

## DEPARTMENT OF TRANSPORTATION

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*Serious drought.  
Help save water!*

September 30, 2014

Ms. Diane Royer-Vine  
Legislative Counsel  
State Capitol, Room 3021  
Sacramento, CA 95814

Mr. Gregory Schmidt  
Secretary of the Senate  
State Capitol, Room 3044  
Sacramento, CA 95814

Mr. E. Dotson Wilson  
Chief Clerk of the Assembly  
State Capitol, Room 3196  
Sacramento, CA 95814

Dear Ms. Boyer-Vine, Messrs. Schmidt, and Wilson:

Enclosed is the "2014 Report to the Legislature on Unrefunded Gasoline Tax Used for Off-Highway Agricultural Purposes". This report estimates the funds to be transferred in fiscal years 2014-15 and 2015-16 from the Motor Vehicle Fuel Account to the California Department of Food and Agriculture (CDFA) Fund. The transfers represent the estimated amount of the unclaimed portion of refundable motor vehicle fuel taxes used for off-highway agricultural purposes. This biennial report was prepared by the California Department of Transportation (Caltrans) in cooperation with the CDF A, as required by Section 8352.5 of the Revenue and Taxation Code (R&TC).

The methodology utilized to calculate the transfer amounts remained unchanged from the 2012 report. The 2014 report calculation is based on both the base-excise tax and the price-based excise tax, totaling 36 cents per gallon. In accordance with R&TC, Section 8352.5 (b), the amount of the transfer attributable to the price-based excise tax will continue to be redirected to the General Fund (GF).

The enclosed report displays the most current data used to calculate the transfers for 2014-15 and 2015-16. The total amount for 2014-15 is \$77,762,233; of which \$38,881,116 will be transferred to the Agriculture Fund and \$38,881,116 will be transferred to the GF. Pursuant to R&TC, Section 8352.9, Caltrans has withheld \$3,500 from the 2014-15 transfer for administrative, clerical, and reproduction costs incurred while calculating the transfers and preparing the report.

Ms. Boyer-Vine, Messrs. Schmidt, and Wilson  
September 30, 2014  
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The total amount for 2015-16 is \$77,765,733; of which \$38,882,866 will be transferred to the Agriculture Fund and \$38,882,866 will be transferred to the GF.

Distribution to the Legislature has been made by Caltrans pursuant to Government Code Section 9795. This report can be found at <http://www.dot.ca.gov/reports-legislature.htm>.

Should you have additional questions or concerns, please feel free to contact Steven Keck, Acting Chief Financial Officer at, (916) 654-4556.

Sincerely,

A handwritten signature in black ink, appearing to read "Malcolm Dougherty", with a stylized flourish at the end.

MALCOLM DOUGHERTY  
Director

Enclosures

- (1) 2014 Report To The Legislature on Unrefunded Gasoline Tax Used for Off-Highway Agricultural Purposes
- (2) Table A
- (3) Table B

**2014 Report  
To The Legislature  
on Unrefunded  
Gasoline Tax Used  
for Off-Highway  
Agricultural Purposes**

**A Report to the Legislature by the  
California Department of Transportation  
and the  
California Department of Food and Agriculture,  
as required by  
Revenue and Taxation Code, Section 8352.5**

**2014 Report  
To The Legislature  
on Unrefunded  
Gasoline Tax Used  
for Off-Highway  
Agricultural Purposes**

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**Table A: Formula Calculation**

**Table B: Historical Transfers**

## **INTRODUCTION**

Excise taxes collected on motor vehicle fuels are deposited into the Motor Vehicle Fuel Account (MVFA) in the Transportation Tax Fund. These revenues are transferred from the MVFA to other funds and accounts according to statute.

Statute allows requests to be made for refunds of fuel taxes collected on fuel usage, when that usage is for off-highway purposes. However, not all allowable refunds are requested. Revenue and Taxation Code (R&TC), Section 8352.5 requires fuel taxes attributable to unclaimed, refundable, agricultural gasoline used off-highway to be transferred to the California Department of Food and Agriculture Fund (Agriculture Fund) from the MVFA. A biennial report to the Legislature regarding the transfer is also required.

This document is prepared in cooperation with the California Department of Food and Agriculture (CDFA) and reports the estimated annual transfer of fuel tax funds from the MVFA to the Agriculture Fund for fiscal years 2014-15 and 2015-16. The Agriculture Fund, which is administered by the CDF A, is used for purposes such as the Emergency Eradication Fund and reimbursements to various county agricultural programs.

## **HISTORY**

In 1970, legislation required that unclaimed refundable agricultural gas taxes be transferred from the MVFA to the Agriculture Fund. As a result, a study was commissioned to develop a transfer formula methodology.

The study, which was conducted by the consulting firm of Peat, Marwick, Mitchell and Company, illustrated various methods that could be used in calculating the unrefunded amount. Two of these methods were recommended to be used in conjunction with each other. The methods incorporated farm sector income tax information from the California State Franchise Tax Board (FTB), refund data from the California State Controller's Office (SCO), and fuel energy information from the United States Agricultural Census specific to the State of California. An expansion factor was applied to the average of the two methods to account for agricultural sectors other than farms.

In November 1986, FTB notified the California Department of Transportation (Caltrans) that farm tax information would no longer be available due to reporting changes on the 1984 federal income tax forms. The changes eliminated several line items that FTB had used to compile total farm fuel expenditure information.

A series of meetings were conducted between Caltrans and the CDFA to develop an alternative means of determining an appropriate transfer of unclaimed refunds. The meetings resulted in a Memorandum of Understanding where both departments agreed to transfer 0.56 percent of the MVFA gasoline tax receipts reported in the proposed Governor's Budget for the 1987-88 and 1988-89 transfers. This method was developed based on past transfer amounts as a percentage

of total net gas receipts. This served as an interim method until Caltrans and the CDFA completed investigative studies to supplant the farm data formerly supplied by FTB.

Caltrans and the CDFA jointly developed a revised methodology similar to one of the methods illustrated in the Peat, Marwick, Mitchell and Company report. A 1987 United States General Accounting Office (USGAO) horticultural study estimated the horticultural products in use, and the average fuel consumption of the various machines. This consumption data was combined with the most current data on horticultural machinery shipments during the last five years and used in a calculation that determined the amount of unrefunded agricultural fuel taxes to be transferred to the CDFA.

Prior to 2002, reports to the Legislature used the average retail price for gasoline provided by the State Board of Equalization. However, the California Energy Commission reported that farmers typically purchase gasoline from jobbers (distributors) and paid a lower price (usually 3 to 6 cents over wholesale). For this reason, the 2002 average unbranded wholesale price for gasoline (\$1.40)<sup>i</sup>, plus the high-end rate for delivery to the farm of an additional 6 cents, was being applied to the calculation in place of the retail price for gasoline. Additional data in the refund calculation included current SCO farm tax refund information and the California share of motor fuels sold in the United States.

The Census on Agriculture farm fuel expenditure data for California traditionally provided the retail gasoline expenditure figure applied to the transfer calculation. Beginning with the 2002 Census on Agriculture, which was released in February 2004, the United States Department of Agriculture (USDA) no longer compiled this information. Total agriculture gasoline expenditures were estimated by multiplying the total agriculture gasoline expenditures for California in 1997<sup>ii</sup> by the percent increase in the average price of gasoline in California from 1997 to 2005<sup>iii</sup>.

Beginning with the 2009 Report, a new methodology was implemented to determine small horticulture gallonage. Previously, data was gathered from various sources including the 1987 USGAO horticultural study, 1999 Statistical Abstract of the United States, and five years of horticulture equipment data from the Outdoor Power Equipment Institute (OPEI). However, the OPEI informed the CDFA they would no longer be able to provide the horticulture data. The previous method was significantly undercounting horticulture usage for California.

In place of the OPEI data, the CDFA began utilizing the California Air Resources Board (CARB) OFFROAD data model. The model was developed using data compiled from the California Department of Motor Vehicles (DMV) registrations, equipment population data, sales data, and statistical surveys to calculate the gasoline consumption. Previous information was based on nationwide data, which then assumed an allocation of approximately 10% to California. The CARB model is California specific and, therefore, provides more accurate data than the method previously used to calculate horticulture gallonage.

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<sup>i</sup>2004 Estimated Unbranded Wholesale Price for Gasoline, California Energy Commission

<sup>ii</sup>1997 USDA Census on Agriculture

<sup>iii</sup> Historical Yearly Average California Gasoline Prices, California Energy Commission

On March 24, 2010, Assembly Bills 6 and 9 of the Eighth Extraordinary Session (ABX8 6 and ABX8 9) were enacted, which created a fuel tax swap. ABX8 6 eliminated the state portion of sales tax on gasoline and “swapped” it with an incremental increase to the base excise tax on gasoline, effective July 1, 2010. This incremental increase is adjusted annually to maintain revenue neutrality, and is referred to as the “price-based” excise tax.

In accordance with Assembly Bill 1466 (2012), the formula relating to the annual funds transfer was amended. The previous calculation method used the base excise tax (18 cents per gallon) only. Beginning in 2012, the calculation method uses the combined base and price-based excise tax amounts (36 cents per gallon in 2014). Pursuant to R&TC, Section 8352.5(b), the price-based excise tax portion of the transfer amount will be sent to the General Fund (GF) and the base excise tax portion will be sent to the Agriculture Fund.

## **METHODOLOGY**

The current model was developed in 2012 by using data compiled by the DMV from the number of registrations, equipment population data, sales data, and statistical surveys to calculate the gasoline consumption.

Effective July 1, 2014 the total excise tax rate is 36 cents per gallon, which consists of both the base and price-based excise tax rates (currently 18 cents per gallon each). These rates are used as the basis for the 2014-15 and 2015-16 transfer calculations.

Based on the calculations in Table A, the 2014-15 total unclaimed gas tax is \$77,762,233; of which \$38,881,116 will be transferred to the Agriculture Fund and \$38,881,116 will be transferred to the GF. Pursuant to R&TC, Section 8352.9, Caltrans has reduced the 2014-15 total transfer amount by \$3,500 for administrative, clerical, and reproduction costs incurred while preparing this report.

The 2015-16 total unclaimed gas tax is \$77,765,733; of which \$38,882,866 will be transferred to the Agriculture Fund and \$38,882,866 will be transferred to the GF.

If no change in the gasoline excise tax rate occurs, this methodology determines the appropriate transfer amounts to be made in the current and subsequent fiscal years.

## CONCLUSION

Caltrans and the CDFA will continue to use this methodology for future Agriculture Fund transfers. It should be noted that this methodology would cause the transfer amount to fluctuate as gas prices rise and fall. The current data has been implemented to calculate the 2014-15 and 2015-16 transfer amounts. In the event updated data becomes available that alters the transfer amount, a subsequent report will be provided to account for the increase or decrease.

Caltrans will request that the SCO transfer \$38,881,116 from the MVFA to the Agriculture Fund and \$38,881,116 to the GF in 2014-15. In addition, Caltrans will request that the SCO transfer \$38,882,866 from the MVFA to the Agriculture Fund and \$38,882,866 to the GF in 2015-16. The transfers are to be made during the second quarter of each fiscal year.



**AGRICULTURAL FUND  
TRANSFER FORMULA METHODOLOGY  
for Fiscal Years 2014-15 and 2015-16**

	<b>2014-15 Calculation</b>	<b>2015-16 Calculation</b>
Total agricultural gas expenditures	(1) \$714,856,091	\$714,856,091
(/) Average price per gallon	(2) <u>\$3.00</u>	<u>\$3.00</u>
(=) Total agricultural gasoline gallons	238,285,364	238,285,364
(-) Gallons refunded	(3) <u>1,923,751</u>	<u>1,923,751</u>
(=) Unclaimed eligible gasoline gallonage	236,361,613	236,361,613
(x) % used off-highway	(4) <u>51.200%</u>	<u>51.200%</u>
(=) Eligible refundable gasoline gallons for farms	121,017,146	121,017,146
(+) Small horticulture gallonage	(5) <u>94,998,779</u>	<u>94,998,779</u>
(=) Total eligible refundable agricultural gasoline gallonage	216,015,925	216,015,925
(x) Gross refund rate	(6) \$0.360	<u>\$0.360</u>
(=) unclaimed gas tax	<u>\$77,765,733</u>	(7) <u><u>\$77,765,733</u></u>
(-) Administrative costs	<u>\$3,500</u>	
	(7) <u><u>\$77,762,233</u></u>	
Transfer Amount To The General Fund	\$38,881,116	\$38,882,866
Transfer Amount To The Agriculture Fund	\$38,881,116	\$38,882,866

References:

- (1 ) Using the California Energy Commission report for unbranded gasoline prices, the cost of gasoline increased 3.45% over the period of July 2, 2012 through June 30, 2014. The average wholesale price per gallon was \$3.00 in comparison to the \$2.90 used in the previous calculation.  
\$691,016,038 x 103.45% = \$714,856,091
- (2) California Energy Commission 2013 Annual Average Weekly Unbranded Wholesale Gasoline Price + 6 Cents (jobber/distributor cost - )
- (3) State Controller Farm Refunded Gallons, 2012-13 (Summary dated June 2014)
- (4) Peat, Marwick, Mitchell & Co. Report on Unrefunded Gasoline for Agriculture.
- (5) Used California Air Resources Board (CARB) OFFROAD Model. Reflects equipment gasoline consumption for 2013 calendar year horticulture category of equipment only.
- (6) Effective July 2014 Excise Tax Rate increased to 36 Cents Per Gallon (Gas Tax Swap Legislation).
- (7) The total unclaimed gas tax amount will be disbursed according to statute to the General Fund and Agriculture Fund each year.

**MOTOR VEHICLE FUEL ACCOUNT  
AGRICULTURE FUND TRANSFERS**

Fiscal Year	Calculated Transfer Amount
1972-1973	\$2,310,000.00
1973-1974	\$2,230,000.00
1974-1975	\$2,230,000.00
1975-1976	\$2,800,143.00
1976-1977	\$2,813,643.00
1977-1978	\$3,353,000.00
1978-1979	\$3,365,000.00
1979-1980	\$3,820,032.00
1980-1981	\$3,836,784.00
1981-1982	\$4,122,161.00
1982-1983	\$4,140,694.00
1983-1984	\$3,785,000.00
1984-1985	\$3,799,000.00
1985-1986	\$6,191,770.00
1986-1987	\$6,208,736.00
1987-1988	\$5,949,788.00
1988-1989	\$5,951,288.00
1989-1990	\$6,552,000.00
1 1990-1991	\$13,247,000.00
1991-1992	\$15,704,065.00
1992-1993	\$16,717,231.00
1993-1994	\$17,730,396.00
1994-1995	\$18,236,979.00
1995-1996	\$20,599,983.00
1996-1997	\$23,041,690.00
1997-1998	\$23,141,190.61
1998-1999	\$23,141,190.61
1999-2000	\$26,115,982.00
2000-2001	\$26,115,982.00
2001-2002	\$23,341,071.00
2002-2003	\$23,341,071.00
2003-2004	\$32,281,772.00
2004-2005	\$32,281,772.00
2005-2006	\$33,271,838.00
2006-2007	\$33,271,838.00
2007-2008	\$32,966,126.00
2008-2009	\$32,966,126.00
2 2009-2010	\$38,167,476.00
2010-2011	\$38,170,976.00
2011-2012	\$38,323,791.00
2, 3 2012-2013	\$77,305,549.00
2013-2014	\$77,309,049.00
2 2014-2015	\$77,762,232.89
2015-2016	\$77,765,732.89

1 Transfer increase is the result of implementing a new calculation methodology and the 5% gas tax.

2 "Preparation Costs" are deducted from the transfer amounts shown.

3 Transfer increase is the result of Assembly Bill 1466 (2012) which changed the calculation to include both the base and price-base excise taxes. This resulted in the General Fund receiving the price-base excise tax portion and the Agriculture Fund receiving the base excise tax portion of the calculation.