

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2175

Introduced by Assembly Member Jones

February 18, 2016

An act to amend Section ~~17010~~ 8352.6 of the Revenue and Taxation Code, relating to ~~taxation~~ *fuel taxes*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2175, as amended, Jones. ~~Personal income taxes.~~ *Fuel taxes: Off-Highway Vehicle Trust Fund.*

Existing law imposes an excise tax on motor vehicle fuel (gasoline). Existing law, as a result of the elimination of the sales tax on gasoline effective July 1, 2010, provides for a commensurate increase in the excise tax on gasoline. These taxes are deposited to the Motor Vehicle Fuel Account in the Transportation Tax Fund. Existing law requires certain moneys attributable to taxes imposed upon distribution of gasoline related to specified off-highway motor vehicles and off-highway vehicle activities to be transferred monthly from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund. Existing law, however, transfers, with respect to the increase in gasoline excise taxes as a result of the elimination of the sales tax on gasoline, to the General Fund the revenues attributable to off-highway vehicles that would otherwise be deposited in the Off-Highway Vehicle Trust Fund. Existing law also requires the Controller to withhold \$833,000 from the monthly transfer, and transfer that amount to the General Fund. The moneys in the Off-Highway Vehicle Trust Fund are required to be used, upon appropriation, for specified purposes related to off-highway motor vehicle recreation.

This bill would eliminate the requirement that the Controller withhold \$833,000 from the monthly transfer and transfer it to the General Fund and would thereby transfer this amount monthly to the Off-Highway Vehicle Trust Fund.

~~The Personal Income Tax Law imposes taxes on taxable income and provides definitions of specified terms for purposes of that law, including a definition for “taxable year.”~~

~~This bill would make a nonsubstantive change to that definition provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

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

1 *SECTION 1. Section 8352.6 of the Revenue and Taxation Code*
2 *is amended to read:*

3 8352.6. (a) (1) Subject to Section 8352.1, and except as
4 otherwise provided in ~~paragraphs (2) and (3),~~ *paragraph (2),* on
5 the first day of every month, there shall be transferred from moneys
6 deposited to the credit of the Motor Vehicle Fuel Account to the
7 Off-Highway Vehicle Trust Fund created by Section 38225 of the
8 Vehicle Code an amount attributable to taxes imposed upon
9 distributions of motor vehicle fuel used in the operation of motor
10 vehicles off highway and for which a refund has not been claimed.
11 Transfers made pursuant to this section shall be made prior to
12 transfers pursuant to Section 8352.2.

13 (2) Commencing July 1, 2012, the revenues attributable to the
14 taxes imposed pursuant to subdivision (b) of Section 7360 and
15 Section 7361.1 and otherwise to be deposited in the Off-Highway
16 Vehicle Trust Fund pursuant to paragraph (1) shall instead be
17 transferred to the General Fund. The revenues attributable to the
18 taxes imposed pursuant to subdivision (b) of Section 7360 and
19 Section 7361.1 that were deposited in the Off-Highway Vehicle
20 Trust Fund in the 2010–11 and 2011–12 fiscal years shall be
21 transferred to the General Fund.

22 ~~(3) The Controller shall withhold eight hundred thirty-three~~
23 ~~thousand dollars (\$833,000) from the monthly transfer to the~~
24 ~~Off-Highway Vehicle Trust Fund pursuant to paragraph (1), and~~
25 ~~transfer that amount to the General Fund.~~

(b) The amount transferred to the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) of subdivision (a), as a percentage of the Motor Vehicle Fuel Account, shall be equal to the percentage transferred in the 2006–07 fiscal year. Every five years, starting in the 2013–14 fiscal year, the percentage transferred may be adjusted by the Department of Transportation in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles. Adjustments shall be based on, but not limited to, the changes in the following factors since the 2006–07 fiscal year or the last adjustment, whichever is more recent:

(1) The number of vehicles registered as off-highway motor vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code.

(2) The number of registered street-legal vehicles that are anticipated to be used off highway, including four-wheel drive vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

(3) Attendance at the state vehicular recreation areas.

(4) Off-highway recreation use on federal lands as indicated by the United States Forest Service’s National Visitor Use Monitoring and the United States Bureau of Land Management’s Recreation Management Information System.

(c) It is the intent of the Legislature that transfers from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund should reflect the full range of motorized vehicle use off highway for both motorized recreation and motorized off-road access to other recreation opportunities. Therefore, the Legislature finds that the fuel tax baseline established in subdivision (b), attributable to off-highway estimates of use as of the 2006–07 fiscal year, accounts for the three categories of vehicles that have been found over the years to be users of fuel for off-highway motorized recreation or motorized access to nonmotorized recreational pursuits. These three categories are registered off-highway motorized vehicles, registered street-legal motorized vehicles used off highway, and unregistered off-highway motorized vehicles.

(d) It is the intent of the Legislature that the off-highway motor vehicle recreational use to be determined by the Department of Transportation pursuant to paragraph (2) of subdivision (b) be that usage by vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code, for recreation or the pursuit of recreation on surfaces where the use

1 of vehicles registered under Division 16.5 (commencing with
2 Section 38000) of the Vehicle Code may occur.

3 (e) In the 2014–15 fiscal year, the Department of Transportation,
4 in consultation with the Department of Parks and Recreation and
5 the Department of Motor Vehicles, shall undertake a study to
6 determine the appropriate adjustment to the amount transferred
7 pursuant to subdivision (b) and to update the estimate of the amount
8 attributable to taxes imposed upon distributions of motor vehicle
9 fuel used in the operation of motor vehicles off highway and for
10 which a refund has not been claimed. The department shall provide
11 a copy of this study to the Legislature no later than January 1,
12 2016.

13 ~~SECTION 1. Section 17010 of the Revenue and Taxation Code~~
14 ~~is amended to read:~~

15 ~~17010. “Taxable year” means either the calendar year or the~~
16 ~~fiscal year upon the basis of which the taxable income is computed~~
17 ~~under this part. If no fiscal year has been established, “taxable~~
18 ~~year” means the calendar year.~~

19 ~~“Taxable year” means, in the case of a return made for a~~
20 ~~fractional part of a year under this part or under regulations~~
21 ~~prescribed by the Franchise Tax Board, the period for which the~~
22 ~~return is made.~~