

Chris Jahn
President & CEO



SUBMITTED VIA WWW.REGULATIONS.GOV

June 3, 2022

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Comments on Notice 2021-66; Superfund

Dear Commissioner:

The American Chemistry Council (ACC), based in Washington, D.C., represents the leading companies engaged in the business of chemistry. ACC member companies apply the science of chemistry to create and manufacture innovative products that make people's lives better, healthier, and safer. A complete listing of our member companies can be found at our website www.americanchemistry.com.

This letter supplements the technical comments ACC provided to IRS Chief Counsel earlier this year. As our members work to implement this tax, additional concerns continue to arise. Most importantly, however, is our overarching concern that the IRS and taxpayers will not be ready in the next month to implement this tax. ACC therefore asks on behalf of our approximately 200 members that the IRS delay implementation of the Superfund tax on chemicals.

As a cursory matter, ACC notes our continuing opposition to the reinstatement of this tax given its negative impact on our members and the adverse downstream impact on consumers as the price of many goods of will increase.¹ While our members work in earnest to get ready for the July 1 statutory effective date, our members are still waiting for critical guidance from the IRS making implementation impossible.

While the IRS has taken some helpful steps towards readiness, critical information is still needed:

¹ For a more detailed discussion of the impact of the Superfund chemical tax, please see the ACC factsheet, available at <https://www.americanchemistry.com/content/download/6535/file/Why-Superfund-Taxes-Should-Not-Be-Reinstated.pdf>.



- Taxable Substances -

- The IRS must update the taxable substances list for all taxable substances that now meet the definition under Internal Revenue Code §4672.
- Additionally, the taxable substance list should be updated to include the associated tax rate for each substance, an important piece of information for taxpayers trying to calculate and pay their taxes. As the cost of the tax is passed down the supply chain, having rates will also help those downstream validate rising costs.
- The IRS must update the taxable substance list to include the Harmonized Tariff Schedule item number, the Schedule B number(s), and if applicable the Chemical Abstract number. With over 150 taxable substances already identified and more to be designated, a uniform manner to identify the substance by taxpayers and the IRS is critical.
- The IRS must issue guidance on the procedures under which taxpayers can petition the IRS to remove or add a taxable substance. The IRS should then move expeditiously to process such petitions.

- Process-

- The IRS must clarify what documentation should be maintained to claim an exemption, refund or credit for the sale, use or export of a taxable chemical or taxable substance.
- The IRS should provide further details on G registration and clarify that a sale does not include transactions between licensed 637-G registrants.
- The IRS must be able to ensure it has the capacity to process Form 637 quickly. To our knowledge, while many of our members have filed requesting registration, none have received it.
- The IRS must propose and finalize Form 6627 and Form 720, the forms on which taxpayers report the tax due, as well as the instructions thereto and Publication 510.

ACC appreciates that providing the above guidance is a significant amount of work for the IRS. Moreover, once the IRS has issued this necessary guidance, taxpayers need time to implement and act on the guidance. The seven months provided by Congress to reinstate the Superfund tax on chemicals is simply not enough time. Given the lack of IRS guidance necessary for taxpayers to meet their tax obligations, ACC respectfully requests that the IRS delay implementation of the reinstated Superfund taxes on chemicals until January 1, 2023.

Finally, although our members welcomed the temporary relief provided by the IRS on semimonthly deposit requirements, ACC requests that the IRS permanently exempt the Superfund tax from semimonthly deposits. A permanent exemption is warranted given the more challenging compliance burdens associated with this tax, including the fact that an ACC member may trigger the tax, but in a short period of time be entitled to a credit or refund. Requiring quarterly payments rather than semimonthly payments is consistent with statute and is well within the IRS's authority, as evidenced by the fact that the IRS currently exempts several excise taxes from semimonthly deposit requirements.

ACC appreciates your consideration of these matters and stands ready to answer any questions you may have.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'CJahn', with a long horizontal flourish extending to the right.

Chris Jahn
American Chemistry Council

cc:

Stephanie Bland, IRS Chief Counsel, Branch Chief, Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Lily Batchelder, Assistant Secretary, Office of Tax Policy, U.S. Department of the Treasury

Michael J. Desmond, Chief Counsel, Office of the Chief Counsel, Internal Revenue Service, U.S.
Department of the Treasury