



# TaxNewsFlash

United States



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## Rev. Proc. 2023-20: Clarification of date on which substances added or removed from Superfund list

The IRS today released an advance version [Rev. Proc. 2023-20](#) [PDF 93 KB] which modifies [Rev. Proc. 2022-26](#) [PDF 221 KB] to clarify that for any petition accepted by the IRS, for purposes of refund claims under section 4662(e), the date on which a taxable substance is added to the Secretary's list of taxable substances is the first day of the calendar quarter in which the petition is filed (for an interested person) or the day on which the petition is deemed filed (for an importer or exporter). Any petition submitted by an importer or an exporter between July 1, 2022 and December 31, 2022 that is subsequently accepted by the IRS is deemed to be filed on July 1, 2022. Any petition submitted by an importer or an exporter after December 31, 2022 that is subsequently accepted by the IRS is deemed to be filed on the first day of the calendar quarter during which the petition was received.

Section 4672(a)(2) allows an importer or exporter of any chemical substance to request a determination whether such substance should be listed as a taxable substance on the list or be removed from the list. Rev. Proc. 2022-26 provides the procedures for importers, exporters, and interested persons to request a determination that a substance be added to or removed from the list. Read [TaxNewsFlash](#)

### Background

A provision of the "Infrastructure Investment and Jobs Act" (Pub. L. No. 117-58, enacted November 15, 2021) reinstated excise taxes imposed on certain chemicals and substances under sections 4661 and 4671 (often referred to as "Superfund" excise taxes) and modified the applicable rates of tax and other provisions related to such taxes. Read [TaxNewsFlash](#)

The Superfund excise taxes, which expired more than 25 years ago and are now effective July 1, 2022, include two separate but interrelated excise taxes applicable to chemicals and hazardous substances, which fund the Hazardous Substance Superfund for the cleanup of hazardous waste sites.

- Section 4661(a) imposes a tax on any taxable chemical sold or used by the manufacturer, producer or importer. Section 4661(b) provides a list of such taxable chemicals.
- Section 4671(a) imposes a tax on any taxable substance sold or used by the importer. Section 4672(a) generally provides that the term taxable substance means any substance which, at the time of sale or use by the importer, is listed as a taxable substance by the Treasury Department or IRS. Section 4672(a)(2) provides that a substance “shall be listed” under section 4672(a)(1) if:
  - The substance is contained in the statutory list of taxable substances under section 4672(a)(3).
  - The Treasury Department and IRS determine, in consultation with the Administrator of the Environmental Protection Agency (EPA) and the Commissioner of U.S. Customs and Border Protection (CBP), that taxable chemicals constitute more than a specified percent of the weight (or more than a specified percent of the value) of the materials used to produce such substance (determined on the basis of the predominant method of production). Under the reinstated Superfund excise taxes, that percentage was lowered from 50% to 20%.

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