

Superfund Taxes Reinstated in the Infrastructure Bill

Congress has passed, House Bill 3684, "The INVEST in America Act," infrastructure legislation that includes reinstatement of the superfund excise taxes. The effective date of the reinstatement is July 1, 2022; the tax has been expired since 1996.

Under the legislation as passed, the per ton taxes on chemicals manufactured, produced or imported into the United States are reinstated through 2031.

The applicable tax rates would be double the tax rate currently in the Internal Revenue Code at the time of expiration (see below for proposed rates):

Acetylene.....	\$9.74
Benzene.....	9.74
Butane.....	9.74
Butylene.....	9.74
Butadiene.....	9.74
Ethylene.....	9.74
Methane.....	6.88
Napthalene.....	9.74
Propylene.....	9.74
Toluene.....	9.74
Xylene.....	9.74
Ammonia.....	5.28
Antimony.....	8.90
Antimonytrioxide.....	7.50
Arsenic.....	8.90
Arsenictrioxide.....	6.82
Bariumsulfide.....	4.60
Bromine.....	8.90
Cadmium.....	8.90
Chlorine.....	5.40
Chromium.....	8.90
Chromite.....	3.04
Potassiumdichromate.....	3.38
Sodiumdichromate.....	3.74
Cobalt.....	8.90
Cupricsulfate.....	3.74
Cupricoxide.....	7.18
Cuprousoxide.....	7.94
Hydrochloricacid.....	0.58
Hydrogenfluoride.....	8.46
Leadoxide.....	8.28
Mercury.....	8.90
Nickel.....	8.90

Phosphorus.....	8.90
Stannouschloride.....	5.70
Stannicchloride.....	4.24
Zincchloride.....	4.44
Zincsulfate.....	3.80
Potassiumhydroxide.....	0.44
Sodiumhydroxide.....	0.56
Sulfuricacid.....	0.52
Nitricacid.....	0.48

Where the tax rate for a particular substance cannot be determined the rate of tax to be imposed is increased from 5% *ad valorem* to 10% *ad valorem*. A substance is deemed to be a taxable substance if it was a taxable substance prior to the date of enactment, is on a list to be provided by the Treasury Secretary or is determined to constitute more than 20% of the weight or value of the materials used to produce the substance. The IRS must provide an initial list of taxable substances by January 1, 2022. It is also anticipated that the IRS will issue guidance on collection, remittance and reporting of these taxes prior to the July 1, 2022 effective date.

Also included in the legislation is a pilot program and study for a national motor vehicle per mile user fee which could eventually replace the current motor fuel excise tax.

The legislation is expected to be signed by President Biden this week.