

Notice of Proposed Regulatory Action
The California Department of Tax and Fee Administration
Proposes to Amend California Code of Regulations, Title 18,
Section 1435, *Tax Paid Twice on Diesel Fuel*

NOTICE IS HEREBY GIVEN that the California Department of Tax and Fee Administration (Department), pursuant to its authority under Revenue and Taxation Code (RTC) section 60601, proposes amendments to the California Code of Regulations, title 18, section (Regulation) 1435, *Tax Paid Twice on Diesel Fuel*. The proposed amendments to the regulation will clarify when a supplier removes diesel fuel at the rack from an approved terminal and reports it as a taxable transaction and whether they can file a claim for refund with the Department or take a credit on its tax return. The proposed amendments to Regulation 1435 will make it more consistent with statute and provide clarity for an emerging sector of the fuel industry. Proposed amendments to Regulation 1435 include real-world examples that were developed with interested parties and definitions of industry terminology to be additional educational resources for suppliers.

AUTHORITY

RTC section 60601

REFERENCE

RTC sections 60006, 60051, 60052, 60501, 60507, 60508, and 60521.5

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED AMENDMENTS TO THE REGULATION

The Department has prepared copies of the text of proposed amendments to Regulation 1435, as well as a statement of reasons for the proposed amendments to the regulation. These documents and all the information on which the proposed regulatory action is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The Statement of Reasons and the text of the proposed amendments to Regulation 1435 are also available on the Department's website at www.cdtfa.ca.gov/taxes-and-fees/regscont.htm.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments to the regulation should be directed to Michael Patno, by telephone at (916) 309-5303, by e-mail at Michael.Patno@cdtfa.ca.gov, or by mail at California Department of Tax and Fee

Administration, Attn: Michael Patno, MIC:50, 450 N Street, PO Box 942879, Sacramento, CA 94279-0050.

Written comments for the Department's consideration, written requests to hold a public hearing, notices of intent to present testimony or witnesses at the public hearing, and other inquiries concerning the proposed regulatory action should be directed to Kim DeArte, Regulations Coordinator, by telephone at (916) 309-5227, by fax at (916) 322-2958, by e-mail at CDTFARegulations@cdtfa.ca.gov, or by mail to: California Department of Tax and Fee Administration, Attn: Kim DeArte, MIC:50, 450 N Street, PO Box 942879, Sacramento, CA 94279-0050. Kim DeArte is the designated backup contact person to Michael Patno.

WRITTEN COMMENT PERIOD

The written comment period ends at 11:59 pm (PDT) on November 8, 2021. The Department will consider the statements, arguments, and/or contentions contained in written comments received by Kim DeArte at the postal address, email address, or fax number provided above, prior to the close of the written comment period, before the Department decides whether to adopt the proposed regulatory action. The Department will only consider written comments received by that time.

However, if a public hearing is held, written comments may also be submitted at the public hearing and the Department will consider the statements, arguments, and/or contentions contained in written comments submitted at the public hearing before the Department decides whether to adopt the proposed regulatory action.

PUBLIC HEARING

The Department has not scheduled a public hearing to discuss the proposed regulatory action. However, any interested person or his or her authorized representative may submit a written request for a public hearing no later than 15 days before the close of the written comment period, and the Department will hold a public hearing if it receives a timely written request.

CHANGES TO THE TEXT OF THE ORIGINAL PROPOSED AMENDMENTS

The Department may adopt the proposed amendments to the regulation with changes that are non-substantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Department will make the full text of the proposed regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be distributed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Kim

DeArte. The Department will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF UPDATED STATEMENT OF REASONS

If the Department adopts the proposed regulatory action, the Department will prepare an updated statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Department's website at <https://www.cdtfa.ca.gov/taxes-and-fees/regscont.htm>.