



Special Notice

STATE BOARD OF EQUALIZATION

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Important Information for Producers of E85 Fuel

E85 is an alcohol fuel blend that nominally contains 85 percent denatured ethanol and 15 percent gasoline by volume. Denatured ethanol is created by adding approximately one to two percent hydrocarbon (usually gasoline) to ethanol for the purpose of making it unfit for human consumption. Alcohol fuels are taxed as a use fuel, a motor vehicle fuel (MVF), or a diesel fuel, depending on the volume of alcohol in the fuel blend and the type of fuel that is blended with the alcohol. Alcohol fuel containing no more than 15 percent gasoline or diesel fuel is subject to the use fuel tax (UFT). Fuel blends containing more than 15 percent gasoline or diesel fuel are taxed as MVF or diesel fuel, respectively.

Use Fuel Tax Law Application

E85 and other alcohol fuels containing no more than 15 percent gasoline or diesel fuel for use in or as a fuel to propel a motor vehicle are subject to the UFT. The tax imposed is one-half the rate prescribed for fuels subject to the UFT other than liquefied petroleum gas, compressed natural gas, and liquid natural gas. The UFT rate for alcohol fuels is currently \$0.09 for each gallon used.

If you are producing an alcohol fuel containing 15 percent or less gasoline or diesel fuel, no special permit is required, whether the alcohol fuel is produced within a petroleum terminal or below the rack.

A use fuel vendor is responsible for reporting and paying the UFT on E85 delivered into a fuel tank of a motor vehicle. [Use Fuel Tax Law](#) section 8610 provides that a "vendor" includes every person who sells fuel in this state and places, or causes to be placed, the fuel into any receptacle on a motor vehicle from which fuel is supplied for the propulsion of the vehicle.

A Vendor Use Fuel Tax Permit is required if you are selling E85 from a retail location. The vendor is required to collect and pay to the State Board of Equalization (BOE) the \$0.09 per gallon UFT on the full volume of E85 sold or dispensed from a retail pump. *California Fuel Taxes and Fees Application*, BOE-400-FTA, is available on the BOE website at www.boe.ca.gov. A permit is not required if you are only delivering E85 to retail vendors. However, if you are selling to a registered vendor of use fuel, you should obtain a copy of their Vendor Use Fuel Tax Permit number for your records to support the sale as an exempt sale for resale.

A use fuel user is responsible for reporting and paying the UFT on E85 removed from bulk storage and placed into the fuel tank of a motor vehicle. Every user who places E85 into the fuel tank of a motor vehicle for use on the highway should request a User Use Fuel Tax Permit. The application for all use fuel permits, BOE-400-FTA, *California Fuel Taxes and Fees Application*, is available, on the BOE website at www.boe.ca.gov.

Motor Vehicle Fuel Tax Law Application

Alcohol fuels containing more than 15 percent motor vehicle fuel are subject to the motor vehicle fuel tax (MVFT). If you are producing this type of fuel, you must hold a Motor Vehicle Fuel Supplier License. If you are blending alcohol with tax-paid MVF below the terminal rack so the resultant blend contains more than 15 percent MVF, E84 or below, you would be a *blender* according to Revenue and Taxation Code section 7308 and would be required to have a Motor Vehicle Fuel Supplier License. As a blender you would be liable for tax on the full volume of the product not previously taxed i.e., the volume of pure ethanol blended with E10 MVF. *Your blending formula must take into account that you are blending ethanol with E10 MVF as required by California, which already contains 10 percent ethanol.*

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You may register as a supplier by obtaining [BOE-400-FCO, Supplier and/or Ultimate Vendor License Application](#), available on the BOE website at www.boe.ca.gov. The MVFT rate as of July 1, 2011, is \$0.357 per gallon (excluding aviation gasoline) sold or removed.

Diesel Fuel Tax Law Application

Alcohol fuels containing more than 15 percent diesel fuel are subject to the Diesel Fuel Tax (DFT). If you are producing this type of fuel, you must hold a Supplier Diesel Fuel License. The licensing requirements and DFT application for diesel fuel are identical to MVF in regards to alcohol fuel blends. The DFT rate as of July 1, 2011, is \$0.13 per gallon sold or removed.

Prepaid Sales Tax and Sales of Fuel

If you are a wholesaler or supplier of motor vehicle fuel or diesel fuel, you are required to collect a prepayment of a portion of the sales tax when you remove fuel at the terminal rack, bring the fuel into this state, or sell the fuels at any point after removal from the terminal rack. If you are a retailer or other seller of fuel who has prepaid the sales tax to your suppliers, you can claim a credit for the prepaid tax you paid to your supplier when you file your sales and use tax returns. For more information on the prepayment of sales tax on fuel, please see [publication 82, Prepaid Sales Tax and Sales of Fuel](#).

Frequently Asked Questions

How is the percentage of ethanol in an ethanol fuel blend determined?

The BOE considers the denaturant to be part of the fuel grade alcohol, and not part of the MVF blend in the 85/15 formula. According to Motor Vehicle Fuel Tax Law [Regulation 1101](#), the denaturant is part of and included in the alcohol (ethanol) portion and should not be included in the calculation of the percentage of MVF or diesel fuel in the alcohol fuel blend.

Given the fact that denatured ethanol typically contains one to two percent petroleum, the actual MVF content of E85 may be as much as 17 percent. It should be noted that the 85/15 formula is intended solely to determine taxability of the blend and may or may not meet other regulatory specifications for E85.

Are below-the-rack blenders entitled to a refund of the MVFT paid on the motor vehicle fuel component of E85?

When producing E85 below the rack, the MVFT should have been paid to the supplier on the MVF portion of the fuel included in the alcohol fuel blend at the time of purchase. Refunds of the MVFT paid on MVF used for purposes other than operating motor vehicles upon the public highways of the state and other exempt uses are administered by the State Controller's Office (SCO). The SCO has determined that E85 producers are not entitled to a refund of the MVFT on tax-paid MVF that is blended below the rack because the blending of gasoline to create a different fuel product does not constitute a "use" for purposes other than operating motor vehicles upon the highways of the state within the meaning contained in the Motor Vehicle Fuel Tax Law.

How should we invoice E85 to our customers?

E85 should be invoiced as E85 and not by its component products. Any MVFT paid by the seller on the gasoline component of the blend can only be recouped by incorporating the MVFT into the base selling price of the E85 fuel. Vendors should not separately state the MVFT on an invoice for E85 fuel.

If you have any questions regarding E85, you may contact the BOE through our website at www.boe.ca.gov/info/email.html or www.boe.ca.gov. You may also call our Taxpayer Information Section at 800-400-7115 (TTY:711). Customer service representatives are available to assist you weekdays from 8:00 a.m. to 5:00 p.m., Pacific time, except state holidays.