

Senate Bill No. 718

CHAPTER 555

An act to amend Section 7480 of the Government Code, to amend Section 42882 of the Public Resources Code, to amend Sections 99500 and 99505 of, and to add Section 99510 to, the Public Utilities Code, and to amend Sections 6202, 6203, 6283, 6480.1, 6830, 7094, 8150, 8151, 8269, 8608, 8651.7, 8701, 8708, 8751, 8752, 8755, 8777, 8782, 8803, 8876, 9152, 9155, 9174, 9269, 9272, 9354.5, 9401, 9501, 9506, 30437, 30458.9, 30480, 32176, 32251.5, 32401, 32469, 32472, 40111, 40187, 40209, 40212, 41096, 41143.4, 41169, 41172, 43520, 43523, 45651, 45865, 45868, 46501, 46551, 50139, 50151, 50156.9, 50156.12, 55221, 55281, 60027, 60058, 60100, 60104, 60111, 60112, 60114, 60115, 60121, 60122, 60181, 60202, 60360, 60441, 60501, 60502, 60521, 60524, 60604, 60606, and 60703 of, to amend the heading of Chapter 4 (commencing with Section 60110) of Part 31 of, to amend the heading of Article 3 (commencing with Section 60120) of Chapter 4 of Part 31 of, and to amend the heading of Article 2 (commencing with Section 60521) of Chapter 8 of Part 31 of, Division 2 of, to add Sections 6076, 8619, 8620, 8621, and 30103.5 to, to add Chapter 2.5 (commencing with Section 8691) to Part 3 of, to add a chapter heading to Part 3.5 (commencing with Section 9401) of, to add Chapter 2 (commencing with Section 9405) to Part 3.5 of, and to add Chapter 4.5 (commencing with Section 60130) to Part 31 of, Division 2 of, and to repeal Section 60025 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 4, 1995. Filed
with Secretary of State October 4, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 718, Committee on Revenue and Taxation. Taxes: State Board of Equalization.

(1) The California Tire Recycling Act authorizes the Integrated Waste Management Board to contract with the State Board of Equalization to collect the tire recycling fee. The Fee Collection Procedures Law governs the determination, collection, and refund of any fees administered by the State Board of Equalization.

This bill would authorize the State Board of Equalization to collect the tire recycling fee pursuant to the Fee Collection Procedures Law in the event the Integrated Waste Management Board contracts with the State Board of Equalization for collection.

(2) Existing law prohibits any officer, employee, or agent of a state agency or department from requesting or receiving any copies of, or information contained in, financial records of any customer from a financial institution, except as specified. Existing law provides, as an



exception to those privacy provisions, for the disclosure to the State Board of Equalization of financial information that is required by specified tax statutes to be disclosed to the board.

This bill would expand the exception to those privacy provisions by including additional references to certain tax statutes that require specified financial information to be disclosed to the State Board of Equalization.

(3) The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property and requires every person desiring to engage in or conduct business as a seller within this state to obtain a seller's permit from the State Board of Equalization.

This bill would, if a specified provision of SB 531 is not enacted, exempt from the requirements to obtain a seller's permit any person who engages in business in this state as a seller of hay, as specified, and who engages in no other taxable sales of tangible personal property at retail.

(3.5) The Sales and Use Tax Law provides that every person storing, using, or otherwise consuming in this state tangible personal property purchased from a retailer is liable for the tax, but is relieved from liability for that tax if the person has a receipt from a retailer, as specified.

This bill would, in the case of a purchase of a vessel or aircraft from another person through a broker, relieve the purchaser of liability for the tax, as specified, and impose liability upon the broker as if the broker were a retailer, as specified.

(4) The Sales and Use Tax Law also requires every retailer engaged in business in this state, as specified, to collect the tax from the purchaser. For purposes of those provisions, a "retailer engaged in business in this state" includes any retailer soliciting orders for tangible personal property by mail, as specified, and any retailer owned or controlled by the same interests that own or control any retailer engaged in business in the same or a similar line of business in this state.

This bill would exclude from the definition of a "retailer engaged in business in this state" any retailer owned or controlled by the same interests that own or control any retailer engaged in business in the same or a similar line of business in this state. This bill would make the inclusion of any retailer soliciting orders for tangible personal property by mail within the definition of "retailer engaged in business in this state," operative only as provided. This bill would also make specified technical changes pertaining to the operative date of the provisions providing an exclusion from the term "retailer engaged in business in this state."

(5) The Sales and Use Tax Law provides various exemptions from that tax, including an exemption for the sale of a vessel or of an



aircraft when the retailer is not required to hold a seller's permit, as specified.

This bill would provide that the above exemption shall not apply to any sale of a vessel or an aircraft when a broker arranges the sale between 2 private parties and the broker collects sales tax reimbursement on the transaction.

(6) Under the Sales and Use Tax Law, the Use Fuel Tax Law, the Alcoholic Beverage Tax Law, the Energy Resources Surcharge Law, the Emergency Telephone Users Surcharge Act, the Hazardous Substances Tax Law, the Integrated Waste Management Fee Law, and the Underground Storage Tank Maintenance Fee Law, the Taxpayers' Rights Advocate is authorized to order the release of a levy or notice to withhold upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer, or his or her spouse and dependents or family.

This bill would additionally authorize the Taxpayers' Rights Advocate to order, within 90 days of the receipt of funds pursuant to a levy or notice to withhold, the return of any amount not exceeding \$1,500, upon a finding that the levy or notice to withhold threatens the health or welfare of the taxpayer, or his or her spouse and dependents or family.

(7) Existing law requires distributors of motor vehicle fuel, upon notice by the State Board of Equalization, to collect prepayment of sales taxes from the person to whom the fuel is distributed, at a specified rate that includes certain state and local sales and use taxes imposed under the Revenue and Taxation Code.

This bill would include the sales and use tax imposed under the California Constitution in that rate of prepayment of sales and use taxes.

(8) Existing law authorizes the State Board of Equalization to contract for debt collection services with persons outside of California.

This bill would also authorize the board to contract with persons outside of California for the identification of persons or businesses who may owe taxes or other amounts.

(9) Existing law provides that, in a suit for refund under the Motor Vehicle Fuel License Tax Law and the Use Fuel Tax Law, if judgment is rendered for a plaintiff, any refund is applied first to amounts owed under one or both of those tax laws, as specified, and the balance is refunded to the plaintiff.

This bill would require that any refund be applied to amounts owed under those fuel tax laws and the Diesel Fuel Tax Law before the balance is refunded to the plaintiff.

(10) Under existing law, in addition to the taxes imposed on fuels pursuant to the Motor Vehicle Fuel License Tax Law and the Use Fuel Tax Law, a tax may be imposed by a local taxing entity for local public transit, as specified.



This bill would provide that the tax by a local taxing entity may also be imposed in addition to the tax imposed on fuels pursuant to the Diesel Fuel Tax Law. The bill would require any person required to pay a tax under the Diesel Fuel Tax Law to collect the motor vehicle fuel tax imposed by a local taxing entity from any person to whom he or she sells diesel fuel and to pay that tax for all diesel fuel that he or she uses, as specified.

(11) The Motor Vehicle Fuel License Tax Law provides that, in any judgment, interest shall be allowed on the amount of the license tax found to have been illegally collected, as specified.

This bill would, instead, provide that interest shall be allowed on the amount found to have been illegally collected, as specified.

(12) The Use Fuel Tax Law requires a user of fuel within this state to secure a use fuel tax permit and provides a \$500 penalty for violation of that requirement.

This bill would eliminate that penalty.

(13) Existing law provides that with respect to various taxes administered by the State Board of Equalization, that every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before that board if the taxpayer files a claim with the State Board of Control, the State Board of Equalization finds that action by board staff was unreasonable, the State Board of Equalization determines and recommends a specific amount of fees and expenses be awarded to the taxpayer, and the State Board of Control concurs with the recommendation, as specified. Existing law also requires the State Board of Equalization to certify the amount of any erroneous or illegal collection, computation, or determination that is in excess of \$50,000 to the State Board of Control for approval before it is credited, canceled, or refunded to the person entitled.

This bill would delete the participation of the State Board of Control in those processes, and would instead require that claims be filed with the State Board of Equalization for determination and award. The bill would require that any proposed award or determination, as specified, be available as a public record for at least 10 days prior to the effective date of the award or determination.

(14) The Cigarette and Tobacco Products Tax Law imposes a tax on the sale or transfer of untaxed cigarettes.

This bill would exempt from that tax the sale or transfer of untaxed cigarettes to a law enforcement agency for use in a criminal investigation, when authorized by the State Board of Equalization. The bill would also exempt the agency from obtaining a license as a distributor and from collecting or remitting the tax or surcharge with respect to authorized distributions.

(15) The Cigarette and Tobacco Products Tax Law requires that the State Board of Equalization give notice, as specified, upon seizure of any property consisting of cigarettes, tobacco products, and vending machines, as specified, by personal service, registered or



certified mail, or, in the case of unknown persons or persons known but who cannot be found, by publication, as specified.

This bill would delete provisions permitting service by certified mail, and would also delete the requirement that notice be given to unknown persons or persons known but who cannot be found when the amount of cigarettes is less than 61 cartons of 200 cigarettes each, or an equivalent amount of tobacco products.

(16) Under the Alcoholic Beverages Tax Law, if taxes have been paid on beer or wine subsequently destroyed under the supervision of a State Board of Equalization representative, the taxpayer may claim a credit with respect to those taxes.

This bill would permit a beer manufacturer located in this state to claim a credit for excise taxes paid on tax paid beer returned by a licensed wholesaler and subsequently destroyed by the beer manufacturer under the supervision of a State Board of Equalization representative, if the manufacturer has credited the licensed wholesaler the amount of the tax.

(17) Under the Alcoholic Beverage Tax Law, the State Board of Equalization is authorized to change the reporting period for an alcoholic beverage taxpayer from monthly to quarterly or annually, depending on the taxpayer's business, if the average monthly tax liability is less than \$100.

This bill would eliminate the tax liability limitation.

(18) The Energy Resources Surcharge Law requires that any overpayment of the surcharge by a consumer to the state shall be credited or refunded by the state to the consumer.

This bill would permit, as specified, the overpayment to be credited or refunded by the state to an electric utility that is required to collect the surcharge.

(19) The Emergency Telephone Users Surcharge Law imposes a penalty of 10% or \$10, whichever is greater, on a taxpayer who does not pay a determination when it becomes final.

This bill would allow the State Board of Equalization to relieve a taxpayer from that penalty for reasonable cause.

(20) The Diesel Fuel Tax Law imposes a tax upon the removal, entry, sale, delivery, and specified use of diesel fuel, as provided. The law defines various terms in connection with the tax imposed therein.

This bill would eliminate the definition of "delivery." The bill would also revise the definition of "highway vehicle operator" to include an interstate trucker, and would make a technical change in the definition of a "qualified motor vehicle." With respect to the tax imposed, the bill would eliminate the requirement that the diesel fuel be delivered into the fuel tank in this state. The bill would change the penalty for failure to provide or post the required notice with respect to any dyed diesel fuel from a misdemeanor to a penalty, as provided, and establish a presumption that any person who fails to provide this



notice is presumed to know that the diesel fuel will be used for a taxable use.

The bill would require claims for refunds for tax paid for diesel fuel used in a nontaxable use or for use for farming purposes or in an exempt bus operation to be made on a form prescribed by the State Board of Equalization and filed, as specified.

The bill would require the payment of interest on any overpayment of tax from the first, instead of the last, day of the calendar month following the reporting period during which the overpayment is made, as specified.

This bill would also make specified technical changes to various provisions of the Diesel Fuel Tax Law.

(21) Existing law authorizes the State Board of Equalization, on behalf of the state and with the approval of the Department of Finance, to become a party to a reciprocal fuel tax agreement between this state and another jurisdiction, as defined, providing for the administration, collection, and enforcement by a party to the agreement of fuel taxes imposed by another jurisdiction, and for the forwarding of collections to the taxing jurisdiction. Existing law provides that the fuels that may be the subject of the agreement are those specified by the Motor Vehicle Fuel License Tax Law and the Use Fuel Tax Law and taxes of a similar nature imposed by another jurisdiction, which is defined as this state, any other state, the District of Columbia, or a province or territory of Canada.

This bill would provide that the fuels that may be the subject of the agreement are those specified by the Use Fuel Tax Law and the Diesel Fuel Tax Law, and taxes of a similar nature imposed by another jurisdiction under its laws. This bill would expand the definition of the term “jurisdiction” to include any governmental entity.

(22) The International Fuel Tax Agreement (IFTA) is an agreement, among those jurisdictions that adopt it, for the uniform collection and distribution of fuel use tax revenues.

This bill would amend various provisions of the Use Fuel Tax Law and the Diesel Fuel Tax Law in order to apply those laws in conjunction with the IFTA, including, among other things, changes that would apply those laws and the IFTA to interstate users, as provided.

(23) The bill would make additional technical, clarifying changes.

(24) This bill would incorporate additional changes in Sections 8777, 8803, 8876, 9155, and 60524 of the Revenue and Taxation Code, proposed by AB 1940, to be operative if AB 1940 and this bill are both chaptered and become effective January 1, 1996, and this bill is chaptered last.



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

SECTION 1. Section 7480 of the Government Code is amended to read:

7480. Nothing in this chapter prohibits any of the following:

(a) The dissemination of any financial information which is not identified with, or identifiable as being derived from, the financial records of a particular customer.

(b) When any police or sheriff's department or district attorney in this state certifies to a bank, credit union, or savings and loan association in writing that a crime report has been filed which involves the alleged fraudulent use of drafts, checks, or other orders drawn upon any bank, credit union, or savings and loan association in this state, the police or sheriff's department or district attorney may request a bank, credit union, or savings and loan association to furnish, and a bank, credit union, or savings and loan association shall supply, a statement setting forth the following information with respect to a customer account specified by the police or sheriff's department or district attorney for a period 30 days prior to and up to 30 days following the date of occurrence of the alleged illegal act involving the account:

(1) The number of items dishonored.

(2) The number of items paid which created overdrafts.

(3) The dollar volume of the dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings and loan association and customer to pay overdrafts.

(4) The dates and amounts of deposits and debits and the account balance on these dates.

(5) A copy of the signature and any addresses appearing on a customer's signature card.

(6) The date the account opened and, if applicable, the date the account closed.

(c) The Attorney General, a supervisory agency, the Franchise Tax Board, the State Board of Equalization, the Employment Development Department, the Controller or an inheritance tax referee when administering the Prohibition of Gift and Death Taxes (Part 8 (commencing with Section 13301) of Division 2 of the Revenue and Taxation Code), a police or sheriff's department or district attorney, a county welfare department when investigating welfare fraud, or the Department of Corporations when conducting investigations in connection with the enforcement of laws administered by the Commissioner of Corporations, from requesting of an office or branch of a financial institution, and the office or branch from responding to a request, as to whether a person has an account or accounts at that office or branch and, if so, any identifying numbers of the account or accounts.



No additional information beyond that specified in this section shall be released to a county welfare department without either the accountholder's written consent or a judicial writ, search warrant, subpoena, or other judicial order.

(d) The examination by, or disclosure to, any supervisory agency of financial records which relate solely to the exercise of its supervisory function. The scope of an agency's supervisory function shall be determined by reference to statutes which grant authority to examine, audit, or require reports of financial records or financial institutions as follows:

(1) With respect to the Superintendent of Banks by reference to Division 1 (commencing with Section 99), Division 15 (commencing with Section 31000), and Division 16 (commencing with Section 33000) of the Financial Code.

(2) With respect to the Department of Savings and Loan by reference to Division 2 (commencing with Section 5000) of the Financial Code.

(3) With respect to the Corporations Commissioner by reference to Division 5 (commencing with Section 14000) and Division 7 (commencing with Section 18000) of the Financial Code.

(4) With respect to the Controller by reference to Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

(5) With respect to the Administrator of Local Agency Security by reference to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(e) The disclosure to the Franchise Tax Board of (1) the amount of any security interest a financial institution has in a specified asset of a customer or (2) financial records in connection with the filing or audit of a tax return or tax information return required to be filed by the financial institution pursuant to Part 10 (commencing with Section 17001), 11 (commencing with Section 23001), or 18 (commencing with Section 38001) of the Revenue and Taxation Code.

(f) The disclosure to the State Board of Equalization of any of the following:

(1) The information required by Sections 6702, 6703, 8954, 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155, 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46406, 50134, 50136, and 55205 of the Revenue and Taxation Code.

(2) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Parts 1 (commencing with Section 6001), 2 (commencing with Section 7301), 3 (commencing with Section 8601), 13 (commencing with Section 30001), 14 (commencing with Section 32001), and 17 (commencing with Section 37001) of Division 2 of the Revenue and Taxation Code.



(3) The amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

(g) The disclosure to the Controller of the information required by Section 7853 of the Revenue and Taxation Code.

(h) The disclosure to the Employment Development Department of the amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

(i) The disclosure by a construction lender, as defined in Section 3087 of the Civil Code, to the Registrar of Contractors, of information concerning the making of progress payments to a prime contractor requested by the registrar in connection with an investigation under Section 7108.5 of the Business and Professions Code.

(j) Upon receipt of a written request from a district attorney referring to a support order pursuant to Section 11475.1 of the Welfare and Institutions Code, a financial institution shall disclose the following information concerning the account or the person named in the request, whom the district attorney shall identify, whenever possible, by social security number:

(1) If the request states the identifying number of an account at a financial institution, the name of each owner of the account.

(2) Each account maintained by the person at the branch to which the request is delivered, and, if the branch is able to make a computerized search, each account maintained by the person at any other branch of the financial institution located in this state.

(3) For each account disclosed pursuant to paragraphs (1) and (2), the account number, current balance, street address of the branch where the account is maintained, and, to the extent available through the branch's computerized search, the name and address of any other person listed as an owner.

Whenever the request prohibits the disclosure, a financial institution shall not disclose either the request or its response, to an owner of the account or to any other person, except the officers and employees of the financial institution who are involved in responding to the request and to attorneys, auditors, and regulatory authorities who have a need to know in order to perform their duties, and except as disclosure may be required by legal process.

No financial institution, or any officer, employee, or agent thereof, shall be liable to any person for (A) disclosing information in response to a request pursuant to this subdivision, (B) failing to notify the owner of an account, or complying with a request under this paragraph not to disclose to the owner, the request or disclosure under this subdivision, or (C) failing to discover any account owned by the person named in the request pursuant to a computerized search of the records of the financial institution.



The district attorney may request information pursuant to this subdivision only when the district attorney has received at least one of the following types of physical evidence:

(A) Any of the following, dated within the last three years:

(i) Form 599.

(ii) Form 1099.

(iii) A bank statement.

(iv) A check.

(v) A bank passbook.

(vi) A deposit slip.

(vii) A copy of a federal or state income tax return.

(viii) A debit or credit advice.

(ix) Correspondence that identifies the child support obligor by name, the bank, and the account number.

(x) Correspondence that identifies the child support obligor by name, the bank, and the banking services related to the account of the obligor.

(xi) An asset identification report from a federal agency.

(B) A sworn declaration of the custodial parent during the 12 months immediately preceding the request that the person named in the request has had or may have had an account at an office or branch of the financial institution to which the request is made.

Information obtained by a district attorney pursuant to this subdivision shall be used only for purposes that are directly connected within the administration of the duties of the district attorney pursuant to Section 11475.1 of the Welfare and Institutions Code.

SEC. 2. Section 42882 of the Public Resources Code is amended to read:

42882. In carrying out this chapter, the board may solicit and use any and all expertise available in other state agencies, including, but not limited to, the State Board of Equalization, and, where an existing state agency performs functions of a similar nature to the board's functions, the board may contract with, or cooperate with that agency in carrying out this chapter. If the board contracts with the State Board of Equalization to collect the fee imposed in Section 42885, the State Board of Equalization may collect that fee pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).

SEC. 3. Section 99500 of the Public Utilities Code is amended to read:

99500. (a) Except as specified in subdivision (b), in addition to taxes imposed pursuant to Part 2 (commencing with Section 7301), Part 3 (commencing with Section 8601), and Part 31 (commencing with Section 60001) of Division 2 of the Revenue and Taxation Code, a tax of one cent (\$0.01) per gallon (or, in the case of compressed natural gas, per 100 cubic feet thereof as measured at standard



pressure and temperature) may be imposed pursuant to Section 99502 by a taxing entity, as defined in Section 99501, in the area which is under its jurisdiction and which is included in a county that has approved a proposition pursuant to Section 4 of Article XIX of the California Constitution.

(b) No tax shall be imposed under this chapter on fuel used in propelling an aircraft or a vessel.

SEC. 4. Section 99505 of the Public Utilities Code is amended to read:

99505. The ordinance shall include provisions identical to those contained in Part 2 (commencing with Section 7301), Part 3 (commencing with Section 8601), and Part 31 (commencing with Section 60001) of Division 2 of the Revenue and Taxation Code, except that the name of the taxing entity as the taxing agency shall be substituted for that of the state.

SEC. 5. Section 99510 is added to the Public Utilities Code, to read:

99510. (a) Notwithstanding Section 99505, any person required to pay a tax under Sections 60051, 60052, and 60058 of the Revenue and Taxation Code shall also collect the tax imposed under this chapter from any person to whom he or she sells diesel fuel and shall also pay that tax for all diesel fuel that he or she uses.

(b) Any person paying the tax who, in turn, sells diesel fuel to another, whether or not for use, shall include the tax as part of the selling price of the fuel. Any person thereafter who pays a price for the diesel fuel, which includes an increment for the tax, and who subsequently resells the diesel fuel shall include the tax paid as part of the selling price of the fuel.

SEC. 6. Section 6076 is added to the Revenue and Taxation Code, to read:

6076. No permit shall be required of any person who engages in business in this state as a seller of hay to an association or cooperative that has obtained a permit if that person engages in no other taxable sales of tangible personal property at retail.

SEC. 6.5. Section 6202 of the Revenue and Taxation Code is amended to read:

6202. (a) Every person storing, using, or otherwise consuming in this state tangible personal property purchased from a retailer is liable for the tax. His or her liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the board, under the rules and regulations as it may prescribe, to collect the tax and who is, for the purposes of this part relating to the use tax, regarded as a retailer engaged in business in this state, given to the purchaser pursuant to Section 6203, is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.



(b) Notwithstanding any other provision, when a person purchases a vessel or aircraft from another person through a broker, the purchaser's liability for use tax is relieved if the purchaser has paid an amount as sales or use tax to the broker, and the purchaser obtains and retains a receipt from the broker showing the payment of that tax to the broker.

(c) Notwithstanding any other provision, when a person purchases a vessel or aircraft from another person through a broker, if the broker collects from the purchaser an amount as sales or use tax, the broker shall be liable for that amount under Section 6204 as if the broker were a retailer engaged in business in this state required to collect that amount as use tax from the purchaser, and that amount constitutes a debt owed by the broker to this state.

SEC. 7. Section 6203 of the Revenue and Taxation Code is amended to read:

6203. Except as provided by Sections 6292 and 6293, every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state, not exempted under Chapter 3.5 (commencing with Section 6271) or Chapter 4 (commencing with Section 6351), shall, at the time of making the sales or, if the storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the board.

As respects leases constituting sales of tangible personal property, the tax shall be collected from the lessee at the time amounts are paid by the lessee under the lease.

“Retailer engaged in business in this state” as used in this section and Section 6202 means and includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(b) Any retailer having any representative, agent, salesperson, canvasser, independent contractor, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing, assembling, or the taking of orders for any tangible personal property.

(c) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in this state.

(d) Any retailer soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this state.



(e) Any retailer who, pursuant to a contract with a broadcaster or publisher located in this state, solicits orders for tangible personal property by means of advertising that is disseminated primarily to consumers located in this state and only secondarily to bordering jurisdictions.

(f) (1) Any retailer soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities.

(2) This subdivision shall become operative upon the enactment of any congressional act that authorizes states to compel the collection of state sales and use taxes by out-of-state retailers.

(g) Any retailer having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this section.

(h) Any retailer who, pursuant to a contract with a cable television operator located in this state, solicits orders for tangible personal property by means of advertising that is transmitted or distributed over a cable television system in this state.

(i) Notwithstanding Section 7262, a retailer specified in subdivision (d), (e), (f), (g), or (h) above, and not specified in subdivision (a), (b), or (c) above, is a “retailer engaged in business in this state” for the purposes of this part and Part 1.5 (commencing with Section 7200) only.

(j) (1) For purposes of this section, “engaged in business in this state” does not include the taking of orders from customers in this state through a computer telecommunications network located in this state which is not directly or indirectly owned by the retailer when the orders result from the electronic display of products on that same network. The exclusion provided by this subdivision shall apply only to a computer telecommunications network that consists substantially of on-line communications services other than the displaying and taking of orders for products.

(2) This subdivision shall become inoperative upon the earlier of the following dates:

(A) The operative date of provisions of a congressional act that authorize states to compel the collection of state sales and use taxes by out-of-state retailers.

(B) The date five years from the effective date of the act adding this subdivision.

SEC. 8. Section 6283 of the Revenue and Taxation Code is amended to read:

6283. (a) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale in this state of a vehicle subject to identification under Division 16.5



(commencing with Section 38000) of the Vehicle Code or of a vessel or of an aircraft when the retailer is other than a person required to hold a seller's permit pursuant to Article 2 (commencing with Section 6066) of Chapter 2 by reason of the number, scope, and character of his or her sales of those vehicles, vessels, or of aircraft, as the case may be.

(b) The exemption provided in subdivision (a) shall not apply to either of the following:

(1) Any sale of a vehicle required to be identified under Division 16.5 (commencing with Section 38000) of the Vehicle Code when the retailer is a person licensed or certificated pursuant to the Vehicle Code as a manufacturer, remanufacturer, dealer, or dismantler.

(2) Any sale of a vessel or an aircraft when a broker arranges the sale between two private parties and the broker collects sales tax reimbursement on the transaction.

SEC. 9. Section 6480.1 of the Revenue and Taxation Code is amended to read:

6480.1. (a) After service of written notification by the board, on the first distribution in this state of motor vehicle fuel subject to the motor vehicle fuel license tax, the distributor shall collect prepayment of retail sales tax from the person to whom the motor vehicle fuel is distributed. The prepayment required to be collected by the distributor constitutes a debt owed by the distributor to this state until paid to the board, until satisfactory proof has been submitted to prove that the retailer of the fuel has paid the retail sales tax to the board, or until a distributor or broker who has consumed the fuel has paid the use tax to the board. Each distributor shall report and pay the prepayment amounts to the board, on a form prescribed by the board, in the period in which the fuel is distributed. On each subsequent distribution of that motor vehicle fuel, each seller, other than the retailer, shall collect from his or her purchaser a prepayment computed using the rate applicable at the time of distribution. Each distributor shall provide his or her purchaser with a receipt or invoice for the collection of the prepayment amounts which shall be separately stated thereon.

(b) After service of written notification by the board, the broker shall collect prepayment of the retail sales tax from the person to whom the motor vehicle fuel is transferred. The prepayment required to be collected by the broker constitutes a debt owed by the broker to the state until paid to the board, or until satisfactory proof has been submitted to prove that the retailer of the fuel has paid the tax to the board. Each broker shall provide his or her purchaser with a receipt or invoice for the collection of the prepayment amounts which shall be separately stated thereon.

Each broker shall report and pay the prepayment amounts to the board, on a form prescribed by the board, in the period in which the fuel is distributed. The amount of prepayment paid by the broker to



his or her vendor shall constitute a credit against the amount of prepayment required to be collected and remitted by the broker to the board.

(c) A distributor or broker who pays the prepayment and issues a resale certificate to the seller, but subsequently consumes the fuel, shall be entitled to a credit against his or her sales and use taxes due and payable for the period in which the prepayment was made, provided that he or she reports and pays the use tax to the board on the consumption of that fuel.

(d) The amount of a prepayment paid by the retailer or a distributor or broker who has consumed the fuel to the seller from whom he or she acquired the fuel shall constitute a credit against his or her sales and use taxes due and payable for the period in which the distribution was made. Failure of the distributor or broker to report prepayments or the distributor's or broker's failure to comply with any other duty under this article shall not constitute grounds for denial of the credit to the retailer, distributor, or broker, either on a temporary or permanent basis or otherwise. The retailer, distributor, or broker shall be entitled to the credit to the extent of the amount prepaid to his or her supplier as evidenced by purchase documents, invoices, or receipts stating separately the amount of tax prepayment.

(e) The rate of the prepayment required to be collected during the period from July 1, 1986, through March 31, 1987, shall be four cents (\$0.04) per gallon of motor vehicle fuel distributed or transferred.

(f) On April 1 of each succeeding year, the rate per gallon, rounded to the nearest one-half of one cent, of the required prepayment shall be established by the board based upon 80 percent of the combined state and local sales tax rate established by Sections 6051, 6051.2, 6051.3, and 7202 of this code, and Section 35 of Article XIII of the California Constitution on the arithmetic average selling price (excluding sales tax) as determined by the State Energy Resources Conservation and Development Commission, in its latest publication of the "Quarterly Oil Report," of all grades of gasoline sold through a self-service gasoline station. The board shall make its determination of the rate no later than November 1 of the year prior to the effective date of the new rate. Immediately upon making its determination and setting of the rate, the board shall each year, no later than January 1, notify by mail every distributor, broker, and retailer of motor vehicle fuel. In the event the price of fuel decreases or increases, and the established rate results in prepayments which consistently exceed or are significantly lower than the retailers' sales tax liability, the board may readjust the rate.

SEC. 10. Section 6830 of the Revenue and Taxation Code is amended to read:

6830. (a) For the purpose of identifying persons or businesses who may owe taxes or other amounts, or for the purpose of collecting taxes, interest, additions to tax, and penalties, the board may enter into agreement with one or more private persons, companies, associations, or corporations providing these services outside this state with respect to the identification of persons or businesses who may owe taxes or other amounts, or the collection of taxes, interest, additions to tax, and penalties. The agreement may provide, at the discretion of the board, the rate of payment and the manner in which compensation for services shall be paid. The compensation may be added to the amount required to be identified or collected by the collection agency or provider of these services from the tax debtor. The board shall provide the necessary information for the contractor to fulfill its obligation under that agreement.

(b) With the approval of the board, the contractor may, as part of the collection process, refer the tax debt for litigation by its legal representatives in the name of the board.

SEC. 11. Section 7094 of the Revenue and Taxation Code is amended to read:

7094. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event that the expense of the sale process exceeds the liability for which the levy is made.

(b) The Taxpayers' Rights Advocate may order the release of any levy or notice to withhold issued pursuant to this part or, within 90 days from the receipt of funds pursuant to a levy or notice to withhold, order the return of any amount up to one thousand five hundred dollars (\$1,500) of moneys received, upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.

(c) The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure.

(d) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

SEC. 12. Section 8150 of the Revenue and Taxation Code is amended to read:

8150. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any license taxes due from the plaintiff under this part, Part 3 (commencing with Section 8601), and Part 31 (commencing with Section 60001), and the balance of the judgment shall be refunded to the plaintiff.

SEC. 13. Section 8151 of the Revenue and Taxation Code is amended to read:

8151. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5 upon



the amount found to have been illegally collected from the date of payment thereof to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 14. Section 8269 of the Revenue and Taxation Code is amended to read:

8269. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fee and expenses with the board.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board decides that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

(d) Any proposed award by the board pursuant to subdivision (a) shall be available as a public record for at least 10 days prior to the effective date of the award.

SEC. 15. Section 8608 of the Revenue and Taxation Code is amended to read:

8608. (a) "User" includes any person who, within the meaning of the term "use" as defined in this chapter, uses fuel.

(b) Article 1 (commencing with Section 8701) of Chapter 3 and Article 1 (commencing with Section 8751) of Chapter 4 do not apply to (1) a user whose sole use of fuel in this state is for the propulsion of a privately operated passenger motor vehicle, a commercial vehicle with unladen weight of less than 7,000 pounds, or a privately operated two-axle truck which the user has rented or leased for a period of 30 days or less; or (2) an interstate user whose sole use of fuel in this state is for the propulsion of a motor vehicle that is not a qualified motor vehicle and is operated in connection with an interstate trip; if the fuel used, except fuel brought into this state in the fuel tank of the vehicle, is purchased from and delivered into the fuel tank of the vehicle by a vendor.



(c) When the board determines that it is necessary for the efficient administration of this part to regard any lessor of vehicles as the agent of the lessee, with regard to the equipment leased, the board may so regard the lessor and may qualify the lessee as the user for purposes of this part.

SEC. 16. Section 8619 is added to the Revenue and Taxation Code, to read:

8619. "Interstate user" includes any person who uses fuel in the propulsion of a motor vehicle in this state and who operates the motor vehicle within and without the state or the United States.

SEC. 17. Section 8620 is added to the Revenue and Taxation Code, to read:

8620. "Qualified motor vehicle" means a motor vehicle that is used, designed, or maintained for transportation of persons or property, and that has two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 11,797 kilograms, has three or more axles regardless of weight, or is used in combination, when the weight of that combination exceeds 26,000 pounds or 11,797 kilograms gross vehicle weight. "Qualified motor vehicle" does not include a recreational vehicle.

SEC. 18. Section 8621 is added to the Revenue and Taxation Code, to read:

8621. "Recreational vehicle" means a vehicle such as a motor home, pickup truck with attached camper, and bus when used exclusively for personal pleasure by an individual. In order to qualify as a recreational vehicle, the vehicle shall not be used in connection with any business endeavor.

SEC. 19. Section 8651.7 of the Revenue and Taxation Code is amended to read:

8651.7. (a) The owner or operator, except an interstate user, of a vehicle propelled by a system using liquefied petroleum gas, liquid natural gas, or compressed natural gas may pay the fuel tax for the use of those fuels by paying an annual flat rate fuel tax according to the following schedule:

Unladen weight	Fee
All passenger cars and other vehicles 4,000 lbs. or less	\$ 36
More than 4,000 lbs. but less than 8,001 lbs.	72
More than 8,000 lbs. but less than 12,001 lbs.	120
12,001 lbs. or more	168

(b) The annual flat rate fuel tax described in subdivision (a) shall be an annual tax. The annual period shall be that period from the end of the month in which the tax was paid to the end of the month prior in the following calendar year.



(c) The board shall adopt an identification procedure for vehicles with respect to which the annual flat rate tax described in subdivision (a) of this section has been paid.

SEC. 20. Chapter 2.5 (commencing with Section 8691) is added to Part 3 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 2.5. INTERNATIONAL FUEL TAX AGREEMENT

8691. Effective on and after January 1, 1996, Chapter 2 (commencing with Section 9405) of Part 3.5 shall apply to all interstate users.

SEC. 21. Section 8701 of the Revenue and Taxation Code is amended to read:

8701. Every person desiring to become a user of fuel within this state shall secure a use fuel tax permit.

SEC. 22. Section 8708 of the Revenue and Taxation Code is amended to read:

8708. The board may authorize the issuance of use fuel trip permits to holders of trip permits issued under Section 4004 of the Vehicle Code. The use fuel trip permit shall be valid for the same period as the trip permit issued under Section 4004 of the Vehicle Code. The fee for issuance of a use fuel trip permit is thirty dollars (\$30). Other provisions of this article and Article 1 (commencing with Section 8751) of Chapter 4 do not apply to the holder of a use fuel trip permit who uses only fuel brought into this state in the fuel tank of a qualified motor vehicle and fuel purchased from, and delivered into the fuel tank of the qualified motor vehicle by, a vendor. Any use fuel tax paid to a vendor for fuel taken out of the state in the fuel tank of a qualified motor vehicle operated under a use fuel trip permit shall not be refunded to the holder of the permit, notwithstanding any other provisions of this part.

The board may deny the issuance of more than one use fuel trip permit for an interstate user of fuel determined by the board to bring qualified motor vehicles into this state on a regular, ongoing basis. The board shall maintain a file of all use fuel trip permits issued under this section for the purpose of determining the effectiveness of the program and the appropriateness of the fee. The board may enter into an interagency agreement with the Department of Motor Vehicles providing for the issuance of use fuel trip permits by that department.

SEC. 23. Section 8751 of the Revenue and Taxation Code is amended to read:

8751. The excise tax imposed by this part is due and payable quarterly on or before the last day of the calendar month next succeeding each quarterly period in which a taxable use of fuel occurs.



SEC. 24. Section 8752 of the Revenue and Taxation Code is amended to read:

8752. (a) Except as provided in subdivision (b), on or before the last day of the calendar month following each quarterly period, every user shall, except as otherwise provided in Section 8608, file on forms prescribed by the board a return showing the amount of any tax due and any other information as the board may require to carry out the purposes of this part.

(b) This section shall not be applicable to any user whose sole use of fuel subject to the tax imposed by this part is for the propulsion of a privately operated passenger automobile, provided that the fuel used in this state, except fuel brought into this state in the fuel tank of the vehicle, is purchased from and delivered into the fuel tank of the vehicle by a vendor holding a permit issued under this part.

SEC. 25. Section 8755 of the Revenue and Taxation Code is amended to read:

8755. The board, if it deems it necessary in order to ensure payment of the tax imposed by this part, or to facilitate the administration of this part, may require returns and payment of the tax to be made for designated periods other than quarterly periods. On or before the last day of the calendar month following each designated period, a return for the preceding designated period shall be filed with the board in any form as the board may prescribe.

SEC. 26. Section 8777 of the Revenue and Taxation Code is amended to read:

8777. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the last day of the calendar month following the reporting period for which the amount of the tax, or any portion thereof, should have been reported until the date of payment.

SEC. 26.5. Section 8777 of the Revenue and Taxation Code is amended to read:

8777. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per annum established pursuant to Section 6591.5, from the last day of the calendar month following the reporting period for which the amount of the tax, or any portion thereof, should have been reported until the date of payment.

SEC. 27. Section 8782 of the Revenue and Taxation Code is amended to read:

8782. Except in the case of fraud, intent to evade the tax, or failure to make a return, every notice of a deficiency determination shall be given within three years after the last day of the calendar month following the period for which the return was due or within three years after the return is filed, whichever period expires later. If the user fails to make a return, the notice of determination shall be



mailed within eight years after the last day of the month following the period for which the return was due.

SEC. 28. Section 8803 of the Revenue and Taxation Code is amended to read:

8803. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the last day of the calendar month following the reporting period for which the amount, or any portion thereof, should have been reported until the date of payment.

SEC. 28.5. Section 8803 of the Revenue and Taxation Code is amended to read:

8803. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per annum established pursuant to Section 6591.5, from the last day of the calendar month following the reporting period for which the amount, or any portion thereof, should have been reported until the date of payment.

SEC. 29. Section 8876 of the Revenue and Taxation Code is amended to read:

8876. Any user who fails to pay any tax, except taxes determined by the board under Article 2 (commencing with Section 8776) or Article 3 (commencing with Section 8801), within the time required shall pay a penalty of 10 percent of the amount of the tax or fifty dollars (\$50), whichever is greater, together with interest on that tax at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable until the date of payment.

SEC. 29.5. Section 8876 of the Revenue and Taxation Code is amended to read:

8876. Any user who fails to pay any tax, except taxes determined by the board under Article 2 (commencing with Section 8776) or Article 3 (commencing with Section 8801), within the time required shall pay a penalty of 10 percent of the amount of the tax or fifty dollars (\$50), whichever is greater, together with interest on that tax at the modified adjusted rate per annum established pursuant to Section 6591.5, from the date on which the tax became due and payable until the date of payment.

SEC. 30. Section 9152 of the Revenue and Taxation Code is amended to read:

9152. (a) Except as provided in subdivision (b), no refund shall be approved by the board after three years from the last day of the month following the reporting period for which the overpayment was made, or, with respect to determinations made under Article 2 (commencing with Section 8776), Article 3 (commencing with Section 8801), or Article 4 (commencing with Section 8826) of Chapter 4, after six months from the date the determinations became



final, or after six months from the date of overpayment, whichever period expires later, unless a claim therefor is filed with the board within that period. No credit shall be approved by the board after the expiration of that period unless a claim for credit is filed with the board within that period or unless the claim relates to a period for which a waiver has been given pursuant to Section 8783.

(b) A refund may be approved by the board for any period for which a waiver is given under Section 8783 if a claim therefor is filed with the board before the expiration of the period agreed upon.

SEC. 31. Section 9155 of the Revenue and Taxation Code is amended to read:

9155. Interest shall be paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5 from the first day of the calendar month following the period during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 31.5. Section 9155 of the Revenue and Taxation Code is amended to read:

9155. Interest shall be paid upon any overpayment of any amount of tax at the modified adjusted rate per annum established pursuant to Section 6591.5 from the first day of the calendar month following the period during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 32. Section 9174 of the Revenue and Taxation Code is amended to read:

9174. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any amounts due from the plaintiff



under this part, Part 2 (commencing with Section 7301), and Part 31 (commencing with Section 60001), and the balance of the judgment shall be refunded to the plaintiff. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 33. Section 9269 of the Revenue and Taxation Code is amended to read:

9269. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fee and expenses with the board.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board decides that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

(d) Any proposed award by the board pursuant to subdivision (a) shall be available as a public record for at least 10 days prior to the effective date of the award.

SEC. 34. Section 9272 of the Revenue and Taxation Code is amended to read:

9272. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event that the expense of the sale process exceeds the liability for which the levy is made.

(b) The Taxpayers' Rights Advocate may order the release of any levy or notice to withhold issued pursuant to this part or, within 90 days from the receipt of funds pursuant to a levy or notice to withhold, order the return of any amount up to one thousand five hundred dollars (\$1,500) of moneys received, upon his or her finding



that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.

(c) The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(d) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

SEC. 35. Section 9354.5 of the Revenue and Taxation Code is amended to read:

9354.5. Notwithstanding any other provision of this part, any person who violates this part with intent to defeat or evade the determination of an amount due required by law to be made is guilty of a felony when the amount of tax liability aggregates twenty-five thousand dollars (\$25,000) or more in any 12-consecutive-month period. The determination shall be approved by the executive director or his or her designee. Each offense shall be punished by a fine of not less than five thousand dollars (\$5,000) and not more than twenty thousand dollars (\$20,000), or imprisonment for 16 months, two years, or three years, or by both the fine and imprisonment in the discretion of the court.

SEC. 36. A chapter heading is added to Part 3.5 (commencing with Section 9401) of Division 2 of the Revenue and Taxation Code, immediately preceding Section 9401 thereof, to read:

CHAPTER 1. FUEL TAX AGREEMENTS

SEC. 37. Section 9401 of the Revenue and Taxation Code is amended to read:

9401. The board, with the approval of the Department of Finance, may on behalf of the state become a party to a reciprocal fuel tax agreement between this state and another jurisdiction, or an agency thereof that is authorized to enter into an agreement, providing for the administration, collection, and enforcement by a party to the agreement of the taxes imposed upon motor fuels by another jurisdiction, and for the forwarding of collections to the jurisdiction on behalf of which the tax was collected.

For purposes of this section, “taxes imposed upon motor fuels” means the taxes imposed by this state pursuant to Part 3 (commencing with Section 8601) or Part 31 (commencing with Section 60001), and taxes of a similar nature imposed upon any motor fuels by another jurisdiction under its laws.

For purposes of this section, a “jurisdiction” is this state, any other state, the District of Columbia, a province or territory of Canada, or any governmental entity, which is a party to a reciprocal fuel tax agreement authorized by this section.



The board may adopt and enforce regulations necessary to implement the terms of a reciprocal fuel tax agreement to which the board is a party.

SEC. 38. Chapter 2 (commencing with Section 9405) is added to Part 3.5 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 2. THE INTERNATIONAL FUEL TAX AGREEMENT

Article 1. Construction

9405. This chapter shall be administered in conjunction with the IFTA Articles of Agreement, the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), and the Diesel Fuel Tax Law (Part 31 (commencing with 60001)). Whenever the Use Fuel Tax Law or the Diesel Fuel Tax Law is inconsistent with the IFTA Articles of Agreement or this chapter, the IFTA Articles of Agreement or this chapter shall prevail except where prohibited by the California or United States Constitution.

9407. (a) The International Fuel Tax Agreement, for the purposes of this chapter, may be used to:

- (1) Determine the base state jurisdiction for motor carriers engaged in interstate commerce.
- (2) Impose recordkeeping requirements.
- (3) Specify audit procedures.
- (4) Establish procedures for the exchange of information.
- (5) Identify interstate motor carriers.
- (6) Define motor vehicles and fuels subject to the provisions of the agreement.
- (7) Determine bond requirements.
- (8) Specify reporting requirements, due dates of returns, interest and penalty rates, and provisions for failure to file returns.
- (9) Specify methods for collection of taxes, interest, and penalties.
- (10) Determine methods for the distribution of taxes and interest collected or assessed to the appropriate jurisdictions.
- (11) Deny, suspend, or cancel benefits under the agreement to any interstate motor carrier who violates the provisions of the agreement.

(b) The board may adopt regulations to administer the provisions of this chapter.

Article 2. Definitions

9410. "Contractor" includes a subcontractor.

9411. "IFTA" means the International Fuel Tax Agreement.



Article 3. Annual Fees

9420. Except for trip permits as provided in Sections 8708 and 60122, all interstate users who choose to obtain an IFTA permit from the board shall apply for a license and secure decals for their vehicles. Application for the license and decals shall be made annually on forms prescribed by the board. The application shall be under oath and shall contain that information as the board deems necessary. Upon receipt of the application, and upon payment of any required reinstatement fee, the board may issue to the applicant a license and decals.

The decals issued to the interstate user shall be placed on both exterior sides of the vehicle cab. Failure to display the decals in the required location may subject the interstate user to the purchase of a trip permit. The transfer of decals from one interstate user to another interstate user is prohibited. All decals shall remain the property of the state and may be recalled for any violation of the provisions of the IFTA Articles of Agreement.

A fee to be determined by the board shall be charged for the annual license and a set of two decals issued prior to and during the calendar year that the license and decal is valid. The board may also prescribe procedures and set a fee for the issuance of a 30-day IFTA temporary license or replacement decals.

Article 4. Administration

9425. The exemptions in Chapter 2 (commencing with Section 8651) of Part 3 do not apply to IFTA-required returns. However, the exempt use shall be refunded under the refund provisions in Chapter 6 (commencing with Section 9151) of Part 3.

Article 5. IFTA Disclosure

9430. (a) The board shall make available any and all information obtained under this chapter to any member jurisdiction of the IFTA, a designee of the member jurisdiction, or any contractor under contract with the board. The information obtained by the member jurisdiction, designee, or contractor shall not be made public except to the extent authorized by the agreement.

(b) The member jurisdictions of the IFTA and the board may utilize any information obtained pursuant to this chapter to develop data on international or interstate commerce, fuel consumption, and any aspect of motor fuel tax administration.



Article 6. Distribution of Proceeds

9432. The board shall transmit all moneys received by it under this chapter to the Treasurer to be deposited in the State Treasury. The board in accordance with the Treasurer shall set up a reserve account in the State Treasury to disburse those moneys as needed. After distribution payments to other jurisdictions and refunds authorized by the IFTA Articles of Agreement, the balance remaining in the reserve account shall be transferred, except as provided in Section 9433, to the Motor Vehicle Fuel Account in the Transportation Tax Fund.

9433. The fees paid for licenses and decals issued under Section 9420 shall be deposited in a reserve account in the State Treasury and shall, upon appropriation by the Legislature, be used for administration of the IFTA program.

SEC. 39. Section 9501 of the Revenue and Taxation Code is amended to read:

9501. (a) Except as specified in subdivision (c), in addition to taxes imposed pursuant to Chapter 5 (commencing with Section 99500) of Part 11 of Division 10 of the Public Utilities Code, Part 2 (commencing with Section 7301), Part 3 (commencing with Section 8601), and Part 31 (commencing with Section 60001) of this division, on motor vehicle fuel, a tax may be imposed by a county on a countywide basis in accordance with this part.

(b) The tax shall be imposed in increments of one cent (\$0.01) per gallon or, in the case of compressed natural gas, one cent (\$0.01) per 100 cubic feet as measured at standard pressure and temperature.

(c) No tax shall be imposed under this part on fuel used in propelling an aircraft or a vessel.

SEC. 40. Section 9506 of the Revenue and Taxation Code is amended to read:

9506. The ordinance shall include provisions identical to those contained in Part 2 (commencing with Section 7301), Part 3 (commencing with Section 8601), and Part 31 (commencing with Section 60001), except that the name of the county as the taxing agency shall be substituted for that of the state.

SEC. 41. Section 30103.5 is added to the Revenue and Taxation Code, to read:

30103.5. (a) The tax and surcharge imposed by this part shall not apply to the sale or transfer of untaxed cigarettes to a law enforcement agency for use in a criminal investigation when that sale or transfer is authorized by the board.

(b) A law enforcement agency authorized by the board to receive or purchase cigarettes as provided in subdivision (a) shall not be required to apply for, or obtain, a license as a distributor pursuant to Section 30140.



(c) A law enforcement agency making distributions of cigarettes received or purchased under subdivision (a) is not required to collect or remit the tax or surcharge imposed by this part with respect to those authorized distributions.

SEC. 42. Section 30437 of the Revenue and Taxation Code is amended to read:

30437. Notice of the seizure and forfeiture of the property described in Section 30436 shall be given by the board as follows:

(a) Notice shall be given by personal service or by registered mail to all persons known by the board to have any right, title or interest in the property.

(b) (1) Except as provided in paragraph 2, notice of seizure and forfeiture shall be given by one publication in a newspaper of general circulation in the county where the seizure was made as follows:

(A) To all persons unknown by the board who may have a right, title, or interest in the property.

(B) To all persons known by the board to have a right, title, or interest in the property but who cannot be found.

(2) Newspaper publication is not required when the amount of cigarettes seized is less than 61 cartons of 200 cigarettes each or an equivalent amount of tobacco products.

(c) Notice shall include a description of the property, the reason for the seizure, and the time and place of the seizure.

SEC. 43. Section 30458.9 of the Revenue and Taxation Code is amended to read:

30458.9. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fees and expenses with the board.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board decides that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the state was unreasonable.



(d) Any proposed award by the board pursuant to subdivision (a) shall be available as a public record for at least 10 days prior to the effective date of the award.

SEC. 44. Section 30480 of the Revenue and Taxation Code is amended to read:

30480. Notwithstanding any other provision of this part, any person who violates this part with intent to defeat or evade the determination of an amount due required by law to be made is guilty of a felony when the amount of tax liability aggregates twenty-five thousand dollars (\$25,000) or more in any 12-consecutive-month period. The determination shall be approved by the executive director or his or her designee. Each offense shall be punished by a fine of not less than five thousand dollars (\$5,000) and not more than twenty thousand dollars (\$20,000), or imprisonment for 16 months, two years, or three years, or by both the fine and imprisonment in the discretion of the court.

SEC. 45. Section 32176 of the Revenue and Taxation Code is amended to read:

32176. (a) If taxes have been paid on beer or wine subsequently exported from the state or sold for export and actually thereafter exported from this state, or on beer or wine subsequently destroyed under the supervision of a board representative, a taxpayer may claim and shall be allowed credit with respect to the taxes in any report filed or assessment made under this part.

(b) A beer manufacturer located in this state may claim and shall be allowed a credit for excise taxes paid on tax paid beer returned by a licensed wholesaler and subsequently destroyed by the beer manufacturer under the supervision of a board representative. The credit shall be allowed only if the beer manufacturer has credited the licensed wholesaler the amount of the tax. If the credit is allowed to the beer manufacturer, a credit shall not be allowed to the licensed wholesaler with respect to the destruction of the same product.

(c) A winegrower may claim credit with respect to excise taxes on wine purchased state tax paid from another winegrower and subsequently exported or sold for export and actually exported.

(d) A beer manufacturer or a beer and wine wholesaler may claim credit for excise taxes on beer purchased state tax paid and subsequently exported or sold for export and actually exported.

SEC. 46. Section 32251.5 of the Revenue and Taxation Code is amended to read:

32251.5. The board, if it deems it necessary in order to facilitate the collection of the amount of taxes, may require returns and payment of the amount of taxes for quarterly or annual periods depending on the principal place of business of the taxpayer, the amount of business done by the taxpayer, or the amount of taxes normally paid or payable by the taxpayer.



SEC. 47. Section 32401 of the Revenue and Taxation Code is amended to read:

32401. If the board determines that any amount of tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in its records and certify the amount collected in excess of what was legally due and the person from whom it was collected or by whom paid, and credit the excess amount collected or paid on any amounts then due from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors. Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

SEC. 48. Section 32469 of the Revenue and Taxation Code is amended to read:

32469. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fee and expenses with the board.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board decides that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

(d) Any proposed award by the board pursuant to subdivision (a) shall be available as a public record for at least 10 days prior to the effective date of the award.

SEC. 49. Section 32472 of the Revenue and Taxation Code is amended to read:

32472. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event that the expense of the sale process exceeds the liability for which the levy is made.



(b) The Taxpayers' Rights Advocate may order the release of any levy or notice to withhold issued pursuant to this part or, within 90 days from the receipt of funds pursuant to a levy or notice to withhold, order the return of any amount up to one thousand five hundred dollars (\$1,500) of moneys received, upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.

(c) The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(d) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

SEC. 50. Section 40111 of the Revenue and Taxation Code is amended to read:

40111. (a) If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board, certify the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid, and shall credit the excess amount collected or paid on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors. Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

(b) Any overpayment of the surcharge by a consumer to the state shall be credited or refunded by the state to the consumer.

(c) (1) Except as provided in paragraph (2), any overpayment of the surcharge by the consumer to an electric utility that is required to collect the surcharge shall be refunded by the state to the consumer.

(2) If the electric utility has paid the amount to the board and establishes to the satisfaction of the board that it has not collected the amount from the consumer or has refunded the amount to the consumer, the overpayment may be credited or refunded by the state to the electric utility.

SEC. 51. Section 40187 of the Revenue and Taxation Code is amended to read:

40187. Notwithstanding any other provision of this part, any person who violates this part with intent to defeat or evade the determination of an amount due required by law to be made is guilty of a felony when the amount of tax liability aggregates twenty-five thousand dollars (\$25,000) or more in any 12-consecutive-month



period. The determination shall be approved by the executive director or his or her designee. Each offense shall be punished by a fine of not less than five thousand dollars (\$5,000) and not more than twenty thousand dollars (\$20,000), or imprisonment for 16 months, two years, or three years, or by both the fine and imprisonment in the discretion of the court.

SEC. 52. Section 40209 of the Revenue and Taxation Code is amended to read:

40209. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fee and expenses with the board.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board decides that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

(d) Any proposed award by the board pursuant to subdivision (a) shall be available as a public record for at least 10 days prior to the effective date of the award.

SEC. 53. Section 40212 of the Revenue and Taxation Code is amended to read:

40212. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event that the expense of the sale process exceeds the liability for which the levy is made.

(b) The Taxpayers' Rights Advocate may order the release of any levy or notice to withhold issued pursuant to this part or, within 90 days from the receipt of funds pursuant to a levy or notice to withhold, order the return of any amount up to one thousand five hundred dollars (\$1,500) of moneys received, upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.

(c) The board shall not sell any seized property until it first has notified the taxpayer in writing of the exemptions from levy under



Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(d) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

SEC. 54. Section 41096 of the Revenue and Taxation Code is amended to read:

41096. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 41080, 41090, and 41095.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 55. Section 41143.4 of the Revenue and Taxation Code is amended to read:

41143.4. Notwithstanding any other provision of this part, any person who violates this part with intent to defeat or evade the determination of an amount due required by law to be made is guilty of a felony when the amount of tax liability aggregates twenty-five thousand dollars (\$25,000) or more in any 12-consecutive-month period. The determination shall be approved by the executive director or his or her designee. Each offense shall be punished by a fine of not less than five thousand dollars (\$5,000) and not more than twenty thousand dollars (\$20,000), or imprisonment for 16 months, two years, or three years, or by both the fine and imprisonment in the discretion of the court.

SEC. 56. Section 41169 of the Revenue and Taxation Code is amended to read:

41169. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fee and expenses with the board.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board decides that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.



(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

(d) Any proposed award by the board pursuant to subdivision (a) shall be available as a public record for at least 10 days prior to the effective date of the award.

SEC. 57. Section 41172 of the Revenue and Taxation Code is amended to read:

41172. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event that the expense of the sale process exceeds the liability for which the levy is made.

(b) The Taxpayers' Rights Advocate may order the release of any levy or notice to withhold issued pursuant to this part or, within 90 days from the receipt of funds pursuant to a levy or notice to withhold, order the return of any amount up to one thousand five hundred dollars (\$1,500) of moneys received, upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.

(c) The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(d) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

SEC. 58. Section 43520 of the Revenue and Taxation Code is amended to read:

43520. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fees and expenses with the board.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board decides that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the



amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

(d) Any proposed award by the board pursuant to subdivision (a) shall be available as a public record for at least 10 days prior to the effective date of the award.

SEC. 59. Section 43523 of the Revenue and Taxation Code is amended to read:

43523. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event that the expense of the sale process exceeds the liability for which the levy is made.

(b) The Taxpayers' Rights Advocate may order the release of any levy or notice to withhold issued pursuant to this part or, within 90 days from the receipt of funds pursuant to a levy or notice to withhold, order the return of any amount up to one thousand five hundred dollars (\$1,500) of moneys received, upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.

(c) The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(d) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

SEC. 60. Section 45651 of the Revenue and Taxation Code is amended to read:

45651. If the board determines that any amount of fee, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in its records and certify the amount collected in excess of what was legally due and the person from whom it was collected or by whom paid, and credit the excess amount collected or paid on any amounts then due from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors. Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifteen thousand dollars (\$15,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

SEC. 61. Section 45865 of the Revenue and Taxation Code is amended to read:

45865. (a) Every feepayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The feepayer files a claim for the fee and expenses with the board.



(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board decides that the feepayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the feepayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

(d) Any proposed award by the board pursuant to subdivision (a) shall be available as a public record for at least 10 days prior to the effective date of the award.

SEC. 62. Section 45868 of the Revenue and Taxation Code is amended to read:

45868. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event that the expense of the sale process exceeds the liability for which the levy is made.

(b) The Taxpayers' Rights Advocate may order the release of any levy or notice to withhold issued pursuant to this part or, within 90 days from the receipt of funds pursuant to a levy or notice to withhold, order the return of any amount up to one thousand five hundred dollars (\$1,500) of moneys received, upon his or her finding that the levy or notice to withhold threatens the health or welfare of the feepayer or his or her spouse and dependents or family.

(c) The board shall not sell any seized property until it has first notified the feepayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(d) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

SEC. 63. Section 46501 of the Revenue and Taxation Code is amended to read:

46501. (a) If the board determines that any amount of fee, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in its records and certify the amount collected in excess of what was legally due and the person from whom it was collected or by whom paid. The excess amount collected or paid shall be credited on any amounts then due from the person from whom the



excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors.

(b) Any proposed determination by the board that is in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

SEC. 64. Section 46551 of the Revenue and Taxation Code is amended to read:

46551. (a) If any amount has been illegally determined, either by the person filing the return or by the board, the board shall certify the amount determined to be in excess of the amount legally due and the person against whom the determination was made and authorize the cancellation of the amount upon the records of the board.

(b) Any proposed determination by the board that is in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

SEC. 65. Section 50139 of the Revenue and Taxation Code is amended to read:

50139. (a) If the board determines that any amount of fee, interest, or penalty has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in its records and certify the amount collected in excess of what was legally due and the person from whom it was collected or by whom it was paid. The excess amount collected or paid shall be credited on any amounts then due from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or the person's successors, administrators, or executors.

(b) Any proposed determination by the board that is in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

SEC. 66. Section 50151 of the Revenue and Taxation Code is amended to read:

50151. (a) If any amount has been illegally determined, the board shall certify the amount determined to be in excess of the amount legally due and the person against whom the determination was made and authorize the cancellation of the amount upon the records of the board.

(b) Any proposed determination by the board that is in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

SEC. 67. Section 50156.9 of the Revenue and Taxation Code is amended to read:

50156.9. (a) Every feepayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:



(1) The feepayer files a claim for the fee and expenses with the board.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board decides that the feepayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the feepayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

(d) Any proposed award by the board pursuant to subdivision (a) shall be available as a public record for at least 10 days prior to the effective date of the award.

SEC. 68. Section 50156.12 of the Revenue and Taxation Code is amended to read:

50156.12. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event that the expense of the sale process exceeds the liability for which the levy is made.

(b) The Taxpayers' Rights Advocate may order the release of any levy or notice to withhold issued pursuant to this part or, within 90 days from the receipt of funds pursuant to a levy or notice to withhold, order the return of any amount up to one thousand five hundred dollars (\$1,500) of moneys received, upon his or her finding that the levy or notice to withhold threatens the health or welfare of the feepayer or his or her spouse and dependents or family.

(c) The board shall not sell any seized property until it has first notified the fee payer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(d) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

SEC. 69. Section 55221 of the Revenue and Taxation Code is amended to read:

55221. (a) If the board determines that any amount of the fee, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in its records and certify the amount collected in excess of what was legally due and the person from whom it was collected



or by whom paid. The excess amount collected or paid shall be credited on any amounts then due from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors.

(b) Any proposed determination by the board that is in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

SEC. 70. Section 55281 of the Revenue and Taxation Code is amended to read:

55281. (a) If any amount has been illegally determined, either by the person filing the return or by the board, the board shall certify the amount determined to be in excess of the amount legally due and the person against whom the determination was made and authorize the cancellation of the amount upon the records of the board.

(b) Any proposed determination by the board that is in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

SEC. 71. Section 60025 of the Revenue and Taxation Code is repealed.

SEC. 72. Section 60027 of the Revenue and Taxation Code is amended to read:

60027. “Highway vehicle operator” includes any person that owns, operates, or otherwise controls a diesel-powered highway vehicle and places, or causes to be placed, diesel fuel or any liquid into the fuel tank of a diesel-powered highway vehicle.

SEC. 73. Section 60058 of the Revenue and Taxation Code is amended to read:

60058. The tax specified in Section 60050 is imposed as a backup tax on the delivery into the fuel tank of a diesel-powered highway vehicle of any of the following:

- (a) Any diesel fuel that contains a dye.
- (b) Any diesel fuel on which a claim for refund has been allowed.
- (c) Any liquid on which tax has not been imposed by this part, Part 2 (commencing with Section 7301), or Part 3 (commencing with Section 8601).

SEC. 74. Section 60100 of the Revenue and Taxation Code, as amended by Chapter 34 of the Statutes of 1995, is amended to read:

60100. (a) The provisions of this part requiring the payment of taxes do not apply to any of the following:

(1) The removal from a terminal or refinery of, or the entry or sale of, any diesel fuel if all of the following apply:

- (A) The person otherwise liable for tax is a diesel fuel registrant.
- (B) In the case of a removal from a terminal, the terminal is an approved terminal.
- (C) The diesel fuel satisfies the dyeing and marking requirements of Section 60101.



(2) Any entry or removal from a terminal or refinery of taxable diesel fuel transferred in bulk to a refinery or terminal if the persons involved (including the terminal operator) are registered.

(3) The removal of diesel fuel if all of the following apply:

(A) The diesel fuel is removed by railroad car from an approved refinery and is received at an approved terminal.

(B) The refinery and the terminal are operated by the same diesel fuel registrant.

(C) The refinery is not served by pipeline (other than a pipeline for the receipt of crude oil) or vessel.

(4) Diesel fuel which, pursuant to the contract of sale, is required to be shipped and is shipped to a point outside of this state by a supplier by means of any of the following:

(A) Facilities operated by the supplier.

(B) Delivery by the supplier to a carrier, customs broker, or forwarding agent, whether hired by the purchaser or not, for shipment to the out-of-state point.

(C) Delivery by the supplier to any vessel clearing from a port of this state for a port outside of this state and actually exported from this state in the vessel.

(5) Backup tax does not apply to delivery of diesel fuel into the fuel tank of a diesel-powered highway vehicle as provided in Section 60058 for any of the following:

(A) Use on a farm for farming purposes.

(B) Use in an exempt bus operation.

(C) Use in a diesel-powered highway vehicle that is operated off the highway.

(D) Use in a diesel-powered highway vehicle that is owned and operated by a government entity.

(E) Use by the United States and its agencies and instrumentalities.

(6) Diesel fuel sold by credit card certified by the United States Department of State to any consulate officer or consulate employee of a foreign government who is not engaged in any private occupation for gain within this state, who uses the diesel fuel in a motor vehicle which is registered with the United States Department of State, and whose government has done either of the following:

(A) Entered into a treaty with the United States providing for the exemption of its representatives from national, state, and municipal taxes.

(B) Granted a similar exemption to representatives of the United States.

(7) Diesel fuel sold by a supplier to a train operator for use in a diesel-powered train or for other off-highway use and the supplier has on hand an exemption certificate from the train operator.

(8) Diesel fuel sold by a supplier to the United States and its agencies and instrumentalities.



(b) For purposes of this section:

(1) “Carrier” means a person or firm engaged in the business of transporting for compensation property owned by other persons, and includes both common and contract carriers.

(2) “Forwarding agent” means a person or firm engaged in the business of preparing property for shipment or arranging for its shipment.

SEC. 75. Section 60104 of the Revenue and Taxation Code is amended to read:

60104. Any person that fails to provide or post the required notice with respect to any dyed diesel fuel is presumed to know, for purposes of the penalty imposed by Section 60709, that the diesel fuel will be used for a taxable use.

SEC. 76. The heading of Chapter 4 (commencing with Section 60110) of Part 31 of Division 2 of the Revenue and Taxation Code is amended to read:

CHAPTER 4. INTERSTATE USERS

SEC. 77. Section 60111 of the Revenue and Taxation Code is amended to read:

60111. “Interstate user” includes any person who uses diesel fuel in the operation of a qualified motor vehicle in this state and who operates the qualified motor vehicle within and without this state or the United States.

SEC. 78. Section 60112 of the Revenue and Taxation Code is amended to read:

60112. “Qualified motor vehicle” means a motor vehicle used, designed, or maintained for transportation of persons or property that (a) has two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 11,797 kilograms, (b) has three or more axles regardless of weight, or (c) is used in combination, when the weight of that combination exceeds 26,000 pounds or 11,797 kilograms gross vehicle weight. “Qualified motor vehicle” does not include recreational vehicles.

SEC. 79. Section 60114 of the Revenue and Taxation Code is amended to read:

60114. “Diesel vendor” means every person who sells diesel fuel in this state and places, or causes to be placed, the diesel fuel into a fuel tank of a qualified motor vehicle and at the time of sale, collects the diesel fuel tax from an interstate user.

SEC. 80. Section 60115 of the Revenue and Taxation Code is amended to read:

60115. (a) For the privilege of using diesel fuel in a qualified motor vehicle in this state by interstate users, there is hereby imposed upon any interstate user for each gallon of diesel fuel used, a tax of eighteen cents (\$0.18).



(b) If the federal fuel tax is reduced below the rate of fifteen cents (\$0.15) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by this section, on and after the date of the reduction, shall be increased by an amount so that the combined state and federal tax rate per gallon equals thirty-three cents (\$0.33).

(c) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be exempt under this section.

SEC. 81. The heading of Article 3 (commencing with Section 60120) of Chapter 4 of Part 31 of Division 2 of the Revenue and Taxation Code is amended to read:

Article 3. Licenses for Interstate Users

SEC. 82. Section 60121 of the Revenue and Taxation Code is amended to read:

60121. Before granting a license authorizing a person to engage in business as an interstate user, the board may require the person to file with the board security pursuant to Section 60401. The license issued to any interstate user is not transferable and is valid until canceled or revoked.

SEC. 83. Section 60122 of the Revenue and Taxation Code is amended to read:

60122. The board may authorize the issuance of diesel fuel trip permits to holders of trip permits issued under Section 4004 of the Vehicle Code. The diesel fuel trip permit shall be valid for the same period as the trip permit issued under Section 4004 of the Vehicle Code. The fee for issuance of a diesel fuel trip permit is thirty dollars (\$30). Other provisions of this article and Article 1 (commencing with Section 60201) of Chapter 6 shall not apply to the holder of a diesel fuel trip permit who uses only diesel fuel brought into this state in the fuel tank of the qualified motor vehicle and diesel fuel purchased in this state with the diesel fuel tax paid and delivered into the fuel tank of the qualified motor vehicle. Any diesel fuel tax paid to a diesel vendor for diesel fuel taken out of the state in the fuel tank of a qualified motor vehicle operated under a diesel fuel trip permit shall not be refunded to the holder of the diesel fuel trip permit, notwithstanding any other provision of this part.

The board may deny the issuance of more than one diesel fuel trip permit for any interstate user determined by the board to bring vehicles into this state on a regular, ongoing basis. The board shall maintain a file of all permits issued under this section for the purpose of determining the effectiveness of the program and the appropriateness of the fee. The board may enter into an interagency



agreement with the Department of Motor Vehicles providing for the issuance of diesel fuel trip permits by that department.

SEC. 84. Chapter 4.5 (commencing with Section 60130) is added to Part 31 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 4.5. INTERNATIONAL FUEL TAX AGREEMENT

60130. Effective on and after January 1, 1996, the provisions of Chapter 2 (commencing with Section 9405) of Part 3.5 shall apply to all interstate users.

SEC. 85. Section 60181 of the Revenue and Taxation Code, as amended by Chapter 34 of the Statutes of 1995, is amended to read:

60181. The board may revoke any of the following licenses:

(a) Any supplier's license held by a person who does not engage in, or who discontinues, the removal, entry, or sale of diesel fuel, producing of blended diesel fuel, owning or holding inventory position of diesel fuel, or owning or operating a refinery or terminal as any of the following:

- (1) A blender, as defined in Section 60012.
- (2) An enterer, as defined in Section 60013.
- (3) A positionholder, as defined in Section 60010.
- (4) A refiner, as defined in Section 60011.
- (5) A terminal operator, as defined in Section 60009.
- (6) A throughputter, as defined in Section 60035.

(b) Any interstate user's license held by a person who does not engage in, or who discontinues, using diesel fuel as an "interstate user" as defined in Section 60111.

(c) Any ultimate vendor's license held by a person who does not engage in, or who discontinues, selling undyed diesel fuel as an "ultimate vendor" as defined in Section 60036.

(d) Any exempt bus operator's license held by a person who does not engage in, or who discontinues, using diesel fuel as an "exempt bus operator" as defined in Section 60040.

(e) Any highway vehicle operator's or end seller's license held by a person who does not engage in, or who discontinues, the delivery of diesel fuel subject to the backup tax into fuel tanks of diesel-powered highway vehicles as a highway vehicle operator as defined in Section 60027 or as an end seller as defined in Section 60034.

(f) Any government entity's license held by a government entity that does not engage in, or that discontinues using diesel fuel in, the operation of a diesel-powered highway vehicle upon the state's highways.

SEC. 86. Section 60202 of the Revenue and Taxation Code is amended to read:

60202. (a) Each interstate user shall prepare and file with the board on forms prescribed by the board a return showing the amount



of diesel fuel used during the quarterly reporting period by the interstate user in this state, the amount of any tax due, and any other information as the board may require for the administration of this part. The return shall be filed with the board on or before the last day of the calendar month following the close of the quarterly period to which it relates, together with a remittance payable to the board of the amount of tax due. To facilitate the administration of this part, the board may require the filing of returns for other than quarterly periods.

(b) An interstate user who has paid diesel fuel tax to a diesel vendor in this state shall be allowed a credit on his or her return for the tax paid to the diesel vendor.

(c) If any interstate user has paid a backup tax to the state, he or she shall be allowed a credit against the amount of tax due under Section 60115 with respect to that diesel fuel on which the backup tax was paid to the state.

SEC. 87. Section 60360 of the Revenue and Taxation Code, as amended by Chapter 34 of the Statutes of 1995, is amended to read:

60360. If any person becomes a supplier, exempt bus operator, government entity, highway vehicle operator, end seller, or interstate user without first securing a license, the tax, and applicable penalties and interest, if any, become immediately due and payable on account of all diesel fuel removed, entered, sold, delivered, or used by him or her.

SEC. 88. Section 60441 of the Revenue and Taxation Code is amended to read:

60441. Notwithstanding Section 60445, the tax, interest, and penalties are a lien upon and have the effect of an execution duly levied against any qualified motor vehicle in which diesel fuel taxable under this part is used and against any personal property of the interstate user.

SEC. 89. Section 60501 of the Revenue and Taxation Code, as amended by Chapter 34 of the Statutes of 1995, is amended to read:

60501. Persons who have paid a tax for diesel fuel used in a nontaxable use, other than on a farm for farming purposes or in an exempt bus operation, shall, except as otherwise provided in this part, be reimbursed and repaid the amount of the tax.

(a) A claim for refund with respect to diesel fuel is allowed under this section only if all of the following apply:

- (1) Tax was imposed on the diesel fuel to which the claim relates.
- (2) The claimant bought or produced the diesel fuel and did not sell or resell it in this state.
- (3) The claimant has filed a timely claim for refund that contains the information required under subdivision (b) and the claim is supported by the original invoice showing the purchase.
- (4) The diesel fuel was any of the following:



(A) Used for purposes other than operating motor vehicles upon the public highways of the state.

(B) Exported for use outside of this state. Diesel fuel carried from this state in the fuel tank of a motor vehicle is not deemed to be exported from this state unless the diesel fuel becomes subject to tax as an import under the laws of the destination state.

(C) Used in any construction equipment that is exempt from vehicle registration pursuant to the Vehicle Code, while operated within the confines and limits of a construction project.

(D) Used in the operation of a motor vehicle on any highway that is under the jurisdiction of the United States Department of Agriculture and with respect to the use of the highway the claimant pays, or contributes to, the cost of construction or maintenance thereof pursuant to an agreement with, or permission of, the United States Department of Agriculture.

(E) Used in any motor vehicle owned by any county, city and county, city, district, or other political subdivision or public agency when operated by it over any highway constructed and maintained by the United States or any department or agency thereof within a military reservation in this state. If the motor vehicle is operated both over the highway and over a public highway outside the military reservation in a continuous trip the tax shall not be refunded as to that portion of the diesel fuel used to operate the vehicle over the public highway outside the military reservation.

Nothing contained in this section shall be construed as a refund of the tax for the use of diesel fuel in any motor vehicle operated upon a public highway within a military reservation, which highway is constructed or maintained by this state or any political subdivision thereof.

As used in this section, “military reservation” includes any establishment of the United States government or any agency thereof used by the armed forces of the United States for military, air, or naval operations, including research projects.

(F) Sold by a supplier to any consulate officer or consulate employee under circumstances which would have entitled the supplier to an exemption under paragraph (6) of subdivision (a) of Section 60100 if the supplier had sold the diesel fuel directly to the consulate officer or consulate employee.

(G) Any person who sells diesel fuel to the United States and its agencies and instrumentalities under circumstances that would have entitled him or her to an exemption from the payment of diesel fuel tax under Section 60100 had he or she been the supplier of this diesel fuel.

(b) Each claim for refund under this section shall contain the following information with respect to all the diesel fuel covered by the claim:



(1) The name, address, telephone number, and permit number of the person that sold the diesel fuel to the claimant and the date of the purchase.

(2) A statement by the claimant that the diesel fuel covered by the claim did not contain visible evidence of dye.

(3) A statement, which may appear on the invoice or similar document, by the person that sold the diesel fuel to the claimant that the diesel fuel sold did not contain visible evidence of dye.

(4) The total amount of diesel fuel covered by the claim.

(5) The use made of the diesel fuel covered by the claim described by reference to specific categories listed in paragraph (4) of subdivision (a).

(6) If the diesel fuel covered by the claim was exported, a statement that the claimant has the proof of exportation.

(c) Each claim for refund under this section shall be made on a form prescribed by the board and shall be filed for a calendar year. If, at the close of any of the first three quarters of the calendar year, more than seven hundred fifty dollars (\$750) is refundable under this section with respect to diesel fuel used or exported during that quarter or any prior quarter during the calendar year, and for which no other claim has been filed, a claim may be filed for the quarterly period. To facilitate the administration of this section, the board may require the filing of claims for refund for other than yearly periods.

SEC. 90. Section 60502 of the Revenue and Taxation Code is amended to read:

60502. (a) Any ultimate vendor who has paid a tax on diesel fuel sold to an ultimate purchaser for use on a farm for farming purposes or use in an exempt bus operation shall, except as otherwise provided in this part, be reimbursed and repaid the amount of the tax.

(b) A claim for refund with respect to diesel fuel is allowed under this section only if all of the following apply:

(1) Tax was imposed on the diesel fuel to which the claim relates.

(2) The claimant sold the diesel fuel to the ultimate purchaser for use on a farm for farming purposes or for use in an exempt bus operation.

(3) The claimant is a registered ultimate vendor.

(4) The claimant has filed a timely claim for refund that contains the information required under subdivision (c) and the claim is supported by the original invoice showing the purchase.

(c) Each claim for refund under this section shall contain the following information with respect to all the diesel fuel covered by the claim:

(1) The claimant's permit number.

(2) The name, address, telephone number, and permit number of each person that sold the diesel fuel to the claimant and the date of the purchase.



(3) The name, address, telephone number, and federal taxpayer identification number of each farmer or the permit number of each exempt bus operator that bought the diesel fuel from the claimant and the number of gallons that the claimant sold to each.

(4) A statement that the diesel fuel covered by the claim did not contain visible evidence of dye.

(5) The total amount of diesel fuel covered by the claim.

(6) A statement that the claimant has not included the amount of the tax in its sales price of the diesel fuel and has not collected the amount of tax from its buyer.

(7) A statement that the claimant has in its possession an unexpired exemption certificate described in Section 60503 and the claimant has no reason to believe any information in the certificate is false.

(d) Each claim for refund under this section shall be made on a form prescribed by the board and shall be for an amount of not less than two hundred dollars (\$200) and for a period of not less than one week.

SEC. 91. The heading of Article 2 (commencing with Section 60521) of Chapter 8 of Part 31 of Division 2 of the Revenue and Taxation Code is amended to read:

Article 2. Claim for Refunds of Licensed Suppliers, Interstate
Users, Exempt Bus Operators, Highway Vehicle Operators, and
End Sellers

SEC. 92. Section 60521 of the Revenue and Taxation Code, as amended by Chapter 34 of the Statutes of 1995, is amended to read:

60521. If the board determines that any amount not required to be paid under this part has been paid by any person that is a licensed supplier, interstate user, exempt bus operator, government entity, highway vehicle operator, or end seller, the board shall set forth that fact in its records and certify the amount paid in excess of the amount legally due and the person by whom the excess was paid to the board or from whom it was collected. The excess amount paid or collected shall be credited on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall either be refunded to the person, or his or her successors, administrators, executors, or assigns, or, if authorized by the board, deducted by the person from any amounts to become due from him or her under this part.

For any amount exceeding fifty thousand dollars (\$50,000), the board's proposed determination under this section shall be available as a public record for at least 10 days prior to the effective date of the determination.

SEC. 93. Section 60524 of the Revenue and Taxation Code is amended to read:



60524. Interest shall be paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5 from the first day of the calendar month following the reporting period during which the overpayment is made. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 93.5. Section 60524 of the Revenue and Taxation Code is amended to read:

60524. Interest shall be paid upon any overpayment of any amount of tax at the modified adjusted rate per annum established pursuant to Section 6591.5 from the first day of the calendar month following the reporting period during which the overpayment is made. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 94. Section 60604 of the Revenue and Taxation Code, as amended by Chapter 34 of the Statutes of 1995, is amended to read:

60604. Every interstate user, supplier, exempt bus operator, government entity, ultimate vendor, highway vehicle operator, train operator, and every person dealing in, removing, transporting, or storing diesel fuel in this state shall keep those records, receipts, invoices, and other pertinent papers with respect thereto in that form as the board may require. Failure to maintain records will constitute a misdemeanor punishable as provided in Section 60706.

SEC. 95. Section 60606 of the Revenue and Taxation Code, as amended by Chapter 34 of the Statutes of 1995, is amended to read:

60606. The board or its authorized representative may examine the books, records, and equipment of any interstate user, supplier, exempt bus operator, government entity, ultimate vendor, highway vehicle operator, train operator, or person dealing in, removing,



transporting, or storing diesel fuel and may investigate the character of the disposition that the interstate user, supplier, exempt bus operator, government entity, ultimate vendor, highway vehicle operator, train operator, or person makes of the diesel fuel in order to ascertain whether all taxes due under this part are being properly reported and paid.

SEC. 96. Section 60703 of the Revenue and Taxation Code is amended to read:

60703. Any person who acquires diesel fuel outside this state and uses the diesel fuel for the operation of a qualified motor vehicle within and without this state or the United States, is guilty of a misdemeanor punishable as provided in Section 60706 unless that person is an interstate user who holds a valid diesel fuel tax license or diesel fuel trip permit as defined in Sections 60120 and 60122.

SEC. 97. Section 6076 as added to the Revenue and Taxation Code by Section 6 of this act shall become operative only if Senate Bill 531 of the 1995–96 Regular Session is not enacted or if Senate Bill 531 is enacted but does not add Section 6075 to the Revenue and Taxation Code. If Senate Bill 531 of the 1995–96 Regular Session is enacted and adds Section 6075 to the Revenue and Taxation Code, Section 6076 as added to the Revenue and Taxation Code by Section 6 of this act shall not become operative.

SEC. 98. Section 26.5 of this bill incorporates amendments to Section 8777 of the Revenue and Taxation Code proposed by both this bill and AB 1940. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1996, (2) each bill amends Section 8777 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 1940, in which case Section 26 of this bill shall not become operative.

SEC. 99. Section 28.5 of this bill incorporates amendments to Section 8803 of the Revenue and Taxation Code proposed by both this bill and AB 1940. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1996, (2) each bill amends Section 8803 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 1940, in which case Section 28 of this bill shall not become operative.

SEC. 100. Section 29.5 of this bill incorporates amendments to Section 8876 of the Revenue and Taxation Code proposed by both this bill and AB 1940. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1996, (2) each bill amends Section 8876 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 1940, in which case Section 29 of this bill shall not become operative.

SEC. 101. Section 31.5 of this bill incorporates amendments to Section 9155 of the Revenue and Taxation Code proposed by both this bill and AB 1940. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1996, (2) each bill



amends Section 9155 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 1940, in which case Section 31 of this bill shall not become operative.

SEC. 102. Section 93.5 of this bill incorporates amendments to Section 60524 of the Revenue and Taxation Code proposed by both this bill and AB 1940. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1996, (2) each bill amends Section 60524 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 1940, in which case Section 93 of this bill shall not become operative.

