



STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

450 N STREET, SACRAMENTO, CA  
PO BOX 942879, SACRAMENTO, CA 94279-0092  
1-916-324-2830 • FAX 1-916-322-4530  
[www.cdtfa.ca.gov](http://www.cdtfa.ca.gov)

EDMUND G. BROWN JR.  
Governor

MARYBEL BATJER  
Secretary, Government Operations Agency

NICOLAS MADUROS  
Director

April 16, 2018

VIA INTERNET

Dear Interested Party:

The Audit Manual (AM) is a guide for the California Department of Tax and Fee Administration (CDTFA) staff in administering tax and fee programs. It is available to the public and can be accessed from the CDTFA web page at <http://www.cdtfa.ca.gov/taxes-and-fees/staxmanuals.htm>.

The Business Tax and Fee Division is proposing to revise AM Chapter 4, *General Audit Procedures*. The revision material is provided on the following pages for the convenience of interested parties who may wish to submit comments or suggestions. Please feel free to publish this information on your website or otherwise distribute it to your association/members.

If you have any comments or suggestions related to the proposed AM revisions, you may contact the CDTFA at [BTFD-BTCT-AM.RevisionSuggestions@cdtfa.ca.gov](mailto:BTFD-BTCT-AM.RevisionSuggestions@cdtfa.ca.gov). Your comments or suggestions must be received by the CDTFA no later than **May 16, 2018**, in order to be considered by staff. Thank you for your consideration.

Sincerely,

Trista Gonzalez, Chief  
Tax Policy Bureau  
Business Tax and Fee Division

## **AUDIT OF THE LEAD-ACID BATTERY FEES**

**0425.00**

### **GENERAL**

**0425.05**

Effective April 1, 2017, two new lead-acid battery fees were imposed on consumers and manufacturers of lead-acid batteries. A \$1.00 California battery fee was imposed on the consumer, and a \$1.00 manufacturer battery fee was imposed on the manufacturer of the lead-acid battery. Both fees generally apply to batteries, typically designed for use in a vehicle, watercraft, aircraft or equipment that are purchased or sold in California.

The California Department of Tax and Fee Administration (CDTFA) is responsible for the administration of the lead-acid battery fees in cooperation with the Department of Toxic Substances Control (DTSC). Additional information regarding these fees is available in the *Lead-Acid Battery Fees Guide*. The fee rates can be found on CDTFA's website at <https://www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm>.

## **BATTERIES SUBJECT TO THE LEAD-ACID BATTERY FEES**

**0425.10**

The lead-acid battery fees generally apply to sales and purchases of batteries designed for use in a vehicle, watercraft, aircraft or equipment. The batteries must be primarily composed of both lead and sulfuric acid (liquid, solid, or gel), weigh over five kilograms (about 11 pounds), and have a capacity of six or more volts.

Different registration, filing, and reporting requirements apply to retailers than those that apply to manufacturers or importers. Section 0425.20 discusses the California battery fee and specifies the retailer requirements; Section 0425.30 discusses the manufacturer battery fee and specifies the manufacturer or importer requirements.

## **CALIFORNIA BATTERY FEE—BR ACCOUNTS**

**0425.20**

The Business Tax and Fee Division (BTFD) is responsible for the administration of California battery fee accounts for retailers of replacement lead-acid batteries. A new Taxable Activity Type (TAT), BR, was created for retailers of replacement lead-acid batteries. The BR account requires separate registration and filing from all other TATs (SR, SC, RB, etc.). All retailers of lead-acid batteries are required to register for a BR account in addition to their seller's permit.

### **RETAILER**

Dealers of replacement lead-acid batteries are required to charge and collect the California battery fee from consumers at the time of the sale. A dealer is defined as a person who sells replacement lead-acid batteries at retail in this state. This includes manufacturers who make retail sales directly to a person in California through any means. For purposes of this section, a replacement lead-acid battery dealer is referred to as a retailer.

### **REPLACEMENT LEAD-ACID BATTERY**

A replacement lead-acid battery is a new lead-acid battery sold at retail in California as a replacement for the lead-acid battery that originally came with the vehicle,

watercraft, aircraft, or other equipment in which the new lead-acid battery is intended or designed to be used. A replacement lead-acid battery does not include spent, discarded, refurbished, reconditioned, rebuilt, or reused lead-acid batteries.

### **LEAD-ACID BATTERIES SUBJECT TO THE CALIFORNIA BATTERY FEE**

The California battery fee applies to sales of new replacement lead-acid batteries primarily composed of both lead and sulfuric acid, whether sulfuric acid is in liquid, solid, or gel form, weighing over five kilograms (about 11 pounds) with a capacity of six or more volts that is used for any of the following purposes:

- As a starting battery that is designed to deliver a high burst of energy to an internal combustion engine until it starts.
- As a motive power battery that is designed to provide the source of power for propulsion or operation of a vehicle, including a watercraft.
- As a source of auxiliary power to support the electrical systems in a vehicle, as defined in section 670 of the Vehicle Code, including a vehicle as defined in section 36000 of the Vehicle Code, or an aircraft.

### **THE CALIFORNIA BATTERY FEE DOES NOT APPLY TO:**

- A sale for purposes of resale in the regular course of business.
- A sale of a replacement lead-acid battery where the California battery fee has already been imposed and paid.
- A replacement lead-acid battery temporarily stored or used in California for the sole purpose of preparing it for use only outside the state and that it is subsequently transported and used solely outside of the state.
- A battery sold for incorporation into new equipment for subsequent resale.
- A replacement lead-acid battery replaced under a vehicle or battery warranty<sup>1</sup> or a vehicle service contract, as defined under section 12800 of the Insurance Code.
- A battery intended for use with, or contained within, a medical device as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)). For specific medical devices, view the FDA'S searchable database.
- Any lead-acid battery used as a stationary storage or standby battery that is designed to be used in systems where the battery acts as either:
  - Electrical storage for electricity generation equipment,
  - A source of emergency power, or
  - Otherwise serves as a backup in case of failure or interruption in the flow of power from the primary source.

### **AUDITS OF BR ACCOUNTS**

**0425.25**

The Audit Examination Branch (AEB) conducts audits of BR accounts in the same manner as other special tax and fee programs. Audit staff is responsible for verifying that retailers of replacement lead-acid batteries are properly registered and in compliance with reporting requirements.

The Lead-Acid Battery Fees Program was implemented April 1, 2017. If a BR account is audited in conjunction with another program, two case ID numbers will be used. A

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<sup>1</sup> A battery replaced under warranty, with no additional cost to the purchaser.

separate audit report is prepared for BR accounts using the Audit Forms (Start 21) and the Audit Workbook.

Audit staff may obtain the transcript of California battery fee returns filed for BR accounts in the same manner as other special tax and fee accounts.

### **AUDIT PROCEDURES**

Audit staff will conduct BR audits similar to other special tax audits; i.e., reconcile recorded to reported sales, verify exclusions such as sales for resale, and lead-acid batteries for use outside California, etc., and include the following procedures:

#### **Verification of Batteries Subject to the Fees**

Audit staff should verify that the retailer is correctly charging the California battery fee on sales of replacement lead-acid batteries. See sections 0425.20 and 0425.30 and the *Lead-Acid Battery Fees Guide*, for information on batteries subject to the lead-acid battery fees as well as applicable exclusions from the fees.

#### **Reimbursement Costs**

Retailers may retain 1.5% of the California battery fee collected as reimbursement for their costs of collecting the fee. The reimbursement amount is automatically calculated and deducted on the BR return. Audit staff should verify that the retailer correctly reported their replacement lead-acid battery sales prior to deducting the reimbursement costs.

### **AUDIT UPLOADS**

BR audit report uploads follow the existing procedures for special tax and fee accounts. Additional noncompliance codes for “Lead-Acid Batteries Overstated” and “Lead-Acid Batteries Understated” specific to the California battery fee are available.

### **SALES AND USE TAX (SUT) AND OTHER SPECIAL TAX AND FEE (STF) AUDITS OF RETAILERS SELLING BATTERIES**

When an SUT or other STF audit or field billing order is prepared, audit staff should indicate whether or not the business sells lead-acid batteries in the system on the Audit Springboard, Audit Tab, under the Attributes subtab. If the audit investigation results in a No Opinion Warranted (NOW) report, audit staff should indicate whether or not the business sells lead-acid batteries in Section B of the CDTFA-1010. A copy of the CDTFA-1010 should then be emailed to BTFD-PCD Ops Memo 1096. Audit staff from SUT and AEB will prepare separate audit reports for each account.

### **PETITIONS AND CLAIMS FOR REFUND**

In general, petitions and claims for refund for BR accounts follow the normal appeals procedures currently in place for special tax and fee accounts governed by the Fee Collection Procedures Law (FCPL).

The Appeals and Data Analysis Branch (ADAB) processes all petitions and claims received unless based upon the grounds that a battery is, or is not, a lead-acid battery. The ADAB shall forward any petition or refund claim based on those grounds to the Department of Toxic Substances Control (DTSC) for review.

## **CONSUMERS PAYING THE CALIFORNIA BATTERY FEE DIRECTLY TO CDTFA**

Consumers buying replacement lead-acid batteries for use in this state, who did not pay the fee to a registered California retailer, can pay the California battery fee directly to the CDTFA by check. An arbitrary account will be set up for the purchaser's payment of the California battery fee. The online registration system does not allow purchasers to report and pay the California battery fee for the one-time purchase of a replacement lead-acid battery. Purchasers cannot report and pay the California battery fee on their state income tax return to the Franchise Tax Board.

## **MANUFACTURER BATTERY FEE—BC ACCOUNTS**

**0425.30**

The BTFD is responsible for the administration of manufacturer battery fee accounts for manufacturers of new lead-acid batteries. A new Taxable Activity Type (TAT), BC, was created for manufacturers of lead-acid batteries. The BC account requires separate registration and filing from all other TATs (SR, SC, RB, etc.). All manufacturers of lead-acid batteries are required to register for a BC account even if they currently hold a seller's permit or certificate of registration – use tax.

Manufacturers who make retail sales of lead-acid batteries directly to consumers in California, such as a sale through a sales outlet, catalog, Internet website, or any other similar means, must also register as a retailer for a BR account, collect, and pay the \$1.00 California battery fee to the CDTFA, in addition to reporting and paying the manufacturer battery fee. See section 0425.20 and the *Lead-Acid Battery Fees Guide* for more information.

## **MANUFACTURER**

A lead-acid battery manufacturer is generally the person who manufactures the lead-acid battery and who sells, offers for sale, or distributes the lead-acid battery in California. If the person who manufactured the battery is not subject to the jurisdiction of this state, the person who imports the lead-acid battery into California for sale or distribution is regarded as the manufacturer for purposes of the fee and is responsible for the manufacturer battery fee. For purposes of this section, an “importer” refers to any person who imports the lead-acid battery into California for sale or distribution in this state.

## **LEAD-ACID BATTERIES SUBJECT TO THE MANUFACTURER BATTERY FEE**

The manufacturer battery fee applies to the sale, in California, of all lead-acid batteries primarily composed of both lead and sulfuric acid (liquid, solid, or gel) weighing over five kilograms (about 11 pounds) with a capacity of six or more volts that is used or designed to be used for any of the following purposes:

- As a starting battery that is designed to deliver a high burst of energy to an internal combustion engine until it starts.
- As a motive power battery that is designed to provide the source of power for propulsion or operation of a vehicle, including a watercraft.
- As a stationary storage or standby battery that is designed to be used in systems where the battery acts as either electrical storage for electricity generation equipment or a source of emergency power, or otherwise serves as a backup in case of failure or interruption in the flow of power from the primary source.

- As a source of auxiliary power to support the electrical systems in a vehicle, as defined in section 670 of the Vehicle Code, including a vehicle as defined in section 36000 of the Vehicle Code, or an aircraft.

**THE MANUFACTURER BATTERY FEE DOES NOT APPLY TO:**

- A lead-acid battery for which the manufacturer battery fee has previously been paid.
- A lead-acid battery temporarily stored or used in California for the sole purpose of preparing it for use only outside the state and it is subsequently transported and used solely outside of the state.
- A battery for incorporation into new equipment for subsequent resale.
- A lead-acid battery replaced under a vehicle or battery warranty<sup>2</sup> or a vehicle service contract, as defined under section 12800 of the Insurance Code.
- A battery intended for use with, or contained within, a medical device as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

**AUDITS OF BC ACCOUNTS**

The Audit Examination Branch (AEB) will follow the same procedures for audits of BC accounts as audits of BR accounts outlined in section 0425.25 with the exception of *Reimbursement Costs* which do not apply to the manufacturer battery fee.

**PETITIONS AND CLAIMS FOR REFUND**

In general, petitions and claims for refund for BC accounts follow the normal procedures currently in place for special tax and fee accounts governed by the FCPL. The ADAB will process all petition and refund claims received from manufacturers and importers unless it is based upon the grounds that a battery is not a lead-acid battery. The ADAB will forward any petition or refund claim based on those grounds to the DTSC for review.

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<sup>2</sup> A battery replaced under warranty, with no additional costs to the purchaser.