

SPECIAL TAXES AND FEES

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NEWSLETTER

In This Issue

<i>New legislation takes effect January 1, 2012</i>	2
<i>Fire Prevention Fee</i>	2
Cigarette and Tobacco Products Taxes	2
<i>Cigarette and tobacco product license verification available</i>	2
<i>Low-cost stamp validators are now available</i>	2
<i>Cigarette and Tobacco Products Retail Licenses— home-based businesses</i>	3
<i>You must have your Cigarette and Tobacco Products Distributor's License in hand to start business</i>	3
<i>Retailers of cigarette and tobacco products— transfers between multiple locations</i>	4
<i>Roll-Your-Own cigarette machines do not make a retailer a manufacturer</i>	4
<i>eFile is coming</i>	4
<i>Information regarding the decision of the U.S. Food and Drug Administration on electronic cigarettes</i>	5
<i>Cigarette and Tobacco Products Retailers: Remember to retain your invoices</i>	5
Diesel Fuel Tax	5
<i>Diesel Fuel Tax and IFTA information</i>	5
<i>eFiling is available for IFTA taxpayers</i>	6
<i>Common errors made on IFTA returns</i>	7
<i>Maintain records that support your IFTA tax return</i>	7
Electronic Waste Recycling (eWaste) Fee	8
<i>Covered Electronic Devices</i>	8
<i>Manufacturer's Notification Letter and Manufacturer's Report</i>	8
<i>Sales of CEDs to the Federal Government are subject to the eWaste fee</i>	9
Energy Resources Surcharge	9
<i>No offset allowed for customer-generated electricity</i>	9
Hazardous Substances Tax/Fee	10
<i>Generator fee refunds</i>	10
<i>New Hazardous Waste and Occupational Lead Poisoning Prevention fee rates</i>	10
Tire Fee	10
<i>Do you owe the Tire Fee?</i>	10
Underground Storage Tank Maintenance Fee	10
<i>Underground storage tank ownership verification available</i>	10
Use Fuel Tax	10
<i>E85 is subject to the use fuel tax</i>	10
General Interest	11
<i>Motor Carrier Office</i>	11
<i>Online business registration coming soon</i>	11
<i>Annual Taxpayers' Bill of Rights hearings to begin</i>	11
<i>Know your rights</i>	12
<i>Civil behavior in trying times</i>	12
<i>Ethics at work—"thank you" is enough</i>	12
<i>Need more information?</i>	13
<i>Check out eFile</i>	13

FIND ARTICLES OF INTEREST

We invite you to scroll through the pages to find, or click on the article title in the "In this issue" section to move directly to, an article of interest. Click on the BOE icon in the top left corner of the page to return to the table of contents. Links within the articles will take you to our website where you can find more information on the topic referenced.

KEEP A COPY FOR YOUR FILES

This electronic format allows you to print the entire publication or to print just the pages that provide information that pertains to your interests. If you are going paperless, download this document to your computer.

STAY INFORMED

This newsletter is published each December. Back issues of Environmental Fees, Excise Taxes, and Fuel Taxes newsletters are available on our website.

For more information regarding special taxes and fees administered by the BOE, please go to www.boe.ca.gov. You can also sign up online to receive this newsletter at *Get BOE Updates*.

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New legislation takes effect January 1, 2012

The following is a summary of the changes in law that the Legislature enacted during the 2011 legislative session. These changes affect some of the programs administered by the Special Taxes and Fees Division. For copies of these bills, please write to the Legislative Bill Room, 1303 10th Street, Room B32, Sacramento, CA 95814, or you can view the bills at www.leginfo.ca.gov/bilinfo.html.

Fire Prevention Fee

- Assembly Bill (AB)x1 29 (Stats. 2011, ch. 8) authorized a new State Responsibility Area Fire Prevention Fee (FPF) to be assessed on habitable structures, as defined, located within State Responsibility Areas (SRA) in order to pay for fire prevention activities in the SRA that specifically benefit owners of those structures. ABx1 29 requires the State Board of Forestry and Fire Protection (forestry board) to establish the FPF in an amount not to exceed \$150.00 to be assessed on each habitable structure located within the SRA. The FPF amount may be adjusted annually using prescribed methods.

Commencing with the 2011-12 fiscal year, the Board of Equalization (BOE) is required to annually assess and collect the FPF on behalf of the Department of Forestry and Fire Protection (CALFIRE) in accordance with the Fee Collection Procedures Law. CALFIRE is responsible for providing the BOE with a list of the names and addresses of persons who are liable for the FPF and the amount of the fee(s) to be assessed. In addition to assessing the FPF, the BOE is responsible for registering and maintaining feepayer accounts, issuing refunds, adjusting liabilities, and performing fee collection duties. CALFIRE is responsible for evaluating all petitions and claims for refunds submitted by fee payers in regard to the FPF assessed.

Additional information regarding the FPF will be posted periodically as it becomes available. You may also contact the forestry board at www.bof.fire.ca.gov/ or CALFIRE at www.fire.ca.gov for further information.

- Assembly Bill 291 (Stats. 2011, ch. 569) extends the increase in the amount of underground

storage tank maintenance fee of \$0.006 per gallon until January 1, 2014.

- Assembly Bill 1112 (Stats. 2011, ch. 583) temporarily increases the cap on the Oil Spill Prevention and Administration Fee from five cents (\$0.05) to six and one-half cents (\$0.065) per barrel of crude oil or petroleum product from January 1, 2012, to January 1, 2015. Beginning January 1, 2015, the cap would return to an amount not to exceed \$0.05.

Cigarette and Tobacco Products Taxes

Cigarette and tobacco product license verification available

Visit our website at <https://efile.boe.ca.gov/boewebservices/verification.jsp> for online cigarette and tobacco product license verification. Cigarette and tobacco product license verification is available to help you determine if a cigarette and tobacco product license is currently valid. To verify a license, enter the numeric portion of the license number in the field on the screen. For a list of current licensed California cigarette and tobacco products distributors or wholesalers, select distributor or wholesaler on the website. As a cigarette and tobacco product distributor, wholesaler, or retailer, you are responsible for ensuring the license for everyone you are doing business with is valid. A distributor or wholesaler may be engaged in the business of selling cigarettes and/or tobacco products. A distributor may purchase untaxed cigarettes and/or untaxed tobacco products. Wholesalers may purchase stamped cigarettes and/or tax-paid tobacco products. Retailers may only purchase cigarettes and tobacco products from licensed distributors and wholesalers. If you are uncertain which types of products a distributor or wholesaler may be licensed to sell, please contact a BOE customer service representative at 800-400-7115 (TTY:711) to assist you.

Low-cost stamp validators are now available

One of the benefits of the new encrypted cigarette tax stamp introduced in December 2010 is that it combines overt and covert counterfeit-resistant features in

the printed design. The upgraded stamp integrates high-security inks and forensic security features that provide for immediate authentication by retailers and enforcement agencies.

To assist in authentication of the new encrypted cigarette tax stamp, a special low-cost double filter validation device is available for purchase. These validators are specifically designed to match the color-shift feature on authentic tax stamps. This device provides a tool that is:

- Easy to use
- Effective
- Practical
- Small and light as a credit card
- Hand-held
- Reasonably-priced

Validators can immediately determine the authenticity of encrypted cigarette tax stamps.

To purchase a validator, please visit the BOE website at www.boe.ca.gov/sptaxprog/casvpi.htm. Validators will be distributed by an authorized BOE vendor. Each validator is \$5.00 plus sales tax, shipping and handling, with credit card payment required at time of purchase. Validators are shipped directly to the purchaser.

Cigarette and Tobacco Products Retail Licenses—home-based businesses

If you operate a home-based business that sells cigarettes or tobacco products at retail, you must have a retail license for that location. The California Cigarette and Tobacco Products Licensing Act of 2003 requires a retailer to maintain a separate license and pay a \$100 fee for each location where cigarettes and/or tobacco products are sold.

The licenses are valid for one year and must be renewed annually before the due date. Otherwise, a reinstatement fee of \$100 per location will be charged to reactivate the license. The retailer is also required to hold a valid BOE sales and use tax permit as well as any permits and licenses required by their local governments.

Home-based business operators are subject to the same routine inspections of the business as commercial locations. Purchase invoices for cigarette and tobacco products are required to be maintained at each licensed location for one year, and the cigarette and tobacco products license holder is required to keep

complete purchase invoices for four years following the purchase dates for audit purposes.

Please refer to [publication 78](#), *Sales of Cigarettes and Tobacco Products in California*, for additional information regarding licensing requirements for retailers, and refer to [publication 152](#), *Cigarette and Tobacco Product Inspections*, for additional information.

You must have your Cigarette and Tobacco Products Distributor's License in hand to start business

If you purchase untaxed cigarette and/or tobacco products for resale, you are considered a distributor and must hold a California Cigarette and Tobacco Products Distributor's License under both the California Cigarette and Tobacco Products Licensing Act of 2003 (the Act) and the Cigarette and Tobacco Products Tax Law (Tax Law).

Pursuant to the Act, the license fee for a distributor's license is for one calendar year and may not be prorated. The license will be valid from the date of activation to the end of the calendar year. The license is not assignable or transferable and must be renewed annually by completing and returning a renewal application (BOE-400-LDR) and submitting the renewal fee. Even if you have submitted an application (BOE-400-LD) and paid the licensing fee to the BOE (\$1,000 for each location), under the Tax Law, you legally cannot sell cigarettes or tobacco products until you receive your Cigarette and Tobacco Products Distributor's License.

Pursuant to the Act, in addition to the distributor's license, you will also need a license under the Tax Law in order to file the required tax forms, purchase encrypted cigarette tax stamps, and in the case of other tobacco products, submit payment of tax. If you are a sole owner or partnership, you must complete permit application BOE-400-ETI. A corporation or a limited liability company/organization must complete BOE-400-ETC. You must post a one-time minimum security deposit of \$1,000 for each business location. The Tax Law does not require a new application unless the business ownership changes.

Please note that until you complete all of the registration requirements listed above under the Act and the Tax Law, you are not licensed to operate as

a Cigarette and Tobacco Products Distributor. Your licenses will be issued once the required forms ([BOE-443](#)) *Compliance Certification*, (BOE-598) *Notice of Security Requirements*, ([BOE-400-LD](#)) *Application for Distributor's Cigarette and Tobacco Products License*, ([BOE-400-ETI](#)) *California Excise Taxes Permit Application—Individual and Partnership*, ([BOE-400-ETC](#)) *California Excise Taxes Permit Application—Corporation, Limited Liability Company (LLC), or Organization*, applicable license fee (\$1,000 per location), and security deposit (\$1,000 per location) have been received and approved.

For more information about the cigarette and tobacco products program, please visit our website at www.boe.ca.gov/sptaxprog/spexcise.htm.

Retailers of cigarette and tobacco products—transfers between multiple locations

If you are a retailer of cigarette and tobacco products operating multiple retail locations in California and hold a Cigarette and Tobacco Products Retailer's License for each location, we recognize there are occasions when transfers of cigarettes or tobacco products between your retail stores take place. However, a transfer of products between your retail stores is permitted only in specific instances.

A retailer with multiple locations may transfer products from one location to another only when the retailer is the legal owner of both locations, there is documentation to prove that the product is tax-paid, and the documentation is made available to BOE staff during an inspection. In order to prove that the transferred product is tax-paid, the retailer must provide the following at the time of inspection:

- A copy of the original purchase invoice;
- Legible records showing the name, address, and license number of each retail location;
- The date the transfer took place;
- A detailed description of the items transferred including packaging, flavor, and style; and
- The number of items transferred.

The description must match exactly the description on the original purchase invoices and the number of items

transferred cannot exceed the number of items on the original purchase invoice. Without this documentation available at the time of inspection, it is not possible to establish that the product is tax-paid and the product is subject to seizure.

Please refer to [publication 78](#), *Sales of Cigarettes and Tobacco Products in California*, for additional information in regard to the transfer of product between retail locations. For answers to other questions, please visit the BOE website at www.boe.ca.gov. You may also call the Taxpayer Information Section at 800-400-7115 (TTY:711) and select the option for Special Taxes and Fees. Assistance is available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.

Roll-Your-Own cigarette machines do not make a retailer a manufacturer

A retailer providing access to rolling machines for use by their customers are not considered a manufacturer and do not need to obtain a manufacturer's license under the Cigarette and Tobacco Products Licensing Act of 2003. These retailers also do not have any reporting requirements under the Cigarette and Tobacco Products Tax Law.

If the retailer sells the loose tobacco and just allows the customer to use the retailer's equipment to combine the loose tobacco and the cigarette tubes to create cigarettes, these sales are considered retail sales of loose tobacco. The resulting change in form or character of the loose tobacco occurs after the sale to the customer. Thus, the use of the retailer's machine to manufacture cigarettes occurs when the tobacco is owned by the customer.

eFile is coming

The BOE is developing an eFile system that will allow cigarette manufacturers and distributors to file their returns, reports, and schedules electronically. For taxpayers, e filing is convenient, fast, and secure; and the most accurate way to file returns, reports, and schedules. For the BOE, e filing reduces the cost of administering tax and fee programs, and reduces paper and printing costs making it environmentally friendly. Details on the new eFile system will follow in the months to come.

Information regarding the decision of the U.S. Food and Drug Administration on electronic cigarettes

On April 25, 2011, the U.S. Food and Drug Administration (FDA) issued a notice that electronic cigarettes (eCigarettes) shall be regulated as a tobacco product.

eCigarettes do not fall under the California Cigarette and Tobacco Products Tax Law definition of a cigarette or tobacco product since they do not contain tobacco. Therefore, eCigarettes are not subject to California's cigarette or tobacco products excise tax and thus, no cigarette or tobacco products license is required under the California Cigarette and Tobacco Products Tax Law or the California Cigarette and Tobacco Products Licensing Act of 2003.

For additional information regarding the cigarette and tobacco products tax program, please visit our website at www.boe.ca.gov/sptaxprog/spexcise.htm.

Cigarette and Tobacco Products Retailers: Remember to retain your invoices

Please remember that you must retain purchase invoices for your resale stock of cigarettes and tobacco products for a period of four years. The most recent twelve months of invoices must be kept at the retail location for at least one year after purchase and shall be available upon request during the normal business hours for inspection and copying by BOE staff or a law enforcement agency. Any retailer who fails, refuses, or neglects to retain or make available invoices for inspection is in violation of the Cigarette and Tobacco Products Licensing Act (Act) and can be cited. The invoices that you receive from licensed distributors or wholesalers under the Act must include the following information:

- The name of the wholesaler or distributor from whom the cigarettes or tobacco products were purchased.
- The address, telephone number, and license number of the wholesaler or distributor.

- The amount of California excise taxes the distributor or wholesaler owes or paid on the sale of the cigarettes or tobacco products. However, a distributor that is also a retailer or manufacturer may include a statement that reads, "All California cigarette and tobacco products taxes are included in the total amount of this invoice."
- An itemized list of the cigarettes or tobacco products purchased from the licensed distributor or wholesaler.
- Your name, address, and retail cigarette and tobacco products license number.
- The date of the sale.

Reminder: The Revenue and Taxation Code does not allow cigarette and tobacco products to be sold between retailers (Revenue and Taxation code section 30478). See article, *Retailers of cigarette and tobacco products—transfers between multiple locations*, for further information regarding transfers between retailers.

Diesel Fuel Tax

Diesel Fuel Tax and IFTA information

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

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 43.5 cents per gallon for the period January 1, 2012 through June 30, 2012. You may claim a credit of 43.5 cents per gallon for the gallons of tax-paid diesel fuel you purchase in California and use both inside and outside the state.

The 43.5 cents per gallon reflects:

- 13.0 cents per gallon of diesel fuel tax (adjusted annually effective July 1 of each year).
- An additional excise tax of 30.5 cents per gallon (adjusted annually effective January 1 of each year).

If you have any questions concerning the calculation of this tax, please call our Taxpayer Information Section at 800-400-7115 and select the option for Special Taxes and Fees.

Renew your IFTA credentials to avoid penalty charges

We mailed your *RENEWAL APPLICATION FOR IFTA LICENSE AND DECALS* in September and a reminder notice in November. Renewal of your IFTA credentials was due by November 30, 2011. If you have not yet applied for your 2012 IFTA credentials, be sure to do so immediately. Your current credentials will expire on December 31, 2011 (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, 2012, without proper IFTA credentials (see grace period information) or a valid California Fuel Trip Permit.

Grace period for carriers who have applied and paid for their 2012 credentials

You have until February 29, 2012, to display your 2012 decals. This grace period only applies if you have filed all of your IFTA returns, paid all amounts due, and filed and paid for renewal of your credentials on time (on or before November 30, 2011). Many IFTA jurisdictions, including California, step up their IFTA credential enforcement beginning on March 1 each year.

Penalty charge

If you are 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 valid California Fuel Trip Permit. The penalty may be calculated in one of two ways:

1) If we determine at the time of entry that you owe tax, the penalty will be 25 percent of the tax amount or \$500, whichever is more.

2) If we do not determine at the time of entry that you owe tax, the penalty is \$100. For each subsequent violation, \$100 will be added to the amount of the previous penalty until the penalty reaches the maximum of \$500 per violation. 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 tax, interest, and penalty amounts you are assessed upon entering California, the California Fuel Trip Permit fee, and any other outstanding amounts due must be paid before you will be allowed to proceed into the state. Failure to pay these amounts may result in your qualified motor vehicle being impounded, posted for sale, and sold to pay the indebtedness.

eFiling is available for IFTA taxpayers

The BOE's electronic filing (eFiling Program) allows eligible IFTA taxpayers to file returns over the Internet.

Who can efile?

Most IFTA accounts are eligible to efile.

What are the benefits of efilng?

It's Convenient.

- File from anywhere you can connect to the Internet.
- File day or night (except from 5:00 p.m. Sunday to 5:30 a.m. Monday, when the system is down for routine maintenance).
- May eliminate trips to the Post Office.

It's Fast.

- Receive immediate confirmation of filing.
- Reduce the risk of submitting an incomplete return.

It's Safe.

- The latest hardware and software security ensures the safety and security of taxpayer information.

It's Free.

- No cost to file.
- No postage.

Where can I get more information?

For an overview of the program, go to www.boe.ca.gov and click on "eServices," where you can obtain general information and answers to frequently asked questions.

Common errors made on IFTA returns

Approximately eight out of every ten returns filed with the Motor Carrier Office contain errors. You can avoid unnecessary tax, interest, and penalty charges if you avoid some of the more common reporting errors, such as:

Rounding miles. Do not round the miles-per-gallon figure (MPG). It must be carried out to two decimal places.

Failing to calculate surcharges. Currently, Indiana, Kentucky, and Virginia charge a surcharge on fuel consumed in their states. If you travel in any of these states, you must list the surcharge on a separate line on the IFTA Quarterly Fuel Use Tax Schedule (IFTA-101). The surcharge is not collected at the pump. As a result, you cannot claim a tax credit for the surcharge.

Failing to timely mail returns and payments. To avoid penalty and interest charges for late filing, returns and payments sent by mail must be postmarked on or before the specified due date. When mailing your return, please be sure to do so before the daily postal pickup to ensure a timely postmark. If the due date falls on a Saturday, Sunday, or state holiday, returns that are postmarked by the next business day will be accepted as timely. A return or payment postmarked after the due date may be considered timely if you provide satisfactory proof that it was mailed on time, with sufficient postage, to the proper address.

Failing to report California operations. Many carriers incorrectly report only travel outside their base jurisdiction of California. All IFTA jurisdictions in which your vehicles travel must be listed on the IFTA Quarterly Fuel Use Tax Schedule (IFTA-101).

Failing to report miles driven in Oregon on the IFTA Quarterly Fuel Use Tax Schedule. As most readers are aware, Oregon does not impose a fuel tax on fuel purchased or consumed in the state. Instead, it imposes a weight-distance tax, which is paid directly to

the state. Even though Oregon does not impose a fuel tax as described above, the state is an IFTA member jurisdiction and miles driven in the state must be reported. They should be included as part of your "Total IFTA Miles" (Column A). They should also be included in Column H ("IFTA Miles"); however, your Oregon "Taxable Miles" for Column I would be zero.

Maintain records that support your IFTA tax return

Fuel and mileage data that are reported on your IFTA tax returns must be supported by adequate records. The following types of records are particularly important, especially when they are used to support requests for credit or refunds for tax-paid and nontaxable uses of fuel.

Distance Records. You must record miles traveled to substantiate interstate and intrastate travel. Supporting information for each individual vehicle trip should include: date of the trip (starting and ending), trip origin and destination (including city and state), routes of travel, beginning and ending odometer readings, total trip miles, distances by jurisdiction, vehicle unit number, vehicle fleet number, and your name.

Retail Over the Road Fuel Purchases. You must maintain complete records for all fuel purchased, received, and used in the conduct of your business. Separate totals must be compiled for each fuel type by jurisdiction. Your fuel records must contain all the following information: date of purchase, name and address of the seller, number of gallons or liters purchased, type of fuel purchased, price per gallon or liter or total amount of sale, the unit number of the vehicle into which the fuel was placed, and name of purchaser.

Bulk Fuel. To obtain credit for withdrawals from licensee-owned, tax-paid bulk storage, the following records must be maintained: date of withdrawal, number of gallons or liters withdrawn, fuel type, unit number of the vehicle into which the fuel was placed, and purchase and inventory records showing tax was paid on your bulk fuel purchases.

Other Types of Records. You should also maintain the following records to support your IFTA tax returns: equipment lists that show fleet vehicles (type and model year); Department of Transportation log books;

short-and long-term lease contracts; and federal income tax returns that include depreciation schedules showing company vehicles.

Records Retention Period. You should maintain your records in California for a period of four years from the due date of the quarterly tax return to which they relate or the date the return was filed, whichever is later.

For information, please see [publication 50, California IFTA Guide to the International Fuel Tax Agreement](#) (November 2009). You can also download a copy from our website at www.boe.ca.gov.

Electronic Waste Recycling (eWaste) Fee

Covered Electronic Devices

The Electronic Waste Recycling Fee (eWaste fee) is a fee imposed on the purchase of a new or refurbished Covered Electronic Device (CED). A CED is a video display device that has a screen greater than four inches, measured diagonally, which is identified as a CED by the Department of Toxic Substances Control (DTSC). Any video display device with a screen greater than four inches in size that fits into one of the following categories is a CED:

- Cathode ray tube (CRT) and CRT containing devices
- Computer monitors and televisions containing CRTs
- Laptop computers with liquid crystal display (LCD)**
- Desktop monitors containing LCDs
- Televisions containing LCDs (excluding LCD projection televisions)
- Plasma televisions (excluding plasma projection televisions)
- Portable DVD players with LCD screens

The following video display devices are specifically excluded from being CEDs:

- A video display device that is a part of a motor vehicle, as defined in section 415 of the Vehicle Code, or any component part of a motor vehicle

assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

- A video display device that is contained within or a part of a piece of industrial, commercial, or medical equipment, including monitoring or control equipment.
- A video display device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier.
- An electronic device, on and after the date that it ceases to be a covered electronic device as determined by DTSC.

Manufacturer's Notification Letter and Manufacturer's Report

Manufacturer's Notification Letter

On or before April 1 of each year, each manufacturer of a CED is required to send a notice to everyone that sells CEDs that they manufactured in the prior year.

The annual manufacturer report must include:

- General Information
- Sales Data
- Material Reporting
- Recyclable Content
- Design for Recycling
- List of Retailers Notified
- Consumer Information

The manufacturer is also required to send to the BOE at the email or mailing address shown below (it is preferred that these notices be sent to the BOE electronically) the following:

- 1) A copy of every notice sent to all retailers; or
- 2) A sample of the notice plus a list of the retailers to whom the notice was sent.

PSTD-STFD-eWasteNotificationLetters@boe.ca.gov

or

Board of Equalization
Special Taxes and Fees Division
Registration and Licensing Section MIC:88
Attn: Principal Compliance Supervisor
PO Box 942879
Sacramento, CA 94279-0088

Manufacturer's Report

In addition to the required notification letter, a manufacturer's report is required to be filed with the California Department of Resources Recycling and Recovery (CalRecycle). This report is due on or before July 1 of each year.

For more information on the manufacturer's notification letter requirements and the manufacturer's report, please see the CalRecycle website at: www.calrecycle.ca.gov/Electronics/Act2003/Manufacturer/ or publication *Guidance for Manufacturer Reporting for the Electronic Waste Recycling Act* at: www.calrecycle.ca.gov/Publications/Electronics/45007002.pdf.

Sales of CEDs to the Federal Government are subject to the eWaste fee

Retailers with a fee collection obligation under the Electronic Waste Recycling Act of 2003 (Public Resource Code section 42460 et seq.) are required to collect the fee on retail sales or leases of CEDs to federal instrumentalities. It is the BOE's position that federal entities must pay the eWaste fee, pursuant to 42 U.S.C. section 6961, which is codified as part of the Resource Conservation and Recovery Act (RCRA) and waives federal sovereign immunity with respect to the imposition of the fee:

Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government . . . engaged in any activity resulting, or which may result, in the disposal or management of solid waste or hazardous waste shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural . . . respecting control and abatement of solid waste or hazardous waste disposal and management in the same manner, and

to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges.

A retailer is required, by statute, to collect the eWaste fee from its customers who purchase CEDs and to remit the fee it collects, minus three percent, to the BOE. Just as with any charge associated with a retail purchase, if a customer refuses to pay the eWaste fee, the retailer can refuse to sell the CED to the customer. However, instead of refusing to sell the CED to the customer, the retailer may choose to sell the CED to the customer and pay the eWaste fee on behalf of the customer to the BOE. In accordance with statute, the retailer shall provide an express statement to that effect on the receipt given to the consumer at the time of sale. When the retailer chooses to pay the eWaste fee on behalf of its customer, the fee is a debt owed by the retailer to the state, and the consumer is no longer liable for the fee.

Energy Resources Surcharge

No offset allowed for customer-generated electricity

The Energy Resources Surcharge (Surcharge) Law imposes a surcharge on the consumption of electricity, and every person who consumes electricity purchased from an electric utility is liable for the Surcharge. Public Utilities Code section 2827 provides that the amount of electricity consumed by customer-generators may be offset by the amount of electricity generated by these customers. The utility will bill the customer if the amount consumed exceeds the amount generated for the period (net consumer) and will credit or compensate the customer if the amount generated exceeds the amount consumed for the period (net generator). However, no provision in the Surcharge provides for offset of the amount of electricity consumed on any basis. In other words, the fact that the customer also generates electricity does not alter the fact that the customer has consumed electricity purchased from an electric utility.

Accordingly, the Surcharge must be applied to the total amount of electricity supplied by the utility to the customer, and whether the customer is a "net consumer" or a "net generator" does not affect how the Surcharge is applied.

Hazardous Substances Tax/Fee

Generator fee refunds

As required by Health and Safety Code (H&S) section 25205.9, the Department of Toxic Substances Control has determined that it does not have surplus funds within the meaning of H&S Code section 25205.9(e). Therefore, funds are not available to pay the refunds specified in sections 25205.5(h) and (i), and 25205.9 of the H&S Code.

New Hazardous Waste and Occupational Lead Poisoning Prevention fee rates

The Hazardous Waste fees and the Occupational Lead Poisoning Prevention fee are adjusted each year by the incremental change in the Consumer Price Index (CPI) published by the California Department of Industrial Relations. Visit our website at www.boe.ca.gov/sptaxprog/efdrate.htm for the new rates that are in effect as of January 1, 2012.

Tire Fee

Do you owe the Tire Fee?

According to the California Tire Recycling Act, every person who purchases a new tire shall pay a tire fee of \$1.75 per tire. A "new tire," for the purpose of the tire fee, is defined as a new solid or pneumatic tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from vehicles or equipment, or a new tire sold with a new or used motor vehicle, construction equipment, or farm equipment, including the spare tire. A "new tire" does not include used, retreaded, or recycled tires.

In the majority of new tire sales transactions, the seller will charge the purchaser the tire fee and pay that amount directly to the BOE. However, there are situations when the seller of the new tire is not a California retailer and is not required to charge the purchaser the tire fee, but the tire fee is still owed on the purchase of the new tire. These situations include, but are not limited to:

- A purchase for resale of new tire(s) that is instead used by the purchaser (self-consumed) rather than resold.
- A purchase of a new tire from an out-of-state seller that is not required to collect the tire fee because it is not registered to collect the fee in California.

In these situations, when the seller is not required to charge the tire fee, the purchaser is required to report and pay the tire fee directly to the BOE.

If you think you may owe the California Tire Fee or have questions about the fee, please contact the BOE at 800-400-7115 (TTY:711) and select the option for Special Taxes and Fees.

Underground Storage Tank Maintenance Fee

Underground storage tank ownership verification available

Visit our website at <https://efile.boe.ca.gov/boewebservices/verification.jsp> for online underground storage tank permit verification. You can validate the account number and confirm the owner of an underground storage tank (UST). If the owner name on the validated account is different from the owner name in your records, please contact a BOE customer service representative at 800-400-7115 (TTY:711) for more information.

Use Fuel Tax

E85 is subject to the use fuel tax

E85 and other alcohol fuels containing no more than 15 percent gasoline or diesel fuel for use in or as a fuel to propel a motor vehicle are subject to the use fuel tax (UFT). The UFT imposed on such alcohol fuels is one-half the rate prescribed for other fuels (except for liquefied petroleum gas, compressed natural gas, and liquid natural gas) subject to the UFT. The UFT rate for alcohol fuels is currently \$0.09 for each gallon used.

If you are producing an alcohol fuel containing 15 percent or less gasoline or diesel fuel, no special permit

is required, whether the alcohol fuel is produced within a petroleum terminal or below the rack.

A use fuel vendor is responsible for reporting and paying the UFT on E85 delivered into a fuel tank of a motor vehicle. Use Fuel Tax Law section 8610 provides that a "vendor" includes every person who sells fuel in this state and places, or causes to be placed, the fuel into any receptacle on a motor vehicle from which fuel is supplied for the propulsion of the vehicle.

A Vendor Use Fuel Tax Permit is required if you are selling E85 from a retail location. The vendor is required to collect and remit to the BOE the \$0.09 per gallon UFT on the full volume of E85 sold or dispensed from a retail pump. *California Fuel Taxes and Fees Application, BOE-400-FTA*, is available on the BOE website at www.boe.ca.gov. A permit is not required if you are only delivering E85 to retail vendors. However, if you are selling E85 to a registered vendor of use fuel, you should obtain a copy of the vendor use fuel tax permit number for your records to support the sale as a sale for resale.

A use fuel user is responsible for reporting and paying the UFT on E85 removed from bulk storage and placed into the fuel tank of a motor vehicle. Every person who places E85 into the fuel tank of a motor vehicle for use on the highway should request a User Use Fuel Tax Permit. The application for all use fuel permits, *BOE-400-FTA, California Fuel Taxes and Fees Application*, is available on the BOE website at www.boe.ca.gov. However, if a user only acquires fuel from a use fuel vendor directly into the fuel tank on a motor vehicle, they do not need a use fuel permit, as the vendor is responsible for the tax.

General Interest

Motor Carrier Office

The Motor Carrier Office is located at 1030 Riverside Parkway in West Sacramento. The office is open to the public from 8:00 a.m. to 5:00 p.m. Monday through Friday, except state holidays. Parking is available for tractor trailers and personal vehicles.

Our mailing address is:

Board of Equalization
Motor Carrier Office MIC:65
PO Box 942879
Sacramento, CA 94279-0065

If you have any questions, please contact our Taxpayer Information Section at 800-400-7115 (TTY:711). Select the options for "special taxes and fees" and the "IFTA, International Fuel Tax Agreement" to reach the Motor Carrier Office staff. Customer service representatives are available to assist you weekdays from 8:00 a.m. to 5:00 p.m., Pacific time, except state holidays.

Online business registration coming soon

The BOE will be offering a new service called eReg that will allow businesses to register online for a permit or license for the tax and fee programs administered by the BOE.

The new eReg system will be implemented in 2012. eReg will provide an easy, quick, and accurate method of registering your business. No more filling out paper applications! The new system will also create efficiencies and generate cost savings for California.

eReg will guide you through the process whether or not you know what type of registration you require. Answers to questions regarding your business activity will direct you to the appropriate registration type(s) required.

Details regarding the new system will be available on our website, www.boe.ca.gov, as we approach implementation.

Annual Taxpayers' Bill of Rights hearings to begin

Do you have suggestions for improving our services? Do you want us to look more closely at a policy or procedure? 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 2012 business and property tax hearings are scheduled for April 24 in Culver City and June 26 in Sacramento.

Although you are not required to make advance arrangements to speak, it would help us to prepare if you contacted 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 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 2010-11 annual report, which will be available soon.

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 that affect your business
- 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*.

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 or gesture made to a BOE employee that seems remotely like a threat—even a statement made in jest—will be referred to our Internal Affairs Section for investigation.

Ethics at work—"thank you" is enough

We would like to remind you that BOE policy prevents our employees from accepting gifts of any type. So if you are grateful to someone for going the extra mile to help you with a complicated issue, a simple "thank you" will do. You can also use our online Customer Service Survey form at www.boe.ca.gov/info/survey.htm to express yourself.

Need more information?

Special Taxes and Fees Division

State Board of Equalization, MIC:88
PO Box 942879
Sacramento, CA 94279-0088

Internet Mail

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

Taxpayer Information Section:

800-400-7115 (TTY:711)

Customer service representatives are available to help you
from 8:00 a.m. to 5:00 p.m., Pacific time,
Monday through Friday, except state holidays.

Tax Evasion Hotline

888-334-3300

Legislation

www.leginfo.ca.gov

Taxpayers' Rights Advocate

www.boe.ca.gov/tra/tra.htm

888-324-2798

Board Member contact and website

Visit our website www.boe.ca.gov for Board Member information, legislative summaries, regulations, forms and publications, translated publications, and more.

Check out eFile

Find out how flexible online filing can be.

eFile is fast, secure and simple to use. It allows you to file your return early and, with electronic funds transfer, schedule your payment for the due date.

eFile Board of Equalization: www.boe.ca.gov/electsrv/eServices.htm