

Fuel Taxes Newsletter

State
Board of
Equalization

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■ All Fuel Tax and Fee Programs

1. Meetings will review regulations on record-keeping and relief from liability

Three meetings have been scheduled for the coming months to discuss proposed changes in regulations. The proposals address specific recordkeeping requirements as well as two new regulations:

- Regulation 4901, *Records*, and
- Regulation 4902, *Relief From Liability*.

The “specific-record” regulations will affect the following programs: motor vehicle fuel tax, aircraft jet fuel tax, use fuel tax, diesel fuel tax, underground storage tank maintenance fee, and the oil spill response, prevention, and administration fee.

Your comments and participation are welcome

We welcome your comments on the proposed regulations and encourage you to participate in the meetings. After July 9, you can find more information regarding the proposals and the text of the regulations on our website at www.boe.ca.gov/meetings/btc2002.htm (check the November 12 item). You may also obtain copies of the regulations after July 9 by calling 916-322-9669

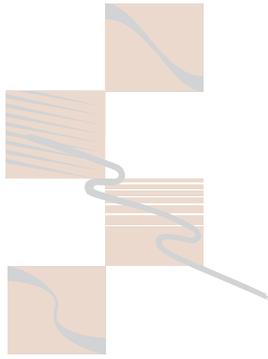
Meetings scheduled

The meeting schedule is as follows:

- First Interested Parties Meeting:
July 17, 10:00 a.m.
- Second Interested Parties Meeting:
September 4, 10:00 a.m.
- Business Taxes Committee meeting:
November 12, 9:30 a.m.

(*Note:* This meeting was rescheduled from September 11 to allow more time for public participation and comment.)

All meetings will be held at Board of Equalization Headquarters, 450 N Street, in Sacramento.



For more information or to comment

If you cannot attend the meetings but would like to comment on the proposed regulations, please send your comments to: Mr. Arlo Gilbert; Special Taxes Department MIC: 31; State Board of Equalization; P.O. Box 942879; Sacramento, CA 94279-0031. Or you can send an e-mail to arlo.gilbert@boe.ca.gov, or a fax to 916-324-2554.

2. Bill of Rights Hearings—We Want To Hear from You

Each year, the Members of the Board of Equalization hold public hearings to give taxpayers, tax professionals, and other interested parties the opportunity to comment on the tax and fee programs administered by the Board. If you would like to suggest ways to improve our services, or if you want us to look more closely at a tax or fee issue, you are encouraged to present your ideas before the Board.

Although you do not need to be scheduled in advance to speak at the hearing, it would help us to prepare if you contacted us 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.

Business and Property Tax Hearings

Culver City

Tuesday, August 20, 2002, 1:30 p.m.
Board of Equalization District Office
5901 Green Valley Circle, Suite 207

Sacramento

Thursday, October 3, 2002, 1:30 p.m.
Board of Equalization Headquarters
450 N Street, 1st Floor Board Room

To notify us of a topic you wish to discuss or to send written material in advance, please contact the Taxpayers' Rights Advocate MIC:70, P.O. Box 942879, Sacramento, CA 94279-0070. You can call toll-free at 888-324-2798, or fax: 916-323-3319

3. How To File a Refund Claim—All Fuel Tax and Fee Programs

The following information explains when and how to file a claim for refund. Most claims are filed with the Board of Equalization. Some are filed with the Office of the State Controller.

Mail claims to the following addresses:

Claims sent to the Board of Equalization: Board of Equalization; Fuel Taxes Division, MIC:30; PO Box 942879; Sacramento, CA 94279-0030.

Claims sent to the State Controller: State Controller; Bureau of Tax Administration; PO Box 942850; Sacramento, CA 94250-5880.

Motor Vehicle Fuel Tax (effective 1/1/02)

Licensed Suppliers and Jet Fuel Dealers • Section 8126

Type of claim: Overpayment on tax returns

File claim with: Board of Equalization

Claim form: Letter or BOE-101, Claim for Refund or Credit.

When to file: Anytime within statute.

Limitation period: Within 3 years from the last day of the month following the month for which the overpayment was made (section 8128).

Exporters • Section 8101

File claim with: Office of State Controller

Claim form: Form SCGR-1, Claim for Refund of Motor Vehicle Fuel License Tax.

When to file: Anytime within statute (see limitation period below).

Limitation period: Within 3 years from the date of purchase of the motor vehicle fuel (section 8105).

Exempt Users • Section 8101

File claim with: Office of State Controller

Claim form: Form SCGR-1, Claim for Refund of Motor Vehicle Fuel License Tax.

When to file: Annually or quarterly (if each quarterly claim is for \$750 or greater).

Limitation period: Within 3 years from the date of purchase of the motor vehicle fuel (section 8105).

Public Transportation • Section 8101.6

File claim with: Office of State Controller

Claim form: Form SCGR-1, Claim for Refund of Motor Vehicle Fuel License Tax.

When to file: Annually or quarterly (if each quarterly claim is for \$750 or greater). See also limitation period below.

Limitation period: Within 3 years from the date of purchase of the motor vehicle fuel (section 8105).

Diesel Fuel Tax

Registered Ultimate Vendors • Section 60502

File claim with: Board of Equalization

Claim form: BOE-770-DV, Diesel Fuel Ultimate Vendor Report/Claim for Refund.

When to file: Monthly (see also limitation period below).

Limitation period: Within 3 years from the date of purchase of the fuel (section 60507).

Licensed Suppliers • Section 60521

Type of claim: **Credit tax returns**

File claim with: Board of Equalization

Claim form: BOE-501-DD, Supplier of Diesel Fuel Tax Return.

When to file: Anytime within statute (see limitation period below).

Limitation period: Within 3 years from the last day of the month following the month for which the overpayment was made (section 60522).

Type of claim: **Overpayment on tax returns**

File claim with: Board of Equalization

Claim form: Letter or BOE-101, Claim for Refund or Credit.

When to file: Anytime within statute (see limitation period below).

Limitation period: Within 3 years from the last day of the month following the month for which the overpayment was made (section 60522).

Government Entities • Section 60521

Type of claim: **Credit tax returns**

File claim with: Board of Equalization

Claim form: BOE-501-DG, Government Entity Diesel Fuel Tax Return.

When to file: Anytime within statute (see limitation period below).

Limitation period: Within 3 years from the last day of the month following the month for which the overpayment was made (section 60522).

Type of claim: **Overpayment on tax return**

File claim with: Board of Equalization

Claim form: Letter or BOE-101, Claim for Refund or Credit.

When to file: Anytime within statute (see limitation period below).

Limitation period: Within 3 years from the last day of the month following the month for which the overpayment was made (section 60522).

Registered Exempt Users • Section 60501

File claim with: Board of Equalization

Claim form: BOE-770-DU, Diesel Fuel Claim for Refund on Nontaxable Uses.

When to file: Annually or quarterly (if each quarterly claim is for \$750 or greater). See also limitation period below.

Limitation period: Within 3 years from date of purchase of the fuel (section 60507).

Exporters and Exempt Sales • Section 60501

File claim with: Board of Equalization

Claim form: BOE-770-DZ, Claim for Refund on Nontaxable Sales and Exports of Diesel Fuel.

When to file: Annually or quarterly (if each quarterly claim is for \$750 or greater). See also limitation period below.

Limitation period: Within 3 years from date of purchase of the fuel (section 60507).

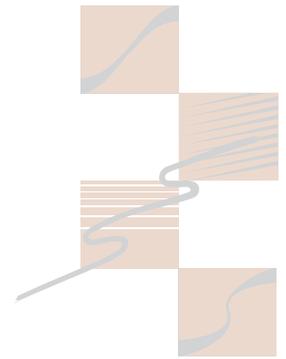
Qualified Highway Vehicle Operators • Section 60206

File claim with: Board of Equalization

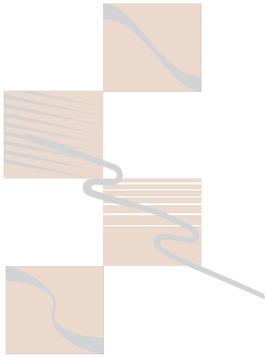
Type of claim: **Overpayment on tax return**

Claim form: Letter or BOE-101, Claim for Refund or Credit.

When to file: Anytime within statute (see limitation period, top of next page).



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Limitation period: Within 3 years from the last day of the month following the month for which the overpayment was made (section 60521).

Exempt Bus Operators • Section 60521

File claim with: Board of Equalization

Type of claim: Overpayment on tax return

Claim form: Letter or BOE-101, Claim for Refund or Credit.

When to file: Anytime within statute (see limitation period below).

Limitation period: Within 3 years from the last day of the month following the month for which the overpayment was made (section 60522).

Use Fuel Tax

Vendors • Section 9151

File claim with: Board of Equalization

Type of claim: Overpayment on tax returns

Claim form: Letter or BOE-101, Claim for Refund or Credit .

When to file: Anytime within statute (see limitation period below).

Limitation period: Within 3 years from the last day of the month following the reporting period for which the overpayment was made (section 9152).

Users • Section 9151

Type of claim: **Overpayment on tax returns**

File claim with: Board of Equalization

Claim form: Letter or BOE-101, Claim for Refund or Credit .

When to file: Anytime within statute (see limitation period below).

Limitation period: Within 3 years from the last day of the month following the reporting period for which the overpayment was made (section 9152).

Type of claim: **Credit return due to tax paid to California vendors**

File claim with: Board of Equalization

Claim form: BOE-501-AU, User Use Fuel Tax Return.

When to file: Anytime within statute (see limitation period below).

Limitation period: Within 3 years from the last day of the month following the reporting period for which the overpayment was made (section 9152).

Exempt Bus Operators • Section 9151

Type of claim: **Overpayment on tax returns**

File claim with: Board of Equalization

Claim form: Letter or BOE-101, Claim for Refund or Credit.

When to file: Anytime within statute (see limitation period below).

Limitation period: Within 3 years from the last day of the month following the reporting period for which the overpayment was made (section 9152).

Type of claim: **Credit return due to tax paid to California vendors**

File claim with: Board of Equalization

Claim form: BOE-501-AB, Exempt Bus Operator Use Fuel Tax Return.

When to file: Anytime within statute (see limitation period below).

Limitation period: Within 3 years from the last day of the month following the reporting period for which the overpayment was made (section 9152).

Underground Storage Tank Maintenance Fee

Owners or Interested Parties Filing Returns on Owner's Behalf • Section 50139

File claim with: Board of Equalization

Claim form: Letter or BOE-101, Claim for Refund or Credit.

When to file: Anytime within statute (see limitation period below).

Limitation period: Within 3 years from the due date of the payment for the period for which the overpayment was made (section 50140).

Oil Spill, Response, Prevention, and Administration Fee

Pipeline Operators and Marine Terminal and Refinery Owners • Section 46501

File claim with: Board of Equalization

Claim form: Letter or BOE-101, Claim for Refund or Credit .

When to file: Anytime within statute (see limitation period below).

Limitation period: Within 3 years from the due date of the payment for the period for which the overpayment was made (section 46502).

■ Motor Vehicle Fuel Tax and Diesel Fuel Tax

4. Reporting Tips for Suppliers, Common Carriers, and Terminal Operators

Here are some tips to help you prepare better returns and reports and reduce the number of questions we may have about your entries. As you know, new returns/reports and schedules have been in use as of the first reporting period in 2002. The new schedules require detailed transactional information, which enables us to reconcile transactions between taxpayers and verify reporting throughout the fuel distribution chain.

Terminal Control Number (TCN). Be sure to include the “T” that is part of the number. The complete number is needed to complete the transaction information on the schedules for the origin and/or destination of the fuel. For electronic filers, the character length for any TCN should be nine characters. Do not input any hyphens. Paper filers can submit TCN information with or without hyphens.

FEINs. The carrier, buyer, and seller FEINs must be included on the schedule. If you do not have the applicable FEIN, you may substitute the applicable Board of Equalization Fuel Taxes account number until you are able to obtain the FEIN.

New product codes. The following product codes are not currently listed on the Product Code Lists included with the returns/reports and may be used when reporting transactions:

071 for Reformulated Gasoline (gasoline with MTBE).

168 for 80% Diesel Fuel #2, Low Sulfur – undyed and 20% water emulsion.

228 for 80% Diesel Fuel #2, Low Sulfur – dyed and 20% water emulsion.

Electronic prepayments. If you are a Supplier of motor vehicle fuel and/or diesel fuel and have been placed on EFT status, you should not file any paperwork with your prepayments.

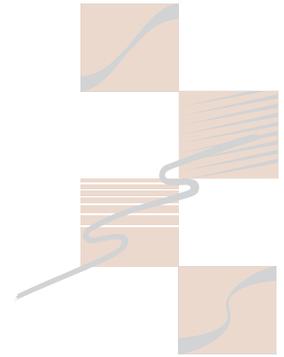
Summary reporting for terminal operators. Summary reporting is allowed only for product codes 92, “Undefined (other),” and 122, “Other Gasoline Blendstocks.” For receipts, summary reporting is only allowed for nonbulk transactions. For disbursements, summary reporting is allowed both for nonbulk and bulk reporting of product codes 92 and 122.

Repeated entries. When completing a paper-filed schedule that contains repeating information (for example, a customer name), do not draw a line down the column, or use apostrophes or ditto marks, as our Key Data Entry department cannot key this information. Each line must be completed in detail.

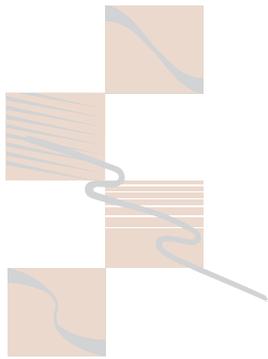
Exempt sales made by credit card at cardlock or retail locations. When reporting sales made to exempt entities for which you are claiming credits on the schedule 13 series (when the exempt purchaser has purchased the fuel at a cardlock or retail service station using an automated key card or credit card), you may elect to report the detail of each transaction, or you may report a summary amount for each customer for all transactions claimed during the reporting period. The summary must be reported by individual customer, not a single total for all customers. When entering individual retail sales onto the Disbursement Schedules, the information requested in columns 5, 6, and 11 must be completed.

5. Ex-tax Motor Vehicle Fuel Inventory Below the Rack

The total gallons of ex-tax motor vehicle fuel you owned below the terminal rack at 12:01 AM on January 1, 2002, was required to be reported on the Floor Stock Tax Return—as well as on Summary Schedule S02A of your January 2002 form BOE-501-PS, *Supplier of Motor*



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Vehicle Fuel Tax Return. Reporting the inventory on the Summary Schedule S02A was the mechanism for converting the below-the-rack ex-tax inventory to tax-paid inventory.

6. Tax-paid Fuel Inventory Above the Rack

If you own tax-paid fuel above the rack, you must pass on the tax to your customer and provide your customer with a First Taxpayer Report. A licensed supplier may claim a credit for taxes paid on fuel within the terminal/bulk transfer system *at the time the fuel is removed from the terminal/bulk transfer system*. The credit offsets the tax liability that is incurred upon the removal of the fuel from the rack.

If you receive tax-paid fuel above the rack, you must pass the tax along until a supplier removes the fuel. The supplier may then take a credit against taxable removals when the second tax accrued. The person paying the second tax must assert the credit, supported by a "First Taxpayer's Report". This report identifies the person that previously paid tax on the fuel. The First Taxpayer's Report is the method the IRS uses to document fuel on which tax has been paid twice. We have adopted this method to be used in the same manner.

7. Suppliers and Terminal Operators: Clarification Regarding Schedules

Suppliers. When completing the Disbursements and Receipts Schedule, you are asked in column 4 to provide the "TCN or State/Province" for Point of Origin and Destination. You *must provide the TCN if the origin or destination is a terminal*. Otherwise, enter the two-character U.S. Postal Service abbreviation for the state or country of origin or destination.

Terminal Operators. Even though the Terminal Disbursements (TD) Schedule, column 4, states, "Destination State," if the destination is a terminal, enter the TCN in column 4.

8. Ultimate Vendors: Correction Regarding Diesel Fuel Claims for Refund Schedules (Oops—Our Mistake)

There was an error in the schedules attached to the various claim for refund forms including the Ultimate Vendor Report/Claim for Refund. The error is in the header for column 4, "Point of Origin and Destination." The header should have read, "TCN or State/Province." The schedules have been revised and we apologize for any confusion this may have caused. If you are not receiving the corrected versions currently, please contact us at 916-322-9669.

For "point of origin," you should provide the TCN if you remove the diesel fuel from the rack; otherwise the point of origin will always be CA.

For "destination" your entry will be CA unless you export the diesel fuel, in which case you would put the two-character U.S. Postal Service abbreviation for the state, province, or foreign country to which you exported the diesel fuel.

9. Diesel Fuel Suppliers: Partial Exemption Applies to Low Emission Diesel and Water Blend Products

Assembly Bill X2 86 (Stats. 2001, ch. 8, effective October 03, 2001) amended the Diesel Fuel Tax Law to exempt from tax the water portion of a diesel fuel/water emulsion hybrid fuel product, provided the diesel fuel emulsion meets certain emission standards established by the California Air Resources Board (CARB). A diesel fuel/water emulsion hybrid fuel product is created by combining diesel fuel, water, and an additive that causes the water molecules to remain suspended within the diesel fuel. The additive and the water in the emulsion account for approximately 20% of the fuel volume. The hybrid product improves air quality by reducing the nitrogen oxides and particulate matter contained in the exhaust of diesel powered vehicles.

To report this hybrid fuel product on your Supplier of Diesel Fuel Tax Return, report the 80% base amount of the hybrid product (the diesel portion) as the *billed* gallons on the disbursement schedule, and report the actual net and gross amounts of the hybrid fuel

product removed from the rack in the Net and Gross columns on the applicable schedule. The actual quantity removed is required for our reconciliation to the terminal operator report.

10. E-Filing Progress

Our Electronic Filing Program website is operational. Account holders are actively e-filing returns or working to complete their certification testing. We are accepting returns and reports for the following programs, which are set up for Electronic Data Interchange transmissions:

- BOE-501-DD, Supplier of Diesel Fuel Tax Return
- BOE-501-PS, Supplier of Motor Vehicle Fuel Tax Return
- BOE-506-PO, Terminal Operator Information Report
- BOE-506-PC, Vessel/Pipeline Operator Information Report

If you are interested in more information about certification for any of the programs listed, please visit our web site at www.boe.ca.gov/electsrv/efiling/taxpcont.htm, or e-mail your questions to efile@boe.ca.gov.

If you are a participant in the e-filing program but have not completed certification testing, you may submit paper returns or reports and tax computation worksheets without all of the supporting schedules. The schedules are not required until you complete certification testing. Upon certification, you will be required to file electronically any schedules from prior periods not previously filed. The BOE considers you to be a participant in e-filing program if you have submitted your Trading Partner Agreement (application), the Board has approved it, and you are working to become certified to file your returns or reports electronically.

We are continuing to develop the *California Motor Fuel Electronic Filing Program*. Features planned for the future include XML mapping formats, mapping for the Diesel Fuel Ultimate Vendor Report/Claim for Refund, the Diesel Fuel Claim for Refund on Nontaxable Uses form, the Claim for Refund on Nontaxable Sales and Exports of Diesel Fuel form, and the Exempt Bus Operator Diesel Fuel Tax Return. Watch for updates in future newsletters.

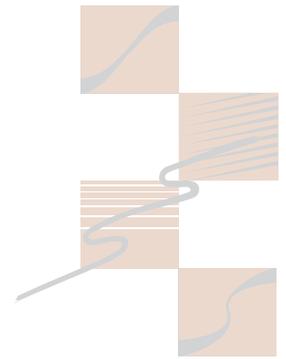
11. Exempt Exports of Motor Vehicle Fuel and Diesel Fuel

The Motor Vehicle Fuel Tax and Diesel Fuel Tax Law each provide an exemption from fuel tax for fuel exported to a point outside of this state under certain conditions. Effective January 1, 2002, the motor vehicle fuel exemption from tax is identical to the diesel fuel tax export exemption. The exemption from tax for exported fuel applies only to fuel which, pursuant to the contract of sale, is required to be shipped and is shipped to a point outside California by a supplier by trucks or other facilities operated by the supplier or by a common carrier.

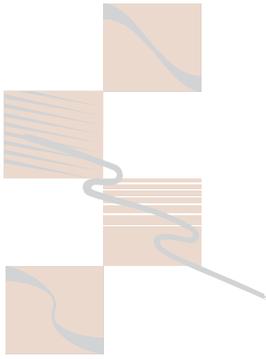
Delivery of fuel removed from the rack to facilities of the purchaser is a taxable rack removal regardless of a contract requiring export. In such situations the supplier must report a taxable rack removal and the purchaser must claim a refund of the tax. Claims for refund of tax-paid motor vehicle fuel exported should be filed with the State Controller and claims for refund of tax-paid diesel fuel exported should be filed with the Board.

12. Inspections of Diesel-powered Vehicles

The Board, working in conjunction with the California Air Resources Board, Internal Revenue Service, and the California Highway Patrol, conducts inspections of diesel-powered vehicles operated on highways in this state. We check the vehicle's fuel tank to determine whether there is any visible evidence of red dye in the diesel fuel. Red dye is placed in diesel fuel to indicate that it is intended for nontaxable, off-highway uses. A penalty of the greater of \$1,000 or \$10 per gallon will be assessed against anyone who is found to be using dyed diesel fuel for a use other than a nontaxable use. Refusing to allow an inspection of a diesel-powered vehicle may result in a \$1,000 penalty for each refusal. This penalty is in addition to any other penalty or tax that may be imposed.



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■ Underground Storage Tank Maintenance Fee

13. Vaulted Tank and Aboveground Tank Exemptions

Do you own an underground storage tank? Should you be registered and paying the Underground Storage Tank Maintenance Fee (UST fee)? In general, you must register and pay if own an underground storage tank that is used to store petroleum products.

You are not liable for the fee, however, and do not need to register, if

- Your tank is located aboveground and your local agency (the one that issues permits to operate a tank) has issued you a permit to operate an aboveground tank; or
- You have a vaulted tank *and* your local agency does not require you to obtain a permit to operate the tank.

If your local agency requires you to obtain a permit to operate an underground tank, even if your tanks are vaulted, then you must register with the Board and pay the fee.

The Health and Safety Code, section 25283.5, allows for an exemption from the UST fee if your tanks are vaulted *and* meet all the requirements of that section. We rely on your local agency to determine if you meet the requirements of that code section and are exempt from the fee. We have recently learned that a company that manufactures vaulted tanks is advertising that the fee exemption applies to their tanks. As noted earlier, the exemption does apply—but only when all the conditions of Health and Safety Code section 25283.5 are met.

If you are in doubt about your status regarding the UST fee, we recommend contacting the Fuel Taxes Division at 916-322-9669 and obtaining written advice as to the applicability of the fee. You may review the UST law on the Internet at www.boetaxes.ca.gov/business/Vol4/Ustmf/ustmfl.pdf.

■ International Fuel Tax Agreement

14. Get Smart! Attend an IFTA Workshop and/or Go Online.

Do you have questions about completing your IFTA Quarterly Report? Are you nervous about your IFTA reports being audited? Do you have questions about showing IFTA credentials at California Highway Patrol inspection facilities? If you answered yes to any of the above questions, you should plan on attending IFTA carrier workshops that will be held in various locations around California this fall. IFTA carriers will receive an informational notice regarding the seminars late this summer.

Another source of information for IFTA carriers is the IFTA, Inc. website found at www.iftach.org. There, you will find information on tax rates, contact persons for each jurisdiction, IFTA manuals, and more.

■ Childhood Lead Poisoning Prevention Fee

15. New Fee Assessment Method Adopted by Health Services

The Department of Health Services (DHS) has adopted new regulations changing the method for assessing the Childhood Lead Poisoning Prevention Fee. Under the new method, each person's liability is based on a "historic market share attributions" concept. Following adoption of the new methodology, DHS notified us of any fees due from feepayers. Based on that information, we issued notices of determination (billings) to applicable feepayers on March 2, 2002. If you did not receive a billing it is because you were not included on the Department of Health Services list.

If you have questions about liability for the fee, the market share concept, or how to request an exemption, please contact Mr. Dan Scannell, Department of Health Services, Childhood Lead Poisoning Prevention Branch, 1515 Clay Street, Suite 1801, Oakland, CA 946412, or call 510-622-4962. Petitions for redetermination (petitions contesting a notice of determination) or late protests should be filed with the Board.

Fuel Taxes Division

916-322-9669

Board of Equalization, MIC:30
P.O. Box 942879
Sacramento, CA 94279-0030

Internet

www.boe.ca.gov

Tax Evasion Hotline

888-334-3300

Legislation

www.leginfo.ca.gov.

Taxpayers' Rights Advocate

888-324-2798
www.boe.ca.gov
