

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2757

**Introduced by Committee on Revenue and Taxation (Bocanegra
(Chair), Gordon, Mullin, Pan, V. Manuel Pérez, and Ting)**

March 24, 2014

An act to amend Sections 60501 and 60505.5 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL’S DIGEST

AB 2757, as amended, Committee on Revenue and Taxation. Diesel Fuel Tax Law: reimbursements.

The Diesel Fuel Tax Law imposes a tax upon the removal, entry, sale, delivery, or specified use of diesel fuel, at a specified rate per gallon. That law provides for a reimbursement of the amount of that tax to persons who have used that tax-paid fuel in specified nontaxable uses, which is allowed through a claim for refund.

This bill would allow a claim for refund for amounts of tax paid on the biodiesel fuel portion of dyed blended biodiesel fuel removed from an approved terminal at the terminal rack, as provided, to the extent a supplier can show that the tax on that biodiesel fuel has been paid by the same supplier.

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

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

- 1 SECTION 1. Section 60501 of the Revenue and Taxation Code
- 2 is amended to read:

1 60501. Persons who have paid a tax for diesel fuel lost, sold,
2 or removed as provided in paragraph (4) of subdivision (a), or used
3 in a nontaxable use, other than on a farm for farming purposes or
4 in an exempt bus operation, shall, except as otherwise provided in
5 this part, be reimbursed and repaid the amount of the tax.

6 (a) Except as otherwise provided in subdivision (b), a claim for
7 refund with respect to diesel fuel is allowed under this section only
8 if all of the following apply:

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

11 (2) The claimant bought or produced the diesel fuel and did not
12 sell or resell it in this state except as provided in paragraph (4).

13 (3) The claimant has filed a timely claim for refund that contains
14 the information required under subdivision (b) and the claim is
15 supported by the original invoice or original invoice facsimile
16 retained in an alternative storage media showing the purchase. If
17 no original invoice was created, electronic invoicing shall be
18 accepted as reflected by a computerized facsimile when
19 accompanied by an original copy of the bill of lading or fuel
20 manifest that can be directly tied to the electronic invoice.

21 (4) The diesel fuel was any of the following:

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

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

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

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

37 (E) Used in any motor vehicle owned by any county, city and
38 county, city, district, or other political subdivision or public agency
39 when operated by it over any highway constructed and maintained
40 by the United States or any department or agency thereof within

1 a military reservation in this state. If the motor vehicle is operated
2 both over the highway and over a public highway outside the
3 military reservation in a continuous trip the tax shall not be
4 refunded as to that portion of the diesel fuel used to operate the
5 vehicle over the public highway outside the military reservation.

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

11 As used in this section, "military reservation" includes any
12 establishment of the United States Government or any agency
13 thereof used by the Armed Forces of the United States for military,
14 air, or naval operations, including research projects.

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

20 (G) Lost in the ordinary course of handling, transportation, or
21 storage.

22 (H) (i) Sold by a person to the United States and its agencies
23 and instrumentalities under circumstances that would have entitled
24 that person to an exemption from the payment of diesel fuel tax
25 under Section 60100 had that person been the supplier of this diesel
26 fuel.

27 (ii) Sold by a supplier and which was sold by credit card to the
28 United States and its agencies and instrumentalities under
29 circumstances which would have entitled the supplier to an
30 exemption under Section 60100 if the supplier had sold the diesel
31 fuel directly to the United States and its agencies and
32 instrumentalities.

33 (I) Sold by a person to a train operator for use in a
34 diesel-powered train or for other off-highway use under
35 circumstances that would have entitled that person to an exemption
36 from the payment of diesel fuel tax under Section 60100 had that
37 person been the supplier of this diesel fuel.

38 (J) Removed from an approved terminal at the terminal rack,
39 but only to the extent that the supplier can show that the tax on the

1 same amount of diesel fuel has been paid more than one time by
2 the same supplier.

3 (b) Where tax is not imposed on dyed blended biodiesel fuel
4 upon removal from an approved terminal at the terminal rack, if
5 tax was previously imposed on the biodiesel fuel portion of the
6 dyed blended biodiesel fuel ~~upon entry into this state by nonbulk~~
7 ~~transfer~~, then, pursuant to paragraph (1) of subdivision (a), a claim
8 for refund is allowed for the tax that was paid on that biodiesel
9 fuel, but only to the extent a supplier can show that the tax on that
10 biodiesel fuel has been paid by the same supplier.

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

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

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

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

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

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

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

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

39 SEC. 2. Section 60505.5 of the Revenue and Taxation Code
40 is amended to read:

1 60505.5. The claim for refund forms prescribed in subdivision
2 (d) of Section 60501 and subdivision (d) of Section 60502 may
3 include, but not be limited to, electronic media. The claim for
4 refund forms shall be authenticated in a form or pursuant to
5 methods as may be prescribed by the board.

O