Infrastructure Investment and Jobs Act (IIJA) signed into law by President Biden on Nov. 15th, 2021

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On November 15, 2021, President Joe Biden signed into law the Infrastructure Investment and Jobs Act (IIJA), which will lead to roughly $500 billion in new spending in the span of five years on new infrastructure projects. Notably, the IIJA also includes a revenue provision that revives excises taxes on chemicals under Sections 4661, 4662, 4671, and 4672 of the Internal Revenue Code (IRC) of 1986. These excises taxes were originally established in 1980 by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), but later expired in 1995.

Section 80201 of the IIJA amends Section 4661 of the IRC of 1986 to reestablish the chemical superfund excise taxes for 42 different chemicals. These excise taxes range from $0.48 per ton to $9.74 per ton – double of what they were before under the CERCLA. The sales taxes, which will be effective starting July 1, 2022, will apply to all manufactures, producers, or importers of said items that are sold for consumption, use, or warehousing in the U.S. Notably, under Section 4662 of the IRC, there are also several tax exceptions for the taxes assessed on the 42 listed chemicals. A complete list of the 42 chemicals as well as their corresponding tax amount per ton, applicable HTSUS codes, and HTSUS descriptions is provided below.

In addition, Section 80201 of the IIJA also amends Sections 4671 and 4672 of the IRC, which impose a tax on the sale and/or use of certain imported chemical substances. Historically, there were 50 taxable substances; however, the Secretary of the Treasury may publish an updated list of the taxable substances under Section 4672 of the IRC by January 1, 2022.

Further, the Act also modifies the definition of a taxable substance under Section 4671 by lowering the percentage threshold for the chemical to qualify as a taxable substance. While a chemical needed to constitute more than 50% weight (or 50% value) of the materials used in the product to qualify as a taxable substance, the Act now lowers the threshold to 20%. Should an importer fail to report to the IRS the data needed to determine the tax on their chemical in a timely manner, the tax levied would be 10% of the appraised value of the taxable substance rather than the tax rate set under Section 4661.

The Infrastructure Investment and Jobs Act is available here.

For more information on chemical excise taxes and the IIJA, contact our team and see previous posts below.

Chemical Name Listed in Infrastructure Investment and Jobs Act	Tax amount per ton	HTSUS	HTSUS Description
Acetylene	$9.74	2901.29.5000	Acyclic hydrocarbons: Unsaturated: Other: Other
Benzene	$9.74	2707.10.0000	Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents: Benzene
		2902.20.0000	Organic chemical: Cyclic hydrocarbons: Benzene
Butane	$9.74	2711.13.0010	Petroleum gases and other gaseous hydrocarbons: Liquefied: Butanes: Butanes with a purity of 90 liquid volume percent or more, but less than 95 liquid volume percent in liquefied state
		2711.13.0020	Petroleum gases and other gaseous hydrocarbons: Liquefied: Butanes: Other
		2711.29.0020	Petroleum gases and other gaseous hydrocarbons: In gaseous state: Butanes: Butanes with a purity of 90 liquid volume percent or more, but less than 95 liquid volume percent
		2711.29.0025	Petroleum gases and other gaseous hydrocarbons: In gaseous state: Butanes: Other

Butylene	$9.74	2711.14.0030	Petroleum gases and other gaseous hydrocarbons: Liquefied: Ethylene, propylene, butylene and butadiene: Butylene
Butadiene	$9.74	2711.14.0040	Petroleum gases and other gaseous hydrocarbons: Liquefied: Ethylene, propylene, butylene and butadiene: Butadiene
Ethylene	$9.74	2711.14.0010	Petroleum gases and other gaseous hydrocarbons: Liquefied: Ethylene, propylene, butylene and butadiene: Ethylene
Methane	$6.88	2711.19.0020	Petroleum gases and other gaseous hydrocarbons: Liquefied: Other: Other
		2711.29.0060	Petroleum gases and other gaseous hydrocarbons: In gaseous state: Other: Other
Naphthalene	$9.74	2707.40.0000	Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents: Naphthalene
Propylene	$9.74	2711.14.0020	Petroleum gases and other gaseous hydrocarbons: Liquefied: Ethylene, propylene, butylene and butadiene: Propylene
		2901.22.0000	Acyclic hydrocarbons: Unsaturated: Propene (Propylene)
Toluene	$9.74	2707.20.0000	Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents: Toluene
		2902.30.0000	Cyclic hydrocarbons: Toluene

Xylene	$9.74	2707.30.0010	Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents: Xylenes: m-Xylene
		2707.30.0020	Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents: Xylenes: o-Xylene
		2707.30.0030:	Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents: Xylenes: p-Xylene
		2902.41.0000	Cyclic hydrocarbons: Xylenes: o-Xylene
		2902.42.0000	Cyclic hydrocarbons: Xylenes: m-Xylene
		2902.43.0000	Cyclic hydrocarbons: Xylenes: p-Xylene
		2902.44.0000	Cyclic hydrocarbons: Xylenes: Mixed xylene isomers
Ammonia	$5.28	2814.10.0000	Ammonia, anhydrous or in aqueous solution: Anhydrous ammonia
		2814.20.0000	Ammonia, anhydrous or in aqueous solution: Ammonia in aqueous solution
Antimony	$8.90	2825.80.0000	Antimony oxides
Antimony trioxide	$7.50	2825.80.0000	Antimony oxides
		2804.80.0000	Arsenic

Arsenic	$8.90	2811.19.1000	Other inorganic acids and other inorganic oxygen compounds of nonmetals: Other inorganic acid: Other: Arsenic acid
Arsenic trioxide	$6.82	2811.29.1000	Other inorganic acids and other inorganic oxygen compounds of nonmetals: Other inorganic acids: Other: Arsenic trioxide
Barium sulfide	$4.60	2833.27.0000	Sulfates; alums; peroxosulfates (persulfates): Other sulfates: Of barium
Bromine	$8.90	2801.30.2000	Fluorine, chlorine, bromine and iodine: Fluorine; bromine: Bromine
Cadmium	$8.90	2825.90.7500	Hydrazine and hydroxylamine and their inorganic salts; other inorganic bases; other metal oxides, hydroxides and peroxides: Other: Cadmium oxide
		2830.90.2000	Sulfides; polysulfides, whether or not chemically defined: Other: Cadmium sulfide
Chlorine	$5.40	2801.10.0000	Fluorine, chlorine, bromine and iodine: Chlorine
Chromium	$8.90	2833.29.4000	Sulfates; alums; peroxosulfates (persulfates): Other Sulfates: Other: Of Chromium
		2849.90.2000	Carbides, whether or not chemically defined: Other: Of chromium
Chromite	$3.04	6815.91.0070	Articles of stone or of other mineral substances (including carbon fibers, articles of carbon fibers and articles of peat), not elsewhere specified or included: Other articles: Other articles: Other
Potassium dichromate	$3.38	2841.50.1000	Salts of oxometallic or peroxometallic acids: Other chromates and dichromates; peroxochromates: Potassium dichromate

Sodium dichromate	$3.74	2841.30.0000	Salts of oxometallic or peroxometallic acids: Sodium dichromate
Cobalt	$8.90	2822.00.0000	Cobalt oxides and hydroxides; commercial cobalt oxides
		2827.39.6000	Chlorides, chloride oxides and chloride hydroxides; bromides and bromide oxides; iodides and iodide oxides: Other chlorides: Other: Cobalt
Cupric sulfate (aka copper sulfate)	$3.74	2833.25.0000	Sulfates; alums; peroxosulfates (persulfates): Other sulfates: Of copper
Cupric oxide	$7.18	2825.50.1000	Hydrazine and hydroxylamine and their inorganic salts; other inorganic bases; other metal oxides, hydroxides and peroxides: Copper oxides and hydroxides: Cupric oxide
Cuprous oxide	$7.94	2825.50.2000	Hydrazine and hydroxylamine and their inorganic salts; other inorganic bases; other metal oxides, hydroxides and peroxides: Copper oxides and hydroxides: Cuprous oxide
Hydrochloric acid	$0.58	2806.10.0000	Hydrogen chloride (Hydrochloric acid); chlorosulfuric acid: Hydrogen chloride (Hydrochloric acid)
Hydrogen fluoride	$8.46	2811.11.0000	Other inorganic acids and other inorganic oxygen compounds of nonmetals: Other inorganic acids: Hydrogen fluoride (Hydrofluoric acid)

Lead oxide	$8.28	2824.10.0000	Lead oxides; red lead and orange lead: Lead monoxide (litharge, massicot)
		2824.90.1000	Lead oxides; red lead and orange lead: Other: Lead suboxide (leady litharge)
		2824.90.2000	Lead oxides; red lead and orange lead: Other: Red lead and orange lead
		2824.90.5000	Lead oxides; red lead and orange lead: Other: Other
Mercury	$8.90	2805.40.0000	Alkali or alkaline-earth metals; rare-earth metals, scandium and yttrium, whether or not intermixed or interalloyed; mercury: Mercury
Nickel	$8.90	2825.40.0000	Hydrazine and hydroxylamine and their inorganic salts; other inorganic bases; other metal oxides, hydroxides and peroxides: Nickel oxides and hydroxides
		2827.35.0000	Chlorides, chloride oxides and chloride hydroxides; bromides and bromide oxides; iodides and iodide oxides: Other chlorides: Of nickel
		2833.24.0000	Sulfates; alums; peroxosulfates (persulfates): Other sulfates: Of nickel
Phosphorus	$8.90	2804.70.0000	Hydrogen, rare gases and other nonmetals: Phosphorus
Stannous chloride (aka tin (II) chloride)	$5.70	2827.39.2500	Chlorides, chloride oxides and chloride hydroxides; bromides and bromide oxides; iodides and iodide oxides: Of Tin

Stannic chloride (aka tin (IV) chloride or tin tetrachloride)	$4.24	2827.39.2500	Chlorides, chloride oxides and chloride hydroxides; bromides and bromide oxides; iodides and iodide oxides: Of Tin
Zinc chloride	$4.44	2827.39.6500	Chlorides, chloride oxides and chloride hydroxides; bromides and bromide oxides; iodides and iodide oxides: Other chlorides: Other: Of Zinc
Zinc sulfate	$3.80	2833.29.4500	Sulfates; alums; peroxosulfates (persulfates): Other Sulfates: Other: Of Zinc
Potassium hydroxide	$0.44	2815.20.0050	Sodium hydroxide (Caustic soda); potassium hydroxide (Caustic potash); peroxides of sodium or potassium: Potassium hydroxide (Caustic potash): In solid form
		2815.20.0090	Sodium hydroxide (Caustic soda); potassium hydroxide (Caustic potash); peroxides of sodium or potassium: Potassium hydroxide (Caustic potash): Other
Sodium hydroxide	$0.56	2815.11.000	Sodium hydroxide (Caustic soda); potassium hydroxide (Caustic potash); peroxides of sodium or potassium: Sodium hydroxide (Caustic soda): Solid
		2815.12.0000	Sodium hydroxide (Caustic soda); potassium hydroxide (Caustic potash); peroxides of sodium or potassium: Sodium hydroxide (Caustic soda): In aqueous solution (Soda lye or liquid soda)
Sulfuric acid	$0.52	2807.00.0000	Sulfuric acid; oleum
Nitric acid	$0.48	2808.00.0010	Nitric acid; sulfonitric acids: Nitric acid