



# TaxNewsFlash

United States



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## Notice 2023-28: Superfund excise taxes, extension of relief regarding failure to deposit penalties

The IRS today released an advance version of [Notice 2023-28](#) [PDF 128 KB] regarding the reinstated excise taxes imposed on certain chemicals and substances under sections 4661 and 4671 (often referred to as “Superfund” excise taxes), which extends the following temporary relief provided by Notice 2022-15:

- Under section 3(a), related to the failure to deposit penalty imposed by section 6656, through the end of 2023
- Under section 3(b), related to the authority of the IRS to 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, through June 30, 2024

### Background

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.

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, effective July 1, 2022. Read [TaxNewsFlash](#)

### Notice 2022-15

The Superfund chemical taxes are subject to the deposit rules set forth in § 40.6302(c)-1 of the Excise Tax Procedural Regulations.

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

- Under section 3(a) 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
- Under section 3(b) 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

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