

ASSEMBLY BILL

No. 1032

Introduced by Assembly Member Salas

February 26, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1032, as introduced, Salas. 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:
- 3 60501. Persons who have paid a tax for diesel fuel lost, sold,
- 4 or removed as provided in paragraph (4) of subdivision (a), or used
- 5 in a nontaxable use, other than on a farm for farming purposes or

1 in an exempt bus operation, shall, except as otherwise provided in
2 this part, be reimbursed and repaid the amount of the tax.

3 (a) ~~A-Except as otherwise provided in subdivision (b), a claim~~
4 for refund with respect to diesel fuel is allowed under this section
5 only if all of the following apply:

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

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

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

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

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

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

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

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

34 (E) Used in any motor vehicle owned by any county, city and
35 county, city, district, or other political subdivision or public agency
36 when operated by it over any highway constructed and maintained
37 by the United States or any department or agency thereof within
38 a military reservation in this state. If the motor vehicle is operated
39 both over the highway and over a public highway outside the
40 military reservation in a continuous trip the tax shall not be

1 refunded as to that portion of the diesel fuel used to operate the
2 vehicle over the public highway outside the military reservation.

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

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

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

17 (G) Lost in the ordinary course of handling, transportation, or
18 storage.

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

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

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

35 (J) Removed from an approved terminal at the terminal rack,
36 but only to the extent that the supplier can show that the tax on the
37 same amount of diesel fuel has been paid more than one time by
38 the same supplier.

39 (b) *Where tax is not imposed on dyed blended biodiesel fuel*
40 *upon removal from an approved terminal at the terminal rack, if*

1 *tax was previously imposed on the biodiesel fuel portion of the*
2 *dyed blended biodiesel fuel, then, pursuant to paragraph (1) of*
3 *subdivision (a), a claim for refund is allowed for the tax that was*
4 *paid on that biodiesel fuel, but only to the extent a supplier can*
5 *show that the tax on that biodiesel fuel has been paid by the same*
6 *supplier.*

7 ~~(b)~~

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

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

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

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

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

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

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

26 ~~(e)~~

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

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

39 60505.5. The claim for refund forms prescribed in subdivision
40 ~~(e)~~ (d) of Section 60501 and subdivision (d) of Section 60502 may

- 1 include, but not be limited to, electronic media. The claim for
- 2 refund forms shall be authenticated in a form or pursuant to
- 3 methods as may be prescribed by the board.

O