

Fuel Tax Provisions in the Senate Infrastructure Bill

The Senate recently passed a sweeping infrastructure bill. Offered as an amendment to House Bill 3684, “The INVEST in America Act,” the Senate legislation includes amendments reinstating the superfund excise taxes which have been expired since 1996. Under the amendment as passed, the per ton taxes on chemicals manufactured, produced, or imported into the United States are reinstated through 2031. The effective date of the reinstatement would be July 1, 2022.

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
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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.

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 must now go back to the House of Representative for approval. The House in recess until August 23 when it will return for two days of votes before returning to full session on August 31, 2021.