

# Biodiesel and California Tax

*This publication explains how California fuel and sales taxes apply to the production, sales, use, and importation of biodiesel.*

## What is biodiesel?

Biodiesel is a fuel made fully or partially from vegetable oils or animal fats. It is typically produced by combining a vegetable oil or animal fat with an alcohol, such as methanol or ethanol, in the presence of a chemical catalyst to produce mono-alkyl esters and glycerin.

## Do California taxes apply to biodiesel?

Yes. California's fuel and sales taxes apply to biodiesel in California. The following sections explain how the taxes apply and the tax registration and filing requirements.

## CALIFORNIA FUEL TAX

### Is biodiesel a taxable fuel?

Yes. Under the state's diesel fuel tax law, tax applies to any fuel suitable for practical and commercial use in the engine of a diesel-powered highway vehicle *without further processing or blending*, including biodiesel. Taxable diesel substitutes include biodiesel and other fuel products that meet the specifications of ASTM D6751, whether they are called B100, methyl esters, or any other name.

### Who must register and pay fuel tax on biodiesel?

In general, you must register with us if you do any of the following in California:

- Manufacture or produce biodiesel, *even for your own use.*
- Sell biodiesel that has not been taxed as diesel fuel.

- Use biodiesel that has not been taxed as diesel fuel to power a vehicle driven on roads or highways.
- Import biodiesel from another state.
- Blend biodiesel with petroleum diesel.

If you are required to register, we will issue you a *Diesel Fuel Supplier's License*. There is no fee for the license, but you may be required to post a security deposit. The license application is available on our website at [www.boe.ca.gov/pdf/boe400fco.pdf](http://www.boe.ca.gov/pdf/boe400fco.pdf).

### Will I have to file diesel fuel tax returns?

Yes. After we issue your supplier license, you will have to file diesel fuel tax returns. You must file a return even if you do not owe any tax for the reporting period.

### At what point does the diesel fuel tax apply to biodiesel?

The diesel fuel tax generally applies at the first point at which diesel fuel, including biodiesel, is

- Imported into California for sale, use, or storage,
- Removed from a California refinery,
- Removed from a terminal rack in California, or
- Blended with tax-paid diesel.

In addition, if you use, market, or sell biodiesel, the tax applies when you first use, market, or sell the fuel.

*Please note:* If you make your own biodiesel and use it in a vehicle that will be driven on roads or highways, the tax is due when you put the biodiesel into the vehicle's fuel tank.

## Exempt activities

The diesel fuel tax does not apply to

- Sales to farmers.
- Sales to exempt bus operators.
- Sales of dyed biodiesel, which is limited to marine and off-highway use. There are severe penalties for illegal use of dyed diesel.

## What is the tax rate?

The state diesel fuel tax rate is 18c per gallon.

## Can I file a claim for refund of tax paid on biodiesel used off-highway or in another tax-exempt way?

Yes. To file claims for refund of diesel fuel tax you paid on biodiesel used off-highway or for another exempt use, you must register with us as a diesel user. You will need to complete and submit the following application from our website: [www.boe.ca.gov/pdf/boe400fta.pdf](http://www.boe.ca.gov/pdf/boe400fta.pdf).

## Why do I have to pay tax on biodiesel I make for myself or give away?

California fuel taxes pay for the construction and maintenance of state and local roads and highways. The taxes apply to all fuel used on roads and highways, whether the fuel is sold or given away.

## Are there any state tax credits for biodiesel?

No.

### BOARD OF EQUALIZATION MEMBERS, Board Member Names Updated 2007

BETTY T. YEE  
1st District  
San Francisco

BILL LEONARD  
2nd District  
Ontario/Sacramento

MICHELLE STEEL  
3rd District  
Rolling Hills Estates

JUDY CHU, Ph.D.  
4th District  
Los Angeles

JOHN CHIANG  
State Controller

RAMON J. HIRSIG  
Executive Director

## CALIFORNIA SALES TAX

### Does sales tax apply to biodiesel sales?

Yes. The sale of biodiesel in California is subject to state and local sales tax, just like the sale of other fuels.

### Will I need a seller's permit?

You must obtain a seller's permit for biodiesel sales if you sell or trade the biodiesel in California.

You may download a *California Seller's Permit Application* (BOE-400-SPA) from our website, visit one of our field offices, or call our Information Center. There is no fee for the permit, but you may have to post a security deposit.

### What is the sales and use tax rate?

The standard, statewide sales and use tax rate is 7.25 percent. But if you make a sale inside a special tax district, the rate will be higher. For a full list of tax rates, see our website or publication 71, *California City and County Sales and Use Tax Rates*.

### How does sales tax apply to my biodiesel sales?

If you sell biodiesel directly to consumers, sales tax is due on the selling price of the fuel, including the federal excise tax.

If you sell biodiesel to others who will resell it, you are required to collect a sales tax "prepayment" from each of your customers. The prepayment rate is set each year.

For more information on sales tax prepayments, see our publication 82, *Prepaid Sales Tax and Sales of Fuel* and our annual special notice, *Attention: Suppliers, Wholesalers and Retailers of Motor Vehicle Fuel (Gasoline), Diesel Fuel and Aircraft Jet Fuel* (BOE-500-F).

### How does tax apply when I buy biodiesel ingredients?

If you make biodiesel that you sell or trade and you hold a California seller's permit, you may purchase your biodiesel ingredients for resale without paying sales tax. You must give the seller a properly completed resale certificate (see Regulation 1668, *Sales for Resale*, and publication 42, *Resale Certificate Tips*).

But if you do not sell or trade your biodiesel, you should expect to pay an amount for sales tax to your ingredient vendor or pay use tax on your out-of-state purchases directly to us.

Seller's permit holders must report the use tax on their sales and use tax returns. If you do not have a seller's permit, you may report the tax on your California state income tax returns or file an *Individual Use Tax Return* (BOE-401-DS) quarterly with us.

For more information, see publication 112, *Purchases from Out-of-State Vendors*.

### Exempt transactions

Biodiesel sales to farmers may be partially exempt from sales tax. Sales to water common carriers may be fully exempt. See our publication 66, *Tax Tips for the Agricultural Industry* and Regulation 1621, *Sales to Common Carriers*.

### Will I have to file sales and use tax returns?

All seller's permit holders must file sales and use tax returns.

If you are a retailer who sells biodiesel only to consumers, you will report your sales on a sales and use tax return and pay the tax with that return. Most retailers file quarterly.

If you sell biodiesel to businesses or individuals who resell it to other businesses or consumers, you will be required to collect sales tax "prepayments" from those retailers. You will report and pay those prepayments to

us on a special prepayment return, usually filed monthly. You can take a credit for any tax prepayment you paid to another fuel seller.

You must file a return even if you do not owe any tax for the period.

### Additional Resources

See [www.boe.ca.gov](http://www.boe.ca.gov) for electronic versions of the forms and publications referenced in this pamphlet or to order printed copies. Other helpful resources are listed below.

#### Publications

- 105 District Taxes and Delivered Sales
- 107 Do You Need a California Seller's Permit?

#### Diesel Fuel Tax Regulations

- 1420 Supplier

#### Sales and Use Tax Regulations

- 1533.2 Diesel Fuel Used in Farming Activities and Food Processing

### For More Information

**Board website and Member contact information:** [www.boe.ca.gov](http://www.boe.ca.gov)

**Information Center: 800-400-7115**  
TDD/TTY: 800-735-2929

Representatives can help you from 8:00 a.m. to 5:00 p.m., Pacific time, M-F, except state holidays.

#### Fuel Taxes Division

Fuel Taxes Division, MIC:30  
State Board of Equalization  
450 N Street  
P.O. Box 942879  
Sacramento, CA 94279-0030

#### Sales and Use Tax Department

Sales and Use Tax Department, MIC:44  
State Board of Equalization  
450 N Street  
P.O. Box 942879  
Sacramento, CA 94279-0044

**Taxpayers' Rights Advocate.** Call toll-free for help with problems you have been unable to resolve at other levels: 888-324-2798.

**Note:** The statements in this fact sheet are general and current as of December 2005. The law and regulations are complex and subject to change. If there is a conflict between this publication and the law or regulations, decisions will be based on the law and regulations.