KPMG

TaxNewsFlash

United States

No. 2019-387
July 26, 2019

Legislative update: "Carbon fee" legislation introduced

Senator Chris Coons (D-DE) and Senator Dianne Feinstein (D-CA) introduced carbon-related legislation—the "Climate Action Rebate Act of 2019."

Read a **release** from Senator Coons' office about the bill. Congressman Jimmy Panetta (D-CA) introduced companion legislation in the House.

"Carbon fee"

The bill would amend the Internal Revenue Code to impose a "carbon fee" on both fossil fuels and fluorinated gases. The level of the fee would be adjusted for the greenhouse gas potential of the covered emissions. The fee is scheduled to begin at $15 per metric ton of CO2 equivalent and then increase by $15 - $30 per ton each year based upon the overall amount of emissions reduction achieved relative to an established annual target. The targets are designed to achieve a 100% reduction in greenhouse gas emissions (compared to 2017 levels) by the year 2050.

The legislation would provide a refund of the "carbon fee" for taxpayers that capture and sequester emissions in accordance with section 45Q (credit for carbon dioxide sequestration).

Border adjustability

The legislation would make the carbon fee "border adjustable." In other words, imported goods that were not previously subjected to a carbon tax would have one imposed upon entry into the United States. Conversely, U.S. taxpayers that export goods to other countries would receive a refund of the carbon fee paid in the United States. The objective of the border adjustment would be to put U.S. producers on equal economic footing with foreign-based competitors that may produce goods in a jurisdiction with no (or a lesser) carbon fee.

Allocation of revenue collected

The tax revenue collected from the carbon fee could be substantial. [While there is not yet an official estimate, some reports are that the law could collect $2.5 trillion in revenue over the first decade.] The proposal would create a "climate action rebate fund" as a mechanism for expenditure of the funds collected. The fund would generally allocated collected fees on a 70/30 basis between tax payments to individuals and direct spending programs.

Seventy percent (70%) of the fees would be allocated as a federal payment—a "carbon dividend"—on a pro-rata basis to taxpayers that are either U.S. citizens or lawful residents of the United States. Children under the age of 19 years would receive a half-share. The carbon dividend payment would be fully phased out for members of a household with adjusted gross income of no more than $100,000 (single-filers) or $150,000 (joint-filers).

The remaining 30% of the fund would be spent on other priorities to achieve a "cleaner energy future" including infrastructure investment, innovation in technologies to reduce or eliminate greenhouse gas emissions, and transition assistance programs for workers displaced in fossil fuel industries.

KPMG observation

While the bill refers to a "carbon fee," this fee would be administered through the Internal Revenue Code—leaving little debate that the fee could be properly characterized as a carbon tax. As such, the congressional committees of principal jurisdiction are likely to be the Ways and Means Committee in the House and the Finance Committee in the Senate.

The logic of the border adjustability provision is self-evident—without it, carbon intensive industries in the United States could be forced to move operations (along with jobs and investment) outside of the United States. Still, border adjustability is a notoriously difficult concept to put into practice. Consider the case of an imported product comprised of hundreds of components made in dozens of other jurisdictions. Determining the exact CO2 content of that product (not to mention the amount of carbon fee already paid in those other jurisdictions) would be a highly complex undertaking.

Finally, it is worth noting that commentators across the political spectrum have written on the appeal of a carbon tax. Such a tax could achieve multiple policy goals at once—reducing both carbon emissions while simultaneously reducing the federal deficit (or funding social programs in the future). Still, there is no immediate path forward for this, or other carbon tax legislation in the current Congress. A proposal such as this could take years to develop, negotiate, enact, and implement.

Direct comments, including requests for subscriptions, to Washington National Tax. For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.