

STATE TAX UPDATES

CALIFORNIA

California's legislature recently passed legislation amending the motor fuel statute to allow for a refund for tax paid on biodiesel used in blending with off-road (dyed) diesel. As passed, the legislation allows a supplier who previously paid tax on biodiesel to claim a refund for that tax to the extent the biodiesel is blended with diesel in a terminal and subsequently constitutes a portion of dyed blended biodiesel for off-road used that is removed from the terminal at the terminal rack. The same supplier who pays the tax on the biodiesel must remove the dyed blended fuel from the terminal in order to claim the refund.

As dyed fuel is exempt from California's fuel tax, the legislation seeks to afford the same treatment to dyed blended biodiesel as to dyed diesel. Prior to the enactment of the legislation there was no specific provision allowing for a refund for tax paid on biodiesel used to blend into off-road (non-taxable) fuel. The legislation appears to have immediate effect but it is unclear how, if at all, it may apply retroactively.

FLORIDA

A Technical Assistance Advisement recently issued by the Florida Department of Revenue determined that a taxpayer who had paid excise tax on biodiesel blended with dyed off-road diesel may be eligible for a credit or refund of the tax paid on the undyed biodiesel but only to the extent that the blend is at least 80% dyed diesel, the dyeing of the diesel occurred at a registered terminal (the blending of the dyed diesel and undyed biodiesel may occur outside a terminal), and the remaining 20% of the blend is biodiesel or any other product that is not diesel or kerosene.

The guidance related to a taxpayer purchasing tax-paid B99 at the terminal rack for blending with dyed diesel at its bulk storage facility. The tax on was paid by the taxpayer to the supplier and by the supplier to the State. Unlike the California legislation described above, Florida's Department of Revenue determined that the refund or credit was not limited to the supplier who remitted the tax to the State. By contrast, Florida determined that, subject to the aforementioned conditions related to the location of dyeing and blend ratios, the taxpayer could claim a refund for the tax he paid to his supplier on the purchase of the undyed B99.

Note that Florida Technical Assistance Advisements are not binding but may be used for general guidance on the topic to which they relate.

MASSACHUSETTS

Massachusetts has announced tax rates for 4Q 2015. There are changes to the rates for Liquefied Petroleum Gases, Aviation Gasoline and Jet Fuel

Fuel Type	Tax Rate
Gasoline	\$0.24 per gallon
Diesel	\$0.24 per gallon
Aviation Gasoline	\$0.276 per gallon
LPG and Propane	\$0.175 per gallon

Jet Fuel	\$0.098 per gallon
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