No. 2021-488  
December 14, 2021

Notice 2021-66: Excise taxes reimposed, list of “Superfund” taxable chemical substances

The IRS today released an advance version of Notice 2021-66 regarding the reinstated excise taxes imposed on certain chemicals and substances under sections 4661 and 4671 (often referred to as “Superfund” excise taxes).

The excise taxes are effective July 1, 2022.

Background

A provision of the “Infrastructure Investment and Jobs Act” (Pub. L. No. 117-58, enacted November 15, 2021) reinstated and modified the applicable rates of tax and other provisions related to the Superfund excise taxes. The modifications concern the method under section 4672(a)(2)(B) for determining whether a substance is a taxable substance by lowering the required percentage of taxable chemicals used to produce the substance from 50% to 20% of the weight (or the value) of the materials used to produce the substance. The IRS was directed to issue a preliminary list of taxable substances under section 4672(a).

Notice 2021-66

Notice 2021-66 [PDF 175 KB]:

- Provides the initial list of taxable substances under section 4672(a)
- Addresses the registration requirements imposed by section 4662(b)(10)(C) and (c)(2)(B) to exempt certain sales and uses of taxable chemicals from tax
- Provides the procedural rules that apply to taxpayers subject to the reinstated Superfund excise taxes
- Suspends Notice 89-61 (as modified by Notice 95-39) which prescribed the former process for certain persons to request that certain substances be added to or removed from the list of taxable substances under section 4672(a)(3)
Includes a request for comments as to whether there are issues related to the reinstated Superfund excise taxes that require clarification or additional guidance.

**KPMG observation**

- The initial list of taxable substances includes the same hazardous substances that were previously taxable by statute or IRS determination.
- The IRS notice provides affected taxpayers with directions to submit Form 637, Application for Registration for Certain Excise Tax Activities—before it is revised by the IRS—with respect to exemptions for certain intermediate hydrocarbon streams and inventory exchanges.
- The notice clarifies that affected taxpayers will be required to make semi-monthly deposits of tax and will report the Superfund excise taxes on Form 720, Quarterly Federal Excise Tax Return, and Form 6627, Environmental Taxes.

For more information, contact a tax professional with KPMG’s Excise Tax Practice group:

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