

# Superfund/CERCLA Chemical Taxes: Trade Associations' Letter to Internal Revenue Service Addressing Refund Issue



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Ten trade associations sent an April 23rd letter to the Internal Revenue Service (“IRS”) addressing an issue regarding the Superfund excise taxes imposed on certain chemicals and imported substances.

The letter was addressed to:

Stephanie Bland

Branch Chief, Branch 7 (Passthroughs & Special Industries)

Office of the Associate Chief Counsel

Internal Revenue Service

The letter was executed by the following trade associations:

- Alliance for Chemical Distributors
- American Chemistry Council
- American Coatings Association
- American Fuel & Petrochemical Manufacturers
- Fertilizer Institute
- International Association of Plastic Distributors
- Plastic Industry Association
- Society of Chemical Manufacturers and Affiliates
- United States Chamber of Commerce
- Vinyl Institutes

(Collectively, “Trade Associations”)

Superfund is the name often applied to the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) that, when originally enacted in 1980, created a hazardous substance cleanup program. The trust fund was originally funded in part by excise tax revenue generated primarily from excise taxes on:

- Domestic crude oil and imported petroleum
- 42 listed hazardous chemicals and metal compounds
- Imported substances utilizing one or more of the hazardous chemicals in their manufacturing process

The Superfund taxing authority expired in 1995.

The enactment of the Infrastructure Investment & Jobs Act (“IIJA”) reinstated the excise tax on the production or import of certain chemicals through December 31, 2031. See Internal Revenue Code Sections 4661-4672.

The Trade Associations in their April 23rd letter stated that additional clarity is needed on the process by which eligible companies may receive a refund on paid Superfund taxes.

The specific issue is described as follows:

. . . many companies are exporters of chemical and chemical derivatives to foreign customers that do not pay taxes in the United States. When these customers are entitled to refunds under the Superfund taxes, it is currently unclear how they should apply because they do not pay U.S. taxes. We, therefore, request that the IRS either publish additional guidance clarifying the refund process for foreign entities or conduct a public-facing “webinar” addressing the issue.

A copy of the letter can be downloaded [here](#).