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Diesel Fuel Tax Regulations

Title 18. Public Revenues

Division 2. California Department of Tax and Fee Administration — Business Taxes (State Board of Equalization — Business Taxes — See Chapters 6 and 9.9)

Chapter 3. Diesel Fuel Tax

Article 3. Exemptions and Refunds

Regulation 1432

Regulation 1432. Other Nontaxable Uses of Diesel Fuel in a Motor Vehicle.

Reference: Sections 60016, 60019, 60026, 60501, and 60502, Revenue and Taxation Code.

(a) Diesel Fuel Used for Purposes other than Operating Motor Vehicles Upon the Highways of this State.

(1) A person may claim a refund for tax paid on diesel fuel that is not used to operate a motor vehicle upon a highway in California.

(A) For purposes of this regulation, equipment used to operate a motor vehicle upon a highway in California is defined as and includes equipment used in the propulsion of a motor vehicle and, in addition, any equipment, accessories, or amenities used for the safety, convenience, or comfort of drivers or passengers in conjunction with the operation of a motor vehicle on a highway, such as global positioning systems, heating systems, air-conditioning systems, windshield wipers, power windows and locks, heated seats, radios, Bluetooth equipment, cell phones, media players, and other similar equipment, accessories, or amenities.

Additional examples of equipment, accessories, or amenities that are used to operate a motor vehicle upon a highway in California include, but are not limited to, alternators, generators, air-conditioner compressors, hydraulic pumps for power steering and brakes, fuel-injection pumps, superchargers, power steering, power brakes, automatic transmissions, diesel particulate filter generation systems, and other similar equipment.

(B) Equipment, accessories, or amenities other than equipment used to operate a motor vehicle upon a highway in California, which is operated from the same fuel tank as the motor vehicle, is considered "auxiliary equipment." Equipment powered from a separate fuel source or tank than is used to operate the motor vehicle would not be considered auxiliary equipment.

"Auxiliary equipment" includes, but is not limited to, equipment found on a boom truck (block boom), bulk feed truck, car carrier with a hydraulic winch, carpet cleaning van, cement mixer, cement pumper, distribution truck (hot asphalt), dump trailer, dump truck, fire truck, garbage truck (automated side loader, manual side loader, single drive front end loader, dual drive front end loader, single drive rear end loader, dual drive rear end loader, roll-off truck, lugger truck, recycling truck (compaction and non-compaction), one-pass truck, and container delivery truck), leaf truck, lime spreader, line trucks with digger, derrick or aerial lift, log trucks with self-loader, mobile crane, pneumatic tank truck, refrigeration truck, salt spreader (dump with spreader), seeder truck, semi-wrecker, service trucks with a jackhammer or pneumatic drill, sewer cleaning truck (sewer jet, sewer vactor), snow plow, spray truck, super suckers (port-o-let trucks), sweeper truck, tank transport, tank truck, truck with a hydraulic winch, transfer trailer, and wrecker.

(2) Safe-Harbor Percentages. For transactions occurring on and after April 1, 2016, the following are presumed amounts of diesel fuel used to operate auxiliary equipment. Safe-harbor percentages must be applied to diesel fuel consumption by auxiliary equipment type. Off-highway use, as defined in subdivision (b), is included in these percentages:

Boom truck/block boom	15%
Bulk feed truck	15%
Car carrier with hydraulic winch	10%
Carpet cleaning van	10%
Cement mixer	25%
Cement pumper	40%

Distribution truck (hot asphalt)	15%
Dump trailer	15%
Dump truck	15%
Fire truck	25%
Garbage truck	35%
Leaf truck	15%
Lime spreader	15%
Line truck with digger, derrick or aerial lift	20%
Log truck with self-loader	20%
Mobile crane	25%
Pneumatic tank truck	15%
Refrigeration truck	20%
Salt spreader (dump with spreader)	15%
Seeder truck	15%
Semi-wrecker	15%
Service truck with jack hammer/drill	15%
Sewer cleaning truck/jet/vactor	25%
Snow plow	15%
Spray truck	15%
Super sucker (port-o-let trucks)	25%
Sweeper truck	20%
Tank transport	15%
Tank truck	15%
Truck with hydraulic winch	15%
Transfer trailer	20%
Wrecker	15%
Other Auxiliary Equipment	10%

(3) For transactions occurring on and after April 1, 2016, prior to submitting a claim for refund for exempt diesel fuel consumption greater than the percentages provided in subdivision (a)(2), a person must submit a specific study conducted by them and approved by the Board. Approved studies shall be valid for 5 years after the date of approval and must be updated upon expiration. A person may claim exempt diesel fuel consumption in the percentages indicated above without conducting a study. In order to claim an exemption for diesel fuel used in auxiliary equipment not listed in subdivision (a)(2), the "other" category may be utilized or, if the percentage of use claimed will be greater, a specific study must be conducted in accordance with this subdivision.

(b) Off-Highway Use.

(1) A person may claim a refund for tax paid on diesel fuel used off the highway. "Off the highway" includes private property, a way or place permanently or temporarily closed to public use for the purpose of vehicular travel, or any way or place used for vehicular travel which is not a highway as defined in Regulation 1411. If the safe-harbor percentages in subdivision (a)(2) are used to calculate the amount of refund, no additional refund will be allowed for diesel fuel used to operate auxiliary equipment while off the highway or while idling as described in subdivision (d).

(2) If the diesel fuel is used in the operation of construction equipment which is exempt from registration under the Vehicle Code, the user must establish to the satisfaction of the Board that the diesel fuel is used in the operation of the construction equipment while operated within the confines or limits of a construction project and only incidentally operated on the highway within such confines or limits.

(3) As used in subdivision (2), "incidentally operated" does not include the use of special construction equipment for the transportation of persons or property upon the highways in an operation which requires registration of the vehicle under the Vehicle Code.

(c) Refunds. Persons who acquire diesel fuel tax paid and subsequently use the diesel fuel to operate auxiliary equipment or to operate a motor vehicle off the highway are entitled to a refund of the diesel fuel tax paid for that fuel. Persons claiming a refund for nontaxable use of diesel fuel used in auxiliary equipment may use the percentages listed in subdivision (a)(2), or prior to submission of the claim, submit a specific study conducted by them following Board-approved test methods, demonstrating the amount of diesel fuel used in a nontaxable manner in excess of the safe-harbor percentages. Approved studies shall be valid for 5 years after the date of approval and must be updated upon expiration. It is the responsibility of the person claiming the refund to document and support the amount claimed. The safe-harbor percentages cannot be claimed for periods prior to April 1, 2016.

(d) Idle Time. Diesel fuel consumed in motor vehicles on the highway is subject to the diesel fuel tax whether the motor vehicle is moving or idling, and no refunds will be allowed for the diesel fuel tax paid on diesel fuel used while idling a motor vehicle on the highway. If the motor vehicle is idling on the highway while auxiliary equipment is in use, a refund will be allowed for the diesel fuel tax paid on that portion of the diesel fuel which is used to operate the auxiliary equipment; however, no refund will be allowed for the diesel fuel tax paid on that portion of the diesel fuel which is used for idling. If the safe-harbor percentages in subdivision (a)(2) are used to calculate the amount of the refund, no additional refund will be allowed for diesel fuel used to operate auxiliary equipment while idling.

History—Adopted December 9, 1998, effective March 31, 1999.

Amendments adopted December 16, 2015, readopted May 25, 2016, effective June 21, 2016. The amendments deleted the existing subdivision (a) regarding power take-off equipment and replaced it with a new subdivision (a) in order to clarify that a person may claim a refund for tax paid on diesel fuel that is not used to operate a motor vehicle on a highway in California, define "equipment used to operate a motor vehicle upon a highway" and "auxiliary equipment," provide safe-harbor percentages that can be used when claiming a refund for diesel fuel used to power auxiliary equipment without performing a fuel use study, and specify that approved fuel use studies are valid for five years after the date of approval and must be updated upon expiration; added a new last sentence to subdivision (b)(1); inserted the word "motor" before "vehicle" in subdivision (b)(3); replaced the words "in power take-off equipment" with "to operate auxiliary equipment" after "use the diesel fuel" in the first sentence of subdivision (c); inserted "to operate a motor vehicle" after "or" in the first sentence of subdivision (c); inserted "for nontaxable use of diesel fuel in auxiliary equipment" before and replaced "any method to calculate the amount of refund, including computing a percentage of the fuel used for nontaxable purposes." after "may use" in the second sentence of subdivision (c) with "the percentages listed in subdivision (a)(2), or prior to submission of the claim, submit a specific study conducted by them following Board-approved test methods, demonstrating the amount of diesel fuel used in a nontaxable manner in excess of the safe-harbor percentages."; added new third and fifth sentences to subdivision (c); inserted the word "the" after "allowed for" in the first sentence of subdivision (d); deleted "which is" from before "used" in the first sentence of subdivision (d); replaced "to idle" with "while idling" after "used" in the first sentence of subdivision (d); inserted the word "motor" before "vehicle on" in the first sentence and before "vehicle" in the second sentence of subdivision (d); replaced "power take-off" with "auxiliary" in two places in the second sentence of subdivision (d); and added a new last sentence to subdivision (d).

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