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May 24, 1989

FTB Notice 89-314  
410:BRL:CN-89-314

Re: Federal Gasoline and Special Fuels Credit-Internal Revenue Code §34

Federal law allows a refundable credit against federal income tax liability for amounts paid as federal excise taxes on gasoline used for certain purposes, such as farming, and gasoline purchased for certain qualified business uses such as use in buses and taxicabs. The credit also applies in some situations to special fuels such as diesel fuel, special lubricating oils and aviation fuel. (Internal Revenue Code §34.)

This credit is a means of refunding the federal excise tax, and has no California counterpart in the California income or franchise taxes. California gasoline taxes may be refunded in similar situations, but the refund is made directly by the State Controller, not as an income or franchise tax credit. See Revenue and Taxation Code §8101 et. seq.

On their California income or franchise tax returns, taxpayers may deduct amounts paid as federal and California gasoline and fuel excise taxes as trade or business expenses. (Revenue and Taxation Code §§17201, 24343.) To the extent that a taxpayer receives a credit or refund of any amounts paid, the credit or refund amount must be included as income pursuant to the taxpayer's normal accounting method. (Revenue and Taxation Code §§17071, 24271.)

#### DRAFTING INFORMATION

The principal author of this notice is Bruce R. Langston of the Franchise Tax Board Legal Division. For further information regarding this notice, contact Mr. Langston at (---) ----- (not a toll-free call).

NOTE: ((---)) = Indicates obsolete information.