

Federal Oil Spill Tax expired December 31, 2018

Overview

On February 9, 2018, President Trump signed into law the Bipartisan Budget Act of 2018 (H.R. 1892),¹ which included the reinstatement of the Oil Spill Liability Trust Fund Tax (Federal Oil Spill Tax), effective March 1, 2018. The reinstatement of the Federal Oil Spill Tax last February also amended the expiration date to December 31, 2018.²

To date, there has been no legislation enacted to extend the Federal Oil Spill Tax beyond December 31, 2018. This tax alert summarizes this development.

Background of the federal oil spill tax

Congress established the Oil Spill Liability Trust Fund through the Omnibus Budget Reconciliation Act of 1986.³ To provide the requisite funding, Congress imposed the Federal Oil Spill Tax pursuant to Internal Revenue Code (IRC) Sec 4611 at a rate of nine cents per barrel on crude oil received at a refinery and petroleum products entered into the United States.⁴

Prior to the passage of H.R. 1892 last February, the Federal Oil Spill Tax had expired on December 31, 2017.⁵ H.R. 1892 then reinstated the Federal Oil Spill Tax "beginning on the first day of the first calendar month beginning after the date of enactment."⁶ As the enactment month for H.R. 1892 was February of 2018, the Federal Oil Spill Tax recommenced on March 1, 2018.

Considerations

After the last expiration of the Federal Oil Spill Tax on December 31, 2017, uncertainty existed relative to the billing and payment of the tax during the expiration period to recover for the tax paid on crude oil prior to the expiration. Companies are facing a similar issue in 2019 now that the Federal Oil Spill Tax has expired again on December 31, 2018. Companies subject to the Federal Oil Spill Tax may wish to consult with their tax advisors to discuss options.

Contacts:

If you have questions regarding the Federal Oil Spill Tax or federal and state excise taxes generally, please contact any of the following Deloitte professionals:

¹ P.L. 115-123; H.R. 1892 115th Cong. (Feb. 9, 2018).

² For further information on the prior reinstatement of the Federal Oil Spill Tax, effective March 1, 2018, please see our February 19, 2018 tax alert available [here](#).

³ Omnibus Budget Reconciliation Act of 1986, Pub. L. No. 99-509, 100 Stat. 1874; Oil Pollution Act of 1990, Pub. L. No. 101-380, 104 Stat. 484; RAMSEUR, JONATHAN, L., CONG. RESEARCH SERV., R43128, OIL SANDS AND THE OIL SPILL LIABILITY TRUST FUND: THE DEFINITION OF "OIL" AND RELATED ISSUES FOR CONGRESS (Jan. 22, 2015) (noting that the Oil Spill Liability Trust Fund was created in 1986, however, Congress did not authorize its use or provide its funding until the passage of the Oil Pollution Act of 1990).

⁴ IRC §4611(a) (providing the incidence of the Federal Oil Spill tax); IRC §4611(c)(2)(B)(ii) (providing Federal Oil Spill Tax rate per barrel).

⁵ IRC §4611(f)(2) (prior to the amendments enacted by H.R. 1892).

⁶ H.R. 1892 Sec 40416.

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