

Senate Bill No. 1485

CHAPTER 493

An act to amend Section 8101 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 23, 2012. Filed with Secretary of State September 23, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1485, Kehoe. Fuel taxes: blended fuels.

The Motor Vehicle Fuel Tax Law and the Diesel Fuel Tax Law impose state excise taxes at specified rates per gallon on the removal, entry, sale, delivering, or specified use of motor vehicle fuel and diesel fuel respectively, and the Use Fuel Tax Law imposes a state excise tax on the use of other fuel at specified rates. The Motor Vehicle Fuel Tax Law requires certain persons who have paid a tax for motor vehicle fuel, as specified, to be reimbursed and repaid the amount of the tax.

This bill would make the provision requiring reimbursement and repayment of the motor vehicle fuel tax applicable to any person who buys and uses tax-paid motor vehicle fuel for the purpose of producing a blended fuel that will be used to operate motor vehicles upon the public highways of the state that is taxed under the Use Fuel Tax Law, if the person has submitted or submits the refund application request on or after January 1, 2011, and can show that the applicable California use fuel tax has been paid on the blended fuel produced by the person.

This bill would also state that the Legislature finds and declares that this act serves multiple public purposes.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. Section 8101 of the Revenue and Taxation Code is amended to read:

8101. The following persons who have paid a tax for motor vehicle fuel, either directly or to the vendor from whom it was purchased, or indirectly by the adding of the amount of the tax to the price of the fuel, shall, except as otherwise provided in this part, be reimbursed and repaid the amount of the tax:

(a) Any person who buys and uses the motor vehicle fuel for purposes other than operating motor vehicles upon the public highways of the state, except vehicles subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, which are used for recreational

purposes or are rented or leased for recreational purposes, and, on and after July 1, 1974, except motor vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code while engaged in off-highway recreational use.

(b) Any person who exports the motor vehicle fuel for use outside of this state. Motor vehicle fuel carried from this state in the fuel tank of a motor vehicle or aircraft is not deemed to be exported from this state unless the motor vehicle fuel becomes subject to tax as an “import” under the laws of the destination state.

(c) Any person who sells the motor vehicle fuel to the Armed Forces of the United States for use in ships or aircraft or for use outside this state, under circumstances that would have entitled him or her to an exemption from the payment of the tax under Section 7401 had he or she been the supplier of this fuel.

(d) Any person who buys and uses the motor vehicle fuel in any construction equipment which is exempt from vehicle registration pursuant to the Vehicle Code, while operated within the confines and limits of a construction project.

(e) Any supplier who sells motor vehicle fuel which is sold to any consulate officer or consulate employee under circumstances which would have entitled the supplier to an exemption under paragraph (4) of subdivision (a) of Section 7401 if the supplier had sold the motor vehicle fuel directly to the consulate officer or consulate employee.

(f) Any supplier who removes motor vehicle fuel at a rack and pays tax on that removal or who purchases tax-paid motor vehicle fuel outside the bulk transfer/terminal system and then delivers the tax-paid motor vehicle fuel to another approved terminal from which that supplier subsequently removes the tax-paid motor vehicle fuel at the terminal rack, but only to the extent that the supplier can show that tax on the same amount of motor vehicle fuel has been paid more than one time by the same supplier.

(g) Any supplier who purchases tax-paid motor vehicle fuel in the bulk transfer/terminal system and subsequently removes the tax-paid motor vehicle fuel at the terminal rack, but only to the extent that the supplier can show that tax on the same amount of motor vehicle fuel has been paid more than one time by the same supplier. This subdivision applies only to those purchases made on or after January 1, 2002.

(h) Any person who buys and uses tax-paid motor vehicle fuel for the purpose of producing a blended fuel that will be used to operate motor vehicles upon the public highways of the state that is taxed under Part 3 (commencing with Section 8601) of Division 2. To be eligible, a person must show that the applicable California fuel tax has been paid and must submit or have submitted the refund application request on or after January 1, 2011.

SEC. 2. The Legislature finds and declares that this act serves the following public purposes:

(a) Correcting the inequality to persons that pay duplicative taxes on fuel.

(b) Offsetting the costs incurred by persons that have paid duplicative taxes by authorizing tax refunds for refund application requests submitted on or after January 1, 2011.

(c) Incentivizing the distribution of alternative, renewable fuels to the public.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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