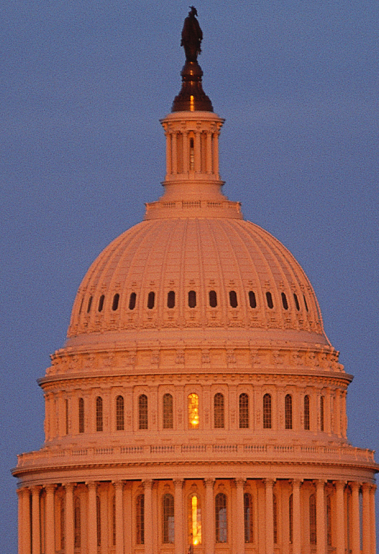




TaxNewsFlash

United States



No. 2022-121
April 15, 2022

Notice 2022-15: Superfund excise taxes, relief regarding failure to deposit penalties

The IRS today released an advance version of Notice 2022-15 regarding the reinstated excise taxes imposed on certain chemicals and substances under sections 4661 and 4671 (often referred to as “Superfund” excise taxes).

The Superfund excise taxes include two separate but interrelated excise taxes applicable to crude oil and petroleum products, chemicals, and hazardous substances, which fund the Hazardous Substance Superfund for the cleanup of hazardous waste sites and expired more than 25 years ago.

The excise taxes are effective July 1, 2022.

Background

A provision of the “Infrastructure Investment and Jobs Act” (Pub. L. No. 117-58, enacted November 15, 2021) reinstated the Superfund excise taxes and modified the applicable rates of tax and other provisions related to such taxes. Read [TaxNewsFlash](#)

The modifications concern the method under section 4672(a)(2)(B) for determining whether a substance is a taxable substance by lowering the required percentage of taxable chemicals used to produce the substance from 50% to 20% of the weight (or the value) of the materials used to produce the substance. The IRS was directed to issue a preliminary list of taxable substances under section 4672(a).

The IRS previously provided guidance regarding the reinstated Superfund excise taxes in [Notice 2021-66](#) [PDF 175 KB], which:

- Provided the initial list of taxable substances under section 4672(a) (which included the same hazardous substances that were previously taxable by statute or IRS determination)
- Addressed the registration requirements imposed by section 4662(b)(10)(C) and (c)(2)(B) to exempt certain sales and uses of taxable chemicals from tax
- Provided the procedural rules that apply to taxpayers subject to the reinstated Superfund excise taxes

- Suspended Notice 89-61 (as modified by Notice 95-39) which prescribed the former process for certain persons to request that certain substances be added to or removed from the list of taxable substances under section 4672(a)(3)
- Included a request for comments as to whether there are issues related to the reinstated Superfund excise taxes that require clarification or additional guidance

Notice 2022-15

[Notice 2022-15](#) [PDF 133 KB]:

- Provides relief for the third and fourth calendar quarters of 2022, and the first calendar quarter of 2023, regarding the failure to deposit penalties imposed by section 6656 as those penalties relate to the Superfund excise taxes
- Provides that during the first, second, and third calendar quarters of 2023, the IRS will not withdraw a taxpayer's right to use the deposit safe harbor rules of § 40.6302(c)-1(b)(2) of the Excise Tax Procedural Regulations for failure to make required deposits of Superfund taxes if certain requirements are met

For more information, contact a tax professional with KPMG's Excise Tax Practice group:

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