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KPMG report: Critical October 31, 2025 deadline for Superfund excise tax export credits and refunds

October 31, 2025, is a key date affecting the reinstated Superfund excise taxes on chemicals and substances. Taxpayers must file export credits relating to the third quarter of 2022 by that date or take other steps to preserve the statute of limitations. The Superfund excise tax impacts companies that manufacture, import, or export chemicals and chemical derivatives. Understanding its origins, how it works, and opportunities for refund is essential for compliance, maximizing tax efficiencies, and avoiding overpayment of the Superfund excise tax.

The Superfund excise tax: Brief history and legal framework

The Superfund excise tax was first established in 1980 as part of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). CERCLA established the Superfund excise tax to fund the Hazardous Substance Superfund (the "Superfund"). The Superfund is a separate trust fund used specifically to fund cleanup of hazardous waste sites. The tax is imposed on the sale or use of specific chemicals that Congress identified as having the potential to produce environmental contamination. Initially, the Superfund excise tax was imposed only on 42 specific chemicals as listed in the Internal Revenue Code (IRC). In the mid-1980s, an additional Superfund excise tax was imposed on 50 imported substances, all of which were derivatives of the original chemicals. Congress delegated authority to the Secretary of the Treasury to add additional substances to the official list.

After lapsing in 1995, the tax was reinstated by the Infrastructure Investment and Jobs Act (IIJA) in 2021. The current version of the tax took effect on July 1, 2022, and is codified in several sections of the IRC:

- **IRC section 4661** imposes a tax on 42 specific taxable chemicals.
- **IRC section 4671** imposes tax on taxable substances produced using one or more of the taxable chemicals described in section 4661; however, the list is dynamic, and interested parties can petition the IRS to add or remove substances.

Notice 2021-66 lists the initial taxable substances. Revenue Procedures 2022-26 and 2023-20 detail the petition process for modifying the list of substances. The IRS issued proposed regulations on March 29, 2023, but so far, they have not been finalized.

Export credits and refunds may require a petition to add substances to the list

An export credit or refund may be claimed in some cases; however, an exported substance must be on the list for the credit to be allowed by the IRS. Therefore, the main reason to add a substance to the list is to be able to claim an export credit with respect to such substance. (Another reason is to increase parity between imported and domestically produced substances.) Over 50 petitions to modify the list of substances have been submitted, 22 of which have been officially added to the list of substances to date.

To petition for a substance to be added, an interested party submits a request to the IRS, providing detailed information about the substance's chemical composition and the percentage of taxable chemicals that were used in production. Information from every petition is published in the Federal Register, and the public is given the opportunity to comment each time a petition is received. The IRS reviews the petition and any public comments and, if the criteria are met, will update the list of taxable substances accordingly. The procedures and requirements for these petitions are spelled out in Rev. Proc. 2022-26 and further clarified in Rev. Proc. 2023-20.

Refund opportunities for exporters

Exporters can claim a refund or credit for tax paid on chemicals or substances that are ultimately exported, provided the proper procedures are followed.

Generally, refunds are claimed on either Form 720, Schedule C, provided it is timely and also shows liability in Part I, or Form 8849, Schedule 6, provided it is filed within three years of the due date of the original return. Additionally, claimants must maintain documentation proving both the payment of the tax (including a waiver from their supplier in certain circumstances, or consent from their purchaser in other circumstances) and the exportation of the product. This refund mechanism is designed to avoid taxation on products that are not ultimately sold or used inside of the United States. Additional details around export documentation requirements are described in the March 2023 proposed regulations. The proposed regulations are not binding on any taxpayer, but if they are followed in full, they can be relied upon.

The urgent deadline: October 31, 2025

Because the Superfund excise tax was effective July 1, 2022, the three-year statute of limitations is looming.

Many taxpayers filed returns covering the third quarter of 2022, which were filed by October 31, 2022. This means that the statute of limitations for refund claims for this initial period will expire on **October 31, 2025**. After this date, refund claims for taxes paid in the first quarter of the reinstated Superfund excise tax will be time-barred. This deadline is especially important for exporters who may be eligible for significant refunds but have not yet filed claims.

Protective claims may be appropriate if an exported substance meets certain criteria but has not yet been added to the list; however, a petition must be submitted as soon as possible. Companies need to review their export records to confirm eligibility and file any refund claims before October 31, 2025, to claim export credits and refunds.

Conclusion

The reinstated Superfund excise tax brings opportunities for tax recovery, particularly for exporters. Understanding the scope of the tax, the process for adding substances to the taxable list, and the urgent deadlines for refund claims is essential. With the first statute of limitations period closing on October 31, 2025, now is the time to act.

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