

**TITLE 26 - INTERNAL REVENUE CODE**  
**Subtitle I - Trust Fund Code**  
**CHAPTER 98 - TRUST FUND CODE**  
**Subchapter A - Establishment of Trust Funds**

**§ 9507. Hazardous Substance Superfund**

**(a) Creation of Trust Fund**

There is established in the Treasury of the United States a trust fund to be known as the “Hazardous Substance Superfund” (hereinafter in this section referred to as the “Superfund”), consisting of such amounts as may be—

- (1) appropriated to the Superfund as provided in this section,
- (2) appropriated to the Superfund pursuant to section 517(b) of the Superfund Revenue Act of 1986, or
- (3) credited to the Superfund as provided in section 9602 (b).

**(b) Transfers to Superfund**

There are hereby appropriated to the Superfund amounts equivalent to—

- (1) the taxes received in the Treasury under section 59A, 4611, 4661, or 4671 (relating to environmental taxes),
- (2) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as “CERCLA”),
- (3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,<sup>1</sup>
- (4) penalties assessed under title I of CERCLA, and
- (5) punitive damages under section 107(c)(3) of CERCLA.

In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Hazardous Substance Superfund financing rate under section 4611 (c).

**(c) Expenditures from Superfund**

**(1) In general**

Amounts in the Superfund shall be available, as provided in appropriation Acts, only for purposes of making expenditures—

- (A) to carry out the purposes of—
  - (i) paragraphs (1), (2), (5), and (6) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Amendments and Reauthorization Act of 1986,
  - (ii) section 111(c) of CERCLA (as so in effect), other than paragraphs (1) and (2) thereof, and
  - (iii) section 111(m) of CERCLA (as so in effect), or

(B) hereafter authorized by a law which does not authorize the expenditure out of the Superfund for a general purpose not covered by subparagraph (A) (as so in effect).

**(2) Exception for certain transfers, etc., of hazardous substances**

No amount in the Superfund or derived from the Superfund shall be available or used for the transfer or disposal of hazardous waste carried out pursuant to a cooperative agreement between the Administrator of the Environmental Protection Agency and a State if the following conditions apply—

- (A) the transfer or disposal, if made on December 13, 1985, would not comply with a State or local requirement,

*NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).*

- (B) the transfer is to a facility for which a final permit under section 3005(a) of the Solid Waste Disposal Act was issued after January 1, 1983, and before November 1, 1984, and
- (C) the transfer is from a facility identified as the McColl Site in Fullerton, California.

**(d) Authority to borrow**

**(1) In general**

There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

**(2) Limitation on aggregate advances**

The maximum aggregate amount of repayable advances to the Superfund which is outstanding at any one time shall not exceed an amount equal to the amount which the Secretary estimates will be equal to the sum of the amounts appropriated to the Superfund under subsection (b)(1) during the following 24 months.

**(3) Repayment of advances**

**(A) In general**

Advances made to the Superfund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund.

**(B) Final repayment**

No advance shall be made to the Superfund after December 31, 1995, and all advances to such Fund shall be repaid on or before such date.

**(C) Rate of interest**

Interest on advances made to the Superfund shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

**(e) Liability of United States limited to amount in Trust Fund**

**(1) General rule**

Any claim filed against the Superfund may be paid only out of the Superfund.

**(2) Coordination with other provisions**

Nothing in CERCLA or the Superfund Amendments and Reauthorization Act of 1986 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

**(3) Order in which unpaid claims are to be paid**

If at any time the Superfund has insufficient funds to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.

**Footnotes**

<sup>1</sup> See References in Text note below.

(Added Pub. L. 99-499, title V, § 517(a), Oct. 17, 1986, 100 Stat. 1772; amended Pub. L. 99-509, title VIII, § 8032(c)(4), Oct. 21, 1986, 100 Stat. 1959; Pub. L. 101-508, title XI, § 11231(c), Nov. 5, 1990, 104 Stat. 1388-445.)

## References in Text

Section 517(b) of the Superfund Revenue Act of 1986, referred to in subsec. (a)(2), is section 517(b) of Pub. L. 99–499, which is set out as a note under this section.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and CERCLA, referred to in subsecs. (b)(2), (4), (5), (c)(1)(A), and (e)(2), is Pub. L. 96–510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§ 9601 et seq.) of Title 42, The Public Health and Welfare. Title I of CERCLA is classified to subchapter I (§ 9601 et seq.) of chapter 103 of Title 42. Sections 107(c)(3) and 111(a)(1), (2), (5), and (6), (c), and (m) of CERCLA are classified to sections 9607 (c)(3) and 9611 (a)(1), (2), (5), and (6), (c), and (m) of Title 42, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

Section 311(b)(6)(B) of the Clean Water Act, referred to in subsec. (b)(3), which was classified to section 1321 (b)(6)(B) of Title 33, Navigation and Navigable Waters, and which related to civil actions by the Administrator to impose penalties for prohibited discharges was struck out by Pub. L. 101–380, title IV, § 4301(b), Aug. 18, 1990, 104 Stat. 533, which added a new section 311 (b)(6)(B) relating to classes of civil penalties imposed by the Secretary of the department in which the Coast Guard is operating or the Administrator for prohibited discharges or violations of regulations.

The date of the enactment of the Superfund Amendments and Reauthorization Act of 1986, referred to in subsec. (c)(1)(A)(i), is the date of enactment of Pub. L. 99–499, which was approved Oct. 17, 1986.

Section 3005(a) of the Solid Waste Disposal Act, referred to in subsec. (c)(2)(B), is classified to section 6925 (a) of Title 42, The Public Health and Welfare.

The Superfund Amendments and Reauthorization Act of 1986, referred to in subsec. (e)(2), is Pub. L. 99–499, Oct. 17, 1986, 100 Stat. 1613. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 9601 of Title 42 and Tables.

## Amendments

1990—Subsec. (d)(3)(B). Pub. L. 101–508 substituted “December 31, 1995” for “December 31, 1991”.

1986—Subsec. (b). Pub. L. 99–509 inserted at end “In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Hazardous Substance Superfund financing rate under section 4611 (c).”

## Effective Date of 1986 Amendment

Amendment by Pub. L. 99–509 effective on commencement date as defined in former section 4611 (f)(2), see section 8032(d) of Pub. L. 99–509, set out as a note under section 4611 of this title.

## Effective Date

Section 517(e) of Pub. L. 99–499 provided that:

“(1) In general.—The amendments made by this section [enacting this section, amending section 9601 of Title 42, The Public Health and Welfare, and repealing sections 9631 to 9633 of Title 42] shall take effect on January 1, 1987.

“(2) Superfund treated as continuation of old trust fund.—The Hazardous Substance Superfund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980 [former 42 U.S.C. 9631]. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.”

## Authorization of Appropriations

Section 517(b) of Pub. L. 99–499, as amended by Pub. L. 101–508, title XI, § 11231(d), Nov. 5, 1990, 104 Stat. 1388–445, provided that: “There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund for fiscal year—

“(1) 1987, \$250,000,000,

“(2) 1988, \$250,000,000,

“(3) 1989, \$250,000,000,

“(4) 1990, \$250,000,000,

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“(5) 1991, \$250,000,000, and [sic]

“(6) 1992, \$250,000,000,

“(7) 1993, \$250,000,000,

“(8) 1994, \$250,000,000, and

“(9) 1995, \$250,000,000,

plus for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this subsection (and paragraph (2) of section 221(b) of the Hazardous Substance Response Act of 1980 [probably means section 221(b)(2) of the Hazardous Substance Response Revenue Act of 1980, which was classified to 42 U.S.C. 9631 (b)(2) before its repeal by section 517(c)(1) of Pub. L. 99-499], as in effect before its repeal) as has not been appropriated before the beginning of the fiscal year involved.”

[Section 11231(d) of Pub. L. 101-508 directed that section 517(b) of Pub. L. 99-499, set out above, be “amended by striking ‘and’ at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ‘, and’, and by adding at the end thereof” new pars. (6) to (9), with par. (9) ending in a period. Pub. L. 104-188, title I, § 1704(t)(44), Aug. 20, 1996, 110 Stat. 1889, provided that section 11231(d) of Pub. L. 101-508 “shall be applied as if ‘comma’ appeared instead of ‘period’ [in the directory language amending section 517(b)(5) of Pub. L. 99-499] and as if the paragraph (9) proposed to be added ended with a comma”.]