



NEWS FOR TAX PRACTITIONERS

WHAT YOU NEED TO KNOW ABOUT CALIFORNIA BUSINESS TAXES AND FEES ADMINISTERED BY THE BOE

This semiannual newsletter helps you to stay current with the latest developments regarding the taxes and fees administered by the California State Board of Equalization (BOE), and helps you to advise your clients and prepare their returns more accurately and effectively.

For more information on any of the topics covered in this edition, please visit the Tax Practitioners' Information Portal at www.boe.ca.gov/industry/tax-practitioners.html.



Motor Vehicle Fuel and Diesel Fuel Tax Rates Effective July 1, 2016

By March 1 of each year, the BOE is required to establish the sales tax prepayment and excise tax rates on fuels that will be in effect from July 1 through June 30 of the following year. Generally, new prepayment rates take effect July 1. The charts below reflect the sales and use tax prepayment rates effective July 1, 2016, and the excise tax rates effective July 1, 2016.

| Sales and Use Tax Rates | | | |
|-------------------------------|----------------------------------------|------------------------------------------|---------------------------------|
| Type of Fuel | Prepayment Per Gallon Effective 7-1-16 | Sales and Use Tax Rate through 12-31-16* | Sales and Use Tax Rate 1-1-17** |
| Gasoline (Motor Vehicle Fuel) | 5.0 cents (\$0.05) | 2.25% | 2.25% |
| Aircraft Jet Fuel | 7.0 cents (\$0.07) | 7.50% | 7.25% |
| Diesel Fuel | 17.0 cents (\$0.17) | 9.25% | 9.00% |
| Aviation Gasoline | Not Applicable | Not Applicable | Not Applicable |

*You must add district taxes where applicable. District tax rates for your area are available at www.boe.ca.gov/pdf/boe105.pdf.

**The statewide tax rate is scheduled to decrease 0.25% on January 1, 2017.

| Excise Tax Rates | |
|--------------------------------|----------------------------------|
| Type of Fuel | Per Gallon Rate Effective 7-1-16 |
| Gasoline (Motor Vehicle Fuel) | 27.8 cents (\$0.278) |
| Aircraft Jet Fuel ¹ | 2 cents (\$0.02) |
| Diesel Fuel | 16 cents (\$0.16) |
| Aviation Gasoline ¹ | 18 cents (\$0.18) |

¹ Excise taxes on aircraft jet fuel and aviation gasoline are not subject to an annual adjustment.

For more information on fuel tax rates, go to www.boe.ca.gov/sutax/strf.htm.



Sales Tax Rate Decreases January 1, 2017

The 2012 voter-approved (Prop 30) statewide sales and use tax increase of one quarter of one percent (0.25%) that became effective January 1, 2013, is set to expire on December 31, 2016. This will decrease the statewide sales and use tax rate from 7.50 percent to 7.25 percent on January 1, 2017. The total tax rate in many counties and cities will be higher than 7.25 percent because of voter-approved district taxes, which are imposed and added to the existing statewide rate.

For more information on how the tax rate decrease affects fuel taxes, returned merchandise, refunds, or fixed-price contracts, please visit www.boe.ca.gov.

Gasoline Tax Lowered

On February 23, 2016, the Board Members approved lowering the excise tax rate on Motor Vehicle Fuel by 2.2 cents (\$0.022) for fiscal year 2016-2017, effective July 1, 2016. The new excise tax rate of 27.8 cents (\$0.278) per gallon will remain in effect through June 30, 2017.

For all new fuel tax rates, see the Excise Tax Rates chart to the left.





Certain Prepaid Mobile Telephony Services (MTS) Sellers No Longer Required to Collect Surcharge

Effective January 1, 2017, prepaid MTS sellers (other than direct sellers) with less than \$15,000 of sales of prepaid MTS in the previous calendar year will no longer be required to collect the surcharge from their customers. For sellers that have more than one location, the sales of prepaid wireless services and products from all locations must be used to determine annual sales.

Sellers (other than direct sellers) of prepaid wireless services will be responsible for annually determining if they are required to collect the prepaid MTS surcharge from their customers based on their sales of prepaid MTS in the prior calendar year. If annual prepaid MTS sales are less than \$15,000 in the prior calendar year, sellers are no longer required to charge and collect the surcharge from their customers. Prepaid MTS sellers must maintain adequate records to show that their annual prepaid wireless services and products sales are less than \$15,000.

Customers that purchase prepaid wireless services and products in retail transactions in California from sellers that do not charge and collect the prepaid MTS surcharge are responsible for paying the surcharge directly to the BOE. However, as a convenience for their customers, prepaid MTS sellers with less than \$15,000 of sales of prepaid MTS in the prior calendar year may continue to charge and collect the surcharge on those retail sales and report and pay the amounts to the BOE.

As of January 1, 2017, sellers that are no longer required to charge and collect the prepaid MTS surcharge on sales of prepaid MTS and do not want to continue to voluntarily collect the surcharge from their customers may close out their prepaid MTS account by contacting their local BOE office or calling the Customer Service Center at 1-800-400-7115 (TTY:711).

For more information, see the online guide, *Prepaid Mobile Telephony Services (MTS) Surcharge* at www.boe.ca.gov/industry/prepaid_mts_surcharge.html.



Cigarette and Tobacco Products License Fee Increase

On June 9, 2016, the Cigarette and Tobacco Products License application fee increased for retailers, wholesalers, and distributors. Listed below are the fee amounts for all new licenses.

| License Type | Old Application Fee (On or Before 6-8-16) | New Application Fee (On or After 6-9-16) |
|------------------------|-------------------------------------------|------------------------------------------|
| Retailer | One-time \$100 per location | \$265 per location |
| Wholesaler/Distributor | \$1,000 per location | \$1,200 per location |

Beginning January 1, 2017, retailers will be required to pay an annual renewal fee and the annual renewal fee for wholesalers and distributors will increase. The new renewal fee amounts are shown in the charts below.

| License Type | Old Renewal Fee (On or Before 12-31-16) | New Renewal Fee (On or After 1-1-17) |
|------------------------|-----------------------------------------|--------------------------------------|
| Retailer | \$0 | \$265 per location per year |
| Wholesaler/Distributor | \$1,000 per location per year | \$1,200 per location per year |

For more information on cigarette and tobacco products licensing, visit www.boe.ca.gov/sptaxprog/cig_n_tob_prod_lic.htm.



New FTB Webpage on Medical Marijuana Related Activities

The Franchise Tax Board (FTB) recently developed a webpage to provide medical marijuana business taxpayers with information about their tax obligations, as well as other useful links.

The FTB will update this page for any new laws that impact how these businesses report their income tax. You can access this new webpage at www.ftb.ca.gov/businesses/Medical_Marijuana/Medical_Marijuana_Related_Activities.shtml.



Electronic Cigarette and Other Product Licensing

Effective January 1, 2017, retailers¹ of electronic cigarettes, nicotine products, and any component, part, or accessory of a tobacco product, which were added to the definition of "tobacco products" in the Business and Professions Code (BPC) section 22950.5, must obtain a retailer license from the BOE. A \$265 yearly fee for each location must be submitted with each new license or renewal application for the sale or distribution of these products.

Recent legislation² also made the following changes:

- Imposes a licensing requirement on retailers that sell electronic cigarettes, nicotine products, or any component, part, or accessory of a tobacco product whether sold together or separately.
- Includes in the Stop Tobacco Access to Kids Enforcement (STAKE) Act definition of "tobacco products" electronic devices that deliver nicotine or other vaporized liquids (electronic cigarettes), nicotine products, and any component, part, or accessory of a tobacco product.
- Makes it a misdemeanor to furnish any of these products to anyone under the age of 21.

Please note: The definition of tobacco products under the Revenue and Taxation Code did not change; therefore, there is no excise tax on these products at this time.

For more information and updates, please visit the *Cigarette & Tobacco Products Licensing Program* webpage at www.boe.ca.gov/sptaxprog/cig_n_tob_prod_lic.htm.

¹If your client already possesses a valid Cigarette and Tobacco Products Retailer License issued pursuant to BPC section 22972, they may sell these products under their existing license and do not need to obtain an additional license.

²Senate Bill (SB) x2-5 (Stats. 2016, Ch. 7) and Assembly Bill (AB) x2-11 (Stats. 2016, Ch. 6) were signed into law on May 4, 2016.



Tax-Paid Purchases Resold Deduction for Car Dealers

Motor vehicle dealers may claim a deduction on their sales and use tax return to recover the sales tax paid on their purchases of gasoline or diesel fuel when that fuel is furnished with the sale of a vehicle. However, the sales tax rates that apply to gasoline and diesel fuel sales are different than the sales tax rate that applies to vehicle sales. This can make it problematic for taxpayers and tax preparers to properly claim this deduction on their sales and use tax return.

To assist you in properly claiming the correct allowable sales tax deduction, new instructions and a sample worksheet are included in the revised **BOE-401-INST, Instructions for Completing the BOE-401-A**. See "Section B., Tax Recovery Deductions/ Adjustments," and look under Line 3 "Instructions for Claiming Cost of Tax-Paid Purchases Resold Prior to Use (Motor Vehicle Fuel and/or Diesel Fuel)." Also see the online guide, *Tax Guide for Motor Vehicle Dealers, Industry Topics* tab. Under the section "Sales of Vehicles," select "Claiming a Tax-Paid Purchases Resold Deduction for Gasoline and Diesel Fuel." See www.boe.ca.gov/industry/used_vehicle_dealers.html for more information.



New Online Guide – Storage and Use Exclusion

The BOE has a new online guide that explains the limited circumstances in which use tax may not be due when purchases are temporarily stored in California, or incorporated into other property, then transported outside California for use solely outside the state.

This new guide includes several examples of when the exclusion applies and how to document the exclusion from use tax. Please take a moment to review this new guide at www.boe.ca.gov/sutax/storage_and_use_exclusion.htm.



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CAEATFA Sales and Use Tax Exclusion

The California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) grants exclusions from sales or use tax for the purchase of advanced manufacturing machinery and equipment and other property. The exclusion also applies to tangible personal property purchased for a project related to alternative energy sources, advanced transportation technologies, and recycled feedstock. The project must provide a net benefit to the state, both fiscally and environmentally, to qualify for the exclusion. If you believe your client's project may qualify for the exclusion, have them submit an application to the CAEATFA. For information on how to apply for the sales and use tax exclusion, please go to the CAEATFA website at www.treasurer.ca.gov/caeatfa.

For businesses that have been granted the sales and use tax exclusion for their project by the CAEATFA, the BOE developed a new form **BOE-192, CAEATFA Exemption Certificate for Sales and Use Tax Exclusion**, that can be used to issue exemption certificates to project vendors. The form is available at www.boe.ca.gov/pdf/boe192.pdf.

The BOE also added information on how an approved applicant (participating party) can take advantage of the exclusion when a construction contractor is hired to make improvements to real property. See the *CAEATFA Sales and Use Tax Exclusion* webpage at www.boe.ca.gov/sutax/gme.htm for more information.

Contact Us

Tell the BOE what topics you would like to see covered in your newsletter. You can mail your comments to the BOE, call the Customer Service Center, or send a message through the BOE website.

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PO Box 942879
Sacramento, CA 94279-0044

Website:
www.boe.ca.gov/contact/

Tax Practitioner Hotline:
1-800-401-3661
Representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.



The BOE is approaching the final stages of procurement for the Centralized Revenue Opportunity System (CROS) and anticipates having a vendor by the end of this year. The BOE looks forward to beginning the next phase of the project and the much anticipated technology and process improvements. The new system will:

- Be more intuitive for staff to learn and use.
- Allow for automated processing of standard tasks, such as sending notifications and processing requests, forms, returns, and payments.
- Make it easier to identify all accounts associated with a single taxpayer.
- Be easier to make modifications to accommodate changes to existing tax programs or the implementation of new ones.

For more information on the benefits of CROS and the project approach, or to get the latest news on the progress, please visit www.boe.ca.gov/cros.

Regional Railroad Accident Preparedness and Immediate Response Fee

The Regional Railroad Accident Preparedness and Immediate Response (RRAPIR) Fee Program imposes a fee on the owners of the top 25 most hazardous material commodities transported by rail in California and requires railroad operators to collect the fee from the owner.

The Office of Emergency Services (OES) is responsible for establishing the fee schedule and drafting regulations for the administration of this fee program. The emergency regulations were approved by the Office of Administrative Law (OAL) and became effective June 20, 2016 (view these at www.caloes.ca.gov/FireRescueSite/Documents/2016-0609-01E_APP.pdf). The OES has set the fee amount at \$45 per loaded railcar containing hazardous material commodities (as defined in the regulation) transported in California. Railroads will receive official notification to begin collecting the fee by November 13, 2016.



For further information on the RRAPIR fee, visit the OES website at www.caloes.ca.gov/for-governments-tribal/response/hazmat-by-rail. Additional information about the program can be found at www.boe.ca.gov/sptaxprog/rrapir.htm.

As of October 28, 2016, the official notification to railroads instructing them to collect the fee has been delayed until further notice. The RRAPIR fee guide will be updated as more information becomes available.

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