

Memorandum

To : Honorable Jerome E. Horton, Chairman
Senator George Runner (Ret), Vice Chair
Honorable Fiona Ma, CPA, Second District
Honorable Diane L. Harkey, Fourth District
Honorable Betty T. Yee, State Controller

Date: February 3, 2016

From : Mark Durham, Manager
Research and Statistics Section

**Subject: PREPAYMENT OF SALES TAX ON MOTOR VEHICLE FUEL, DIESEL FUEL
AND JET FUEL
FEBRUARY 2016 – BOARD MEETING**

As amended by Assembly Bill (AB) 2679, Chapter 769, Statutes of 2012, Section 6480.1 of the Revenue and Taxation Code requires the Board of Equalization (Board) to determine annually by March 1 the rate at which sales tax on motor vehicle fuel is to be collected at the time such fuel is first distributed in the state during the twelve-month period beginning the following July 1.

The prepayment rate on fuels does not affect total taxes paid by taxpayers. It only affects the timing of payments made by wholesalers of fuels. Adjusting this rate does not change the total sales tax on motor vehicle fuel, but rather keeps the percentage of tax subject to prepayment reasonably constant when prices of gasoline go up or down over time.

The enactment of AB X8 6 (Ch. 11, Eighth Extraordinary Session of 2009-10) revised the imposition of the sales and use tax and the excise tax on motor vehicle fuel. Among other things, AB X8 6 added Section 6357.7 to the Revenue and Taxation Code to create a state General Fund sales and use tax exemption beginning on July 1, 2010 for sales of motor vehicle fuel. Therefore, the state General Fund tax rate will not be used to calculate the prepayment rate on motor vehicle fuel.

The method by which the rate is calculated annually is specified in Section 6480.1. Staff used prices compiled by the U.S. Department of Energy's Energy Information Administration. The rate for the period July 1, 2016 through June 30, 2017 is \$0.05 per gallon, no change from the current rate of \$0.05 per gallon.

Section 6480.1 (h) and (i) of the Revenue and Taxation Code requires the Board to determine annually by March 1 the rates at which sales tax on diesel fuel and sales tax on jet fuel are to be collected at the time such fuel is first distributed in the state during the twelve-month period beginning the following July 1.

Notwithstanding, AB 105, effective March 24, 2011, added a sales and use tax surcharge on diesel fuel. For fiscal year 2014-15, the statute requires the surcharge to be reduced from 1.94 percent to 1.75 percent, and each fiscal year thereafter. Therefore, the sales and use tax rate on diesel fuel will include this additional rate of 1.75 percent, for the period July 1, 2016 through June 30, 2017.

The method by which the rate is to be calculated annually is specified in Section 6480.1 (h) and (i). Staff used prices compiled by the U.S. Department of Energy's Energy Information Administration. The rate for the period July 1, 2016 through June 30, 2017 is \$0.17 per gallon for diesel fuel, a reduction from the current rate of \$0.225 per gallon; and \$0.07 per gallon for jet fuel, for the period July 1, 2016 through June 30, 2017, a reduction from the current rate of \$0.115 per gallon.

It is recommended that the Board set the prepayment rate for sales tax on motor vehicle fuel distributions for the period July 1, 2016 through June 30, 2017 at \$0.05 per gallon.


It is recommended that the Board set the prepayment rate for sales tax on diesel fuel distributions for the period July 1, 2016 through June 30, 2017 at \$0.17 per gallon.

It is recommended that the Board set the prepayment rate for sales tax on jet fuel distributions for the period July 1, 2016 through June 30, 2017 at \$0.07 per gallon.

MD:bb:jm

cc: Ms. Shellie Hughes
Ms. Kari Hammond
Mr. Sean Wallentine
Mr. Jim Kuhl
Mr. Russell Lowery
Ms. Yvette Stowers
Ms. Cynthia Bridges
Ms. Lynn Bartolo
Ms. Susanne Buehler
Ms. Joann Richmond
Ms. Michele Pielsticker
Mr. Brad Miller
Ms. Kirsten Stark
Compliance and Technology Section

Recommendation by:



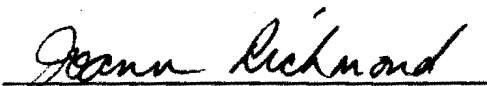
Mark Durham, Manager
Research and Statistics Section

Approved:



David J. Gau
Chief Deputy Director

Approved:



Joann Richmond, Chief
Board Proceedings Division

BOARD APPROVED

at the 2/23/16 Board Meeting