

Motor Carrier Office Newsletter



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Diesel Fuel Tax and IFTA Information

Tax rate change for 2011 under International Fuel Tax Agreement (IFTA) and interstate user diesel fuel credentials

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 39.7 cents per gallon for the period January 1, 2011 through June 30, 2011. You may claim a credit of 39.7 cents per gallon for the gallons of tax-paid diesel fuel you purchase in California and use both inside and outside the state.

The 39.7 cents per gallon reflects:

- 18 cents per gallon of diesel fuel tax.
- An additional excise tax of 21.7 cents per gallon. (This amount is equal to 8.25 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.)

Please note that, effective July 1, 2011, this rate will be reduced pursuant to the fuel tax swap legislation discussed on the next page. We will keep you informed.

If you have any questions concerning the calculation of this tax, please call the Motor Carrier Office at 916-322-9669 or call our Taxpayer Information Section at 800-400-7115.

Renew your IFTA credentials to avoid penalty charges

If you have not yet applied for your 2011 IFTA credentials, be sure to do so soon. Your current credentials will expire on December 31, 2010 (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, 2011, 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 2011 credentials

You have until February 28, 2011, to display your 2011 decals if you have filed all of your IFTA returns, paid all amounts due, and filed and paid for 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 valid California Fuel Trip Permit. The penalty may be calculated two different ways:

- If we determine at the time that you owe tax, the penalty will be 25 percent of the tax amount or \$500, whichever is more.
- If we do not determine at the time 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.

IFTA audits

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

You must maintain complete records for each of your qualified motor vehicles of the number of miles driven in California and out of California, and all of your related fuel purchases. For more information about recordkeeping requirements, see pages 14 and 15 of [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.

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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.

Generally, you must maintain records for a period of four years from the due date of your quarterly tax return or the date the return was filed, whichever is later.

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

For more information regarding special taxes and fees administered by the BOE, please visit our website at www.boe.ca.gov/index.htm or sign up online to receive the *Special Taxes and Fees Newsletter* at "Get BOE Updates."

Motor Vehicle Fuel and Diesel Fuel Tax

Fuel Tax Swap

The Fuel Tax Swap provisions were enacted by Assembly Bill x8 6 (Stats. 2010, Ch. 11) and Senate Bill 70 (Stats 2010, Ch. 9). Together, these bills provide for both a motor vehicle fuel excise tax rate increase and for a corresponding sales and use tax rate decrease on sales of motor vehicle fuel effective July 1, 2010.

Effective July 1, 2010, purchases and sales of gasoline are exempt from the General Fund portion of the state sales and use tax rate (6 percent), and the excise tax rate on gasoline (excluding aviation gasoline) was increased by 17.3 cents per gallon to 35.3 cents per gallon. Sales and purchases of aviation gasoline continue to be exempt for the total sales and use tax. Additionally, the increase in excise tax by the fuel tax swap provisions does not apply to aviation gasoline.

Each supplier, wholesaler, and retailer was required to file a return and pay a floor stock tax of 17.3 cents per gallon on 1,000 gallons or more of tax-paid gasoline (except aviation gasoline) in storage as of 12:01 a.m. on July 1, 2010.

Beginning July 1, 2011, the diesel fuel tax rate is scheduled to decrease by 4.4 cents per gallon to 13.6 cents per gallon. The sales and use tax rate on sales of diesel fuel will increase by 1.75 percent to nine percent effective July 1, 2011. Additionally, the state-wide sales and use tax rate decreases by one percent as a result of prior legislation. Dyed diesel and clear diesel fuels that are exempt from the excise tax or receive a refund of the excise tax are exempt from the 1.75 percent sales and use tax rate increase.

Fuel Tax Swap Frequently Asked Questions (FAQ) are available on our website at www.boe.ca.gov/sutax/gasswapfaq.htm.

General Interest

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 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 may present your proposal in person or in writing.

The annual business and property taxes hearings for 2011 will be held in June in Culver City and in September in Sacramento. The dates and times were not yet set when this article went to press, but you may check our website or contact the Taxpayers' Rights Advocate at 888-324-2798 for details.

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 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 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 2009-10 annual report, 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

We know that you may find yourself frustrated with the difficulties of the tax law or be 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 Security and Audit Division 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.

In our continuing efforts to go green, the *Environmental Fees, Excise Taxes, and Fuel Taxes Newsletter* have been combined into the *Special Taxes and Fees Newsletter*; which is only available online at www.boe.ca.gov.