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KEEP A COPY FOR YOUR FILES
This electronic format allows you to print the entire publication or to print just the pages that provide information that pertains to your interests. If you are going paperless, download this document to your computer.

STAY INFORMED
This newsletter is published each December. Back issues are available on our website.
For more information regarding the special tax and fee programs administered by the CDTFA, please go to www.cdtfa.ca.gov.
You can also sign up online to receive this newsletter at Sign Up for CDTFA Updates.
New Legislation

The following is a summary of law changes enacted during the 2018 California legislative session that affect several CDTFA special tax and fee programs. The changes described in this article are effective January 1, 2019, unless otherwise noted.

Assembly Bill 1741 (Stats. 2018, Ch. 228). Effective August 28, 2018, if the CDTFA determines it is necessary to facilitate tax collection, this bill allows a person licensed to engage in commercial cannabis activity that was previously required to remit sales and use taxes and cannabis taxes by electronic funds transfer (EFT) to remit taxable amounts due by means other than EFT. For more information on payment by means other than EFT, please contact one of our offices. For office locations, see our website at www.cdtfa.ca.gov/office-locations.htm.

Senate Bill 1408 (Stats. 2018, Ch. 613) provides that any cigarettes that have been sold or offered for sale that do not comply with a certain performance standard shall be deemed contraband per se and subject to seizure and disposal by the department or a law enforcement agency. Furthermore, upon discovery by the department or a law enforcement agency that a person offers or possesses for sale, or has made a sale of, cigarettes in violation of specified provisions of the act, the department or a law enforcement agency may seize and dispose of those cigarettes as contraband per se.

Centralized Revenue Opportunity System (CROS)

Additional special tax and fee programs transition to our new online system

We are expanding our new online system to more taxpayers and feepayers. In summer 2019, our new system will incorporate the following tax/fee programs:

- Alcoholic Beverage Tax
- Cigarette and Tobacco Products Tax
- Cigarette and Tobacco Products Licensing (Distributors, Manufacturers, Importers, Wholesalers)
- Oil Spill Response, Prevention & Administration Fees
- Timber Yield Tax
- Underground Storage Tank Maintenance Fee

Additional tax and fee programs will be moved into the new system in 2020.

Currently in the new system, taxpayers and feepayers can file, pay, and maintain their accounts for the following programs: Sales and Use Tax, California Tire Fee, Electronic Waste (eWaste) Recycling Fee and Cigarette Retailer License Fee.

For more information on the project, visit us at www.cdtfa.ca.gov/services/cros.htm.
Cannabis Taxes

Cannabis tax rates

The CDTFA is responsible for determining a mark-up rate to be used to calculate the average market price of cannabis or cannabis products sold in an arm’s length transaction. The CDTFA has determined the mark-up rate will remain at 60 percent. The mark-up rate will be determined on a biannual basis in six-month intervals. We will notify you in a Special Notice if the mark-up rate changes. For the current cannabis tax rates, see our Special Taxes and Fees Rate Page under the Cannabis Taxes heading.

Important information for cannabis distributors

If you are required to be licensed with the Bureau of Cannabis Control as a cannabis distributor or microbusiness authorized to distribute cannabis or cannabis products, you are required to register with the CDTFA for a cannabis tax permit. This permit is separate from your seller’s permit.

You can register for a cannabis tax permit and file your cannabis tax return online on our website at www.cdtfa.ca.gov.

CDTFA has proposed regulations for the cannabis tax program. The proposed regulations are posted on our website at www.cdtfa.ca.gov/taxes-and-fees/business-taxes-committee.htm.

Please subscribe to our email list to receive the latest news on cannabis taxes at www.cdtfa.ca.gov/subscribe/.

Cannabis Excise Tax

To report the excise tax, you must enter the average market price of your sales or transfers of cannabis or cannabis products to a retailer during the reporting period in which the sale or transfer occurred. The cannabis return will automatically compute the excise tax due based on the amounts entered.

The “Add Excess Excise Tax Collected, if any” box is used to report:

- Any amount of tax that you collected from the retailer in excess of the amount of tax that is due and was not returned to the retailer and/or retail purchaser.
- Any amount of excess excise tax that the retailer collected from its customer and remitted to you to report and remit to CDTFA.

Cultivation Tax

To report the cultivation tax, you must enter the category (flowers, leaves, or fresh cannabis plant) and ounces of cannabis that you acquired from a cultivator or a manufacturer that entered the commercial market (that is, passed the required testing and quality assurance review) during the reporting period. The cannabis return will automatically compute the cultivation tax due based on the amounts entered.

To assist you in preparing the cannabis tax return, watch our Filing a Cannabis Tax Return for Cannabis Distributors video located on the “Videos” tab of our Tax Guide for Cannabis Businesses.

Tax guide for cannabis businesses

Our Tax Guide for Cannabis Businesses continues to be updated with important information on how cannabis taxes and sales and use tax apply to your business activities. Please continue to check the tax guide located at www.cdtfa.ca.gov/industry/cannabis.htm.
Childhood Lead Poisoning Prevention Fee

Collecting reimbursement of the childhood lead poisoning prevention fee

Prior to 2000, the assessment rate for the childhood lead poisoning prevention fee (CLPP fee) was determined by the California Department of Public Health each year based on market share. Starting in 2001, the method for determining the amount owed by each feepayer was changed to a "historical market share attributions" concept.

Revenue and Taxation Code section 43451.5 discusses the consequences of charging and collecting reimbursement on amounts not subject to the fee.

Any amount that is charged on an activity or transaction that does not result in CLPP fee liability and that is expressly represented as reimbursement of the CLPP fee may be considered excess fee reimbursement. All amounts so collected will constitute excess fee reimbursement that must be paid to the CDTFA, unless refunded by the feepayer to its customer.

The law does not discuss whether a feepayer may reimburse itself for its CLPP fee expense. The law also does not prohibit a feepayer from including the expense of the fee in the cost of the products it sells. As such, sellers commonly include these types of expenses in the cost of these products.

Cigarette and Tobacco Products: Taxes and Licensing

Tax rate on other tobacco products decreased on July 1, 2018

Effective July 1, 2018, through June 30, 2019, the tax rate on distributions of “other tobacco products, (OTP)” including, but not limited to, all cigars, snuff, chewing tobacco, and any other product containing tobacco or nicotine (including vaping liquid and electronic cigarettes that contain nicotine), decreased from 65.08 percent to 62.78 percent of the wholesale cost.

The tobacco product tax rate is determined annually to be equivalent to the combined cigarette tax rate.

Cigarette and tobacco products license required for retailers of electronic nicotine delivery systems

Electronic cigarettes, personal vaporizers, eCigars, eHookah, ePipes, and vaping devices, are some of the terms used to describe electronic nicotine delivery systems (ENDS). Generally, these ENDS heat a liquid solution or “eLiquid,” which typically, but not always, contains nicotine as well as varying flavorings and other ingredients, to create a vapor that the user inhales. The ENDS that do not contain nicotine, or are not sold in a kit that contains nicotine, are considered tobacco products for retail licensing purposes, but not for tax purposes. Thus, the sale of ENDS that do not contain nicotine or are not sold with nicotine is not subject to the California excise tax on tobacco products. However, a California Cigarette and Tobacco Products Retailer’s License is required if you sell ENDS that do not contain nicotine or are not sold with nicotine to a consumer in California. A distributor or wholesaler does not need to be licensed under the California Cigarette and Tobacco Products Licensing Act of 2003 to sell ENDS that do not contain nicotine or are not sold with nicotine to a retailer. To learn more, see our Tax Guide for Cigarette and Tobacco Products at www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm.
Distributors may not hold a wholesaler license

A person who holds a cigarette and tobacco products distributor license may not hold a cigarette and tobacco products wholesaler license.

Revenue and Taxation Code (R&TC) defines “wholesaler” to include any person, other than a licensed distributor, who engages in this state in making sales for resale of tax-paid (stamped) cigarettes and/or tax-paid tobacco products (R&TC section 30016). Accordingly, a licensed distributor, by definition, is not a wholesaler, and thus, may not also hold a wholesaler license. Therefore, a distributor may not register for or renew a wholesaler license, and a wholesaler may not register for or renew a distributor license.

For more information, see our Special Notice, Cigarette and Tobacco Products Distributors May Not Hold a Wholesaler License.

Out-of-state cigarette and tobacco products sellers may not hold a wholesaler license

Revenue and Taxation Code (R&TC) defines “wholesaler” to include any person, other than a licensed distributor, who engages in this state in making sales for resale of tax-paid (stamped) cigarettes and/or tax-paid tobacco products (R&TC section 30016). Accordingly, a person making sales at an out-of-state location is not a wholesaler since they are not engaged in making sales in this state.

You are responsible for obtaining and maintaining the proper license(s) at each location where you are engaged in the sale of cigarettes and tobacco products in California. You may obtain a distributor license to make sales from an out-of-state location to California licensees.

Please visit our Tax Guide for Cigarette and Tobacco Products webpage to learn more about the tax program, licensing, and reporting requirements.

Licensed wholesalers and retailers may file a refund claim for certain tax-paid tobacco products exported

If you are licensed as a wholesaler or retailer and paid excise tax when you purchased tobacco products from an out-of-state California licensed distributor, you may be able to file a claim for refund of the excise tax paid so long as you have exported or shipped that product to a buyer outside of California. Claims for the excise tax paid on these purchases may only be made if the tax is separately stated on the wholesaler or retailer’s purchase invoice from the out-of-state licensed distributor.

Please note: This article supersedes the information contained in an article published in the June 2014 edition.

Cigarette refund documentation for distributors

As a cigarette distributor seeking a refund for unsaleable cigarettes that will be returned to the manufacturer, you will need to provide adequate supporting documentation for your claim for refund. The type of documentation you will be asked to provide depends on the source of the cigarettes being returned to the manufacturer.

After you file a claim for refund, a CDTFA auditor will make an appointment to visit your location to scan, count, and redact the tax stamps affixed to cigarette packs that will be returned to the manufacturer.

The auditor will request documentation to support the number of cigarette packs returned to the manufacturer and the amount of tax to be refunded because stamps may have been purchased at $0.87 or $2.87. The requested documentation will also help support a claim that packs with tax stamps purchased at $0.87, but claimed at $2.87 had the $2.00 tax increase reported and paid to the state.

If your claim includes cigarettes packs returned to you by your customers, you will need to provide a credit memo report that includes the customer name, credit invoice number, invoice date, brand, quantity, excise tax, and total credit. Copies of credit memos or invoices should be available and supplied to CDTFA upon request.

For unsaleable cigarette packs removed from your own tax stamped inventory due to spoilage, you will be asked to provide a spoilage report detailing withdrawals of unsaleable cigarettes from inventory.

If your refund claim includes stamped cigarette packs that were in your unsaleable stock on April 1, 2017, you will be asked to provide information showing those cigarettes were reported on your Cigarette Distributor Stamp Adjustment Tax Return.

You will need to supply affidavits and credit memos from the manufacturers showing the cigarettes were returned to the manufacturers for credit in addition to the information listed above.

For refund claims where the cigarettes will be destroyed at your facility, you will need to arrange with the CDTFA to have a CDTFA representative witness the destruction. If you destroy packs of cigarettes without an authorized CDTFA representative present to witness the destruction, you may be liable for any unpaid cigarette tax. Unless there is proof otherwise, it is presumed that all cigarettes acquired by a distributor are untaxed cigarettes and that all cigarettes manufactured in this state and transported into this state, and no longer in the possession of the distributor, have been distributed.

Distributors that wish to return unaffixed tax stamps for a refund are advised to file a claim for refund and make arrangements to return the stamps to the CDTFA. Distributors must request a refund of the tax stamps in writing to: Appeals and Data Analysis Branch, P.O. Box 942879, Sacramento, CA 94279-0033, fax your request to: 1-916-323-9497, or email your claim for refund to adab@cdtfa.ca.gov.
Cigarette and tobacco products consumers - you may owe taxes

If you purchase cigarettes or tobacco products for your own use from outside the state without paying both California cigarette and tobacco products taxes and California use tax, you are required to file a return and pay the cigarette and tobacco products taxes and use tax directly to the CDTFA. This includes products shipped into California that were purchased through the mail, by telephone, or online.

You will not owe the cigarette taxes if you personally bring less than 400 cigarettes (two cartons) into California, but you will still owe the use tax.

File a return and pay online
If you already have a cigarette and tobacco products internet purchaser account with the CDTFA, please log in to file your return and pay online at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov). Use either your new Username and Password or your Limited Access Code (previously referred to as Express Login Code) and Account Number to file online in our new online filing system.

For information about how to set up your new Username and Password, see Changes to Online Services Effective May 7, 2018.

Please update your contact information.
To receive reminders to file and other updates, and to ensure your security code for our new online system is mailed to the correct address, please update your email and mailing address with us at STFRegUpdates@cdtfa.ca.gov.

Diesel Fuel and Motor Vehicle Fuel Taxes

Using Electronic Recording Devices (ELD) does not impact IFTA permit holders’ record or reporting requirements
As of December 2017, the Federal Motor Carrier Safety Administration made ELD’s mandatory for commercial drivers who are required to prepare hours of service records of duty status. Those drivers and carriers already using Automatic Onboard Recording Devices (AORD) may continue to use them until December 2019, when ELD’s become mandatory for those still using AORDs. The use of an ELD does not impact the record retention or reporting requirements for IFTA permit holders. An IFTA permit holder must keep fuel and distance records for a period of four years. Though an ELD may have enhanced features that track mileage, an IFTA permit holder must retain detailed (not summary) records for total miles driven, miles driven in each jurisdiction, total gallons, gallons of fuel purchased by jurisdiction and fuel receipts for gallons of fuel purchased tax paid in each jurisdiction.

Schedule 1A available for the tax returns of licensed fuel suppliers

Additionally, any excise tax credit taken on the CDTFA-501-DD or CDTFA-501-PS on schedule 13M, Tax-Paid Fuel Removed From a Terminal, must be supported by the terminal receipts of the tax-paid fuel reported on the Schedule 1A. For further information, see our Special Notice, Schedule 1A Available for the Tax Returns of Licensed Fuel Suppliers.
Credit Supplier of Motor Vehicle Fuel Tax Return – special reporting requirement

Suppliers with a credit Supplier of Motor Vehicle Fuel Tax Return (return) have a special reporting situation. Credit returns constitute a claim for refund of tax paid fuel and cannot be processed by the CDTFA. Refunds of tax paid fuel allowed by the Motor Vehicle Fuel Tax Law must be claimed separately with the State Controller’s Office (SCO).

To resolve this situation, continue to report all credit activity on the appropriate series 13 credit schedule and use Schedule 5H, Fuel Sold Originating Tax Collected, to bring the tax due to zero. Schedule code 5H is used to offset the credit gallons claimed on Schedules 13A, 13B, 13C, 13G, 13J, 13M, 13N, and S03A that would create a credit return. File a claim with the SCO for the tax on the gallons reported on schedule 5H.

For detailed information on completing the schedules for your return, refer to form CDTFA-810-FTE, Instructions for Preparing Motor Fuels Schedules, available on the CDTFA website.

For more information on how to file a refund claim with the SCO, go to their website at www.sco.ca.gov/ardtax_gos_tax.html. A claim for refund with the SCO must be filed within three years of the purchase date of the motor vehicle fuel, or if the tax was not invoiced at the time of the purchase of the motor vehicle fuel, within six months after the receipt of an invoice for the tax, whichever period expires later (Revenue and Taxation Code Section 8105).

Terminal operator issued document number reporting requirements

The position holder and the terminal operator must report the same document number when reporting terminal disbursements on their respective return/report. This document number is provided by the terminal operator on the bill-of-lading. The position holder should not alter this number or report an internal document number on their supplier return. Similarly the terminal operator should not alter this number or report an internal document number on their terminal operator report.

Terminal operators – ensure your position holders are licensed

If you are a terminal operator, you should make sure all your position holders are properly licensed. A supplier’s license is required for a position holder, a blender, an enterer, a refiner, or a throughputter of motor vehicle fuel and diesel fuel. If a position holder does not hold a supplier’s license as required, you may be jointly liable for the excise taxes they owe. Please see Revenue and Taxation Code Sections 7370, 7371, 60059, and 60060 for details.

Emergency Telephone Users Surcharge and Prepaid 911 Surcharge for Telecommunication Service Suppliers

2019 surcharge rate information

The Governor’s Office of Emergency Services (OES) sets the rate for the emergency telephone users surcharge each year. Visit our website for the rates that will be effective for these programs from January 1, 2019, through December 31, 2019.

California’s Prepaid Mobile Telephony Service Surcharge Act declared unenforceable

The Prepaid Mobile Telephony Service Surcharge Collection Act was declared unenforceable. For more information, please see our Special Notice.

Online filing is one click away

Did you know you can file your Emergency Telephone Users Surcharge Return online? Online filing provides you with a fast, easy way to file your returns and manage your account. Just go to our homepage at www.cdtfa.ca.gov, and click the Log In button at the top right. Next, select File all other returns and then enter your User ID & Password or your Express Login Code and Account Number to begin filing your return. Your Express Login and Account Number can be found on your paper return. To create a User ID and Password, click Create a User ID (you will need your account number and express login code). For assistance, please contact our Customer Service Center at 1-800-400-7115 (TTY: 711). Customer service representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.
New hazardous substances and occupational lead poisoning prevention program fee rates

Visit our website for the new rates that are in effect for these programs as of January 1, 2019.

The CDTFA administers five programs under the Hazardous Substances Tax Law: four for the California Department of Toxic Substances Control (disposal fee, environmental fee, facility fee, and generator fee) and one for the California Department of Public Health (occupational lead poisoning prevention fee).

The Hazardous Substances fees and the Occupational Lead Poisoning Prevention fee are adjusted each year by the incremental change in the Consumer Price Index (CPI) issued by the California Department of Industrial Relations.
**Underground Storage Tank Maintenance Fee**

**Collecting reimbursement of the underground storage tank maintenance fee**

A separately stated charge for reimbursement of the underground storage tank maintenance fee (UST fee) by a feepayer is considered excess fee reimbursement except where the reimbursement is charged on a transaction or activity that results in the fee liability.

The law is silent about whether it is permissible for a feepayer to reimburse itself for its UST fee expense. However, the law (Revenue and Taxation Code section 50139.5) does discuss the consequences of charging and collecting reimbursement on amounts not subject to the fee.

Any amount that is charged on an activity or transaction that does not result in UST fee liability and that is expressly represented as reimbursement of the UST fee may be considered excess fee reimbursement. All amounts so collected will constitute excess fee reimbursement that must be paid to the CDTFA, unless refunded by the feepayer to its customer.

The law does not prohibit a feepayer from including the expense of the fee in the cost of the fuel products it sells. Similarly, sellers commonly include these types of expenses in the cost of these products.

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**General Interest**

**Privacy notice**

Every year the CDTFA is required to notify all active account holders of their privacy rights. Please review our Privacy Notice on our website for information regarding your privacy rights. Your account records are covered by the Information Practices Act (Civil Code section 1798, et. Seq.) and as such, you are entitled to review your records. If you have additional questions, please contact our Customer Service Center at 1-800-400-7115 (TTY:711). Customer service representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.

**Disaster relief**

Emergency tax or fee relief is available from the CDTFA for business owners and feepayers directly affected by disasters, including recent California wildfires. Relief may include extension of filing return due dates, relief of penalties and interest, or replacement copies of records lost due to disasters. For further information, please see our State of Emergency Tax Relief webpage.

To obtain copies of critical tax or fee records on file with the CDTFA, please call us toll-free at 1-800-400-7115 (TTY:711). These forms may include copies of prior tax or fee returns filed with the CDTFA, audits, or permit applications.
New and revised special taxes and fees publications January 1, 2018 to December 2018

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Know your rights

As a taxpayer, you have many rights under the law, including the right to:

- Information and assistance to help you comply with the law;
- Fair and courteous treatment and prompt service;
- Confidentiality; and

Appeal a determination or claim a refund as allowed by law.

- Along with those rights, you have responsibilities to:
- Stay informed about tax laws and regulations that affect your business;
- Report and pay taxes and fees when due;
- Promptly respond to CDTFA attempts to contact you;
- Inform the CDTFA of changes to your business ownership or address; and
- Maintain adequate records.

For more information, see publication 70, *Understanding Your Rights as a California Taxpayer*. You may also call the Taxpayers’ Rights Advocate Office if you have questions about your rights, or if you have not been able to resolve a problem through normal channels (for example, by speaking to a supervisor).

The Advocate Office can be reached toll-free at 1-888-324-2798.

Ethics at work — “Thank you” is enough

CDTFA policy prevents our employees from accepting gifts of any type. If you are grateful to someone for going the extra mile to help you with a complicated issue, a simple “thank you” will do. You may also use the CDTFA’s online Customer Service Survey form, *How Are We Doing? — Special Taxes & Fees*, to express yourself.

Civil behavior in trying times

Some observers have noted that civility is decreasing in our society as our lives become more complex.

The CDTFA knows that you may find yourself frustrated with the difficulties of the tax laws or pressed for time when dealing with our staff. Still, we ask that you treat our employees just as you would like to be treated in a business situation. Any threatening statement or gesture made to a CDTFA employee—even a statement made in jest—will be referred to our Internal Affairs Section for investigation.
Need more information?

SPECIAL TAXES AND FEES
California Department of Tax and Fee Administration, MIC:88
PO Box 942879
Sacramento, CA 94279-0088

EMAIL
www.cdtfa.ca.gov/email

CUSTOMER SERVICE CENTER:
1-800-400-7115 (TTY:711)
Customer service representatives are available weekdays to help you from 8:00 a.m. to 5:00 p.m., (Pacific time), Monday through Friday, except state holidays.

TAX EVASION HOTLINE
1-888-334-3300

LEGISLATION
www.leginfo.legislature.ca.gov

TAXPAYERS' RIGHTS ADVOCATE
www.cdtfa.ca.gov/tra
1-888-324-2798

CONTACT AND WEBSITE
Visit www.cdtfa.ca.gov for information, regulations, forms and publications, translated publications, and more.

Check out Online Services
We offer several options to make it easier for you to file your returns and pay your taxes or fees online. You can find them on the home page of our website. Click on “File a Return” or “Make a Payment.”