr. Bill Benson, Jr.
Compliance and Technology Section

Recommendation by:



Robert Ingenito, Chief
Research and Statistics Section

Approved:



Kristine Cazadd
Executive Director

Approved:

Joann Richmond, Chief
Board Proceedings Division

BOARD APPROVED

at the _____ Board Meeting