

## **596.0000 WASTE BYPRODUCTS**

[596.0120](#) **Blended Fuel Products.** Blended fuel oil products which are not pitch but consists of 55% pitch and 45% cutter oil are equivalent in value to bunker fuel and as such would not qualify as a waste by-product within the meaning of 6358.1 or the court's ruling in *Union Oil Company v. State Board of Equalization*, 224 Cal.App.3d 665. Blended fuel oil products exchanged for steam are not exempt under the provisions of 6358.1 and the case cited. 6/25/91.

[596.0125](#) **Blended Recycled Drain Oil.** A company is engaged in a project to blend recycled drain oil and virgin fuel oil. This blended oil would then be used as an alternative fuel source by industrial facilities. The sale of the blended product will qualify for the section 6358.1 exemption if the product contains 90 percent or more recycled drain oil. 8/6/97. (M98-3).

[596.0140](#) **Butane and Propane.** Butane and propane are commercial grade products of a type ordinarily produced in the oil refining process and are commercially marketable. Therefore, they cannot be classified as waste byproducts. In addition, the butane and propane produced does not qualify as "still gas" as defined in section 6358.1(b). 5/6/93.

[596.0200](#) **Coke Fines Produced in the Fluid Coking Processing.** An oil refiner purchases crude oil which is refined into various petroleum products by means of the fluid coking (including flexicoking) process. Fluid coke is produced as a byproduct. The fluid coke (including flexicoke) is not extracted from the unit but is burned as part of the fluid coking (or flexicoking) process. Such use of fluid coke fines is exempt from tax as the use of a "waste byproduct" pursuant to section 6358.1(b). 9/24/86.

[596.0300](#) **Drain Oil.** Oil previously used as a lubricant in vehicles or other machinery is acquired from service stations, railroads, and public utility companies, and is then sold as recycled drain oil to purchasers who will use it in an industrial facility as a fuel source in lieu of oil, natural gas, or coal. Such recycled drain oil is a "waste byproduct", the sale or use of which is exempt from tax pursuant to section 6358.1(b). 8/20/85.

596.0335 **Firewood Used to Cook Pizzas.** Firewood used to cook pizzas does not qualify for the exemption provided by section 6358.1(a)(2) for waste by-products. While it may be possible for firewood to be a waste by-product of forest operations, the restaurant is not an "industrial facility" as required by the statute for the exemption to apply. 1/20/95.

[596.0400](#) **Mesquite Charcoal.** Mesquite growing wild which is cut to be used as charcoal for cooking is not grown expressly for fuel purposes nor is it a waste byproduct from agricultural or forest products operations which is used as fuel in an industrial facility. Therefore, the sale or use of mesquite charcoal is not exempted by section 6358.1(a) or (b). 8/15/84.

[596.0600](#) **Petroleum Coke.** Petroleum coke produced from a "fluid" coker and sold for use as fuel in alternative energy facilities constitutes a waste byproduct, the sale or use of which is exempt from tax pursuant to section 6358.1. Petroleum Coke is what remains from a barrel of crude after all the light ends have been removed. Its composition is similar to sand. 6/25/91.

[596.0650](#) **Seedlings.** Sales of eucalyptus seedlings to persons who will grow them expressly for fuel purposes are exempt from sales tax under section 6358.1 provided an exemption certificate under Regulation 1667 is taken by the seller in good faith and timely. The exemption would not apply if a purchase buys seedlings, plants them in a manner so as to control soil erosion, then harvest the trees for fuel. 3/8/84.

596.0700 **Tires.** Scrapped tires or scrapped shredded tires are "waste byproducts" for purposes of section 6358.1. Therefore, the sale or use of scrapped tires or scrapped shredded tires used in an industrial facility as a fuel source in lieu of the use of either oil, natural gas, or coal is exempt from sales or use tax. 1/31/84.

[596.0765](#) **Wood Chips Obtained from Burnt Forest.** A taxpayer contracts as an independent contractor with land owners for salvage operations on timberland. These salvage operations occur after the land has been subject to a controlled burn, or where a forest fire is caused by natural means, accident, or arson. The taxpayer chips out stumps and other materials not consumed in the burn. The taxpayer then sells the chips.

There is no material difference between the case when the wood chips are harvested following a planned burn versus an unplanned burn. Clearing of undergrowth to prevent fires and thinning of new growth or promotion of growth are “forest products operations.” Management of the forest includes both the conducting of planned burns and the conducting of operations in response to fires caused by natural means, accident, or arson. Thus, the wood chips are a waste byproduct with respect to the forest products operations conducted by the owners of the land. It is irrelevant under section 6358.1 that the retailer of these chips is an independent contractor of the land owner rather than the land owner itself. The taxpayer’s sales of wood chips to be used as a fuel source in lieu of oil, natural gas, and coal are exempt from tax under section 6358.1. 10/31/96.

596.0780 **Wood Chips from Small Trees.** In forest thinning projects, smaller trees must be taken out to make room for the healthiest trees to grow to maximum size in a minimum amount of time. The sale of wood chips produced from the small trees and branches from forest thinning is an exempt sale of waste byproducts from forest products operations for the purposes of section 6358.1. 2/10/94.

596.0800 **Woodex** is a mixture of rice hulls and sawdust mixed with a binder and pressed into pellets. Use of Woodex for burning in lieu of fuel oil in greenhouse boilers to produce heat to maintain an appropriate temperature for growing plants to be sold is exempt from tax as the Woodex is a “waste byproduct” within section 6358.1(b). 3/30/81.