

Proposed Federal Tax on Import of Carbon-Intensive Products

Article By:

Thomas R. Brill

To supplement [GT's Alert on the European Carbon Border Adjustment Mechanism \(CBAM\)](#), in this GT Alert we discuss a similar U.S. proposal.

Some in Congress are advocating a proposal to establish a carbon tax on certain imports to fight climate change and protect domestic production. A more specific carbon border tax plan has also been proposed by Sen. Chris Coons of Delaware and Rep. Scott Peters of California. The proposals come shortly after Europe announced its proposal for the world's first carbon border tax.

A carbon border tax is a policy tool that aims to encourage cleaner forms of industrial production by making carbon-intensive goods from abroad less economic to import. The bill would target carbon-intensive products like steel, concrete, natural gas, petroleum, and coal.

Carbon Border Tax and CBAM

With Congress expected to consider budget reconciliation later this year, some have proposed including a "Polluter Import Fee," also referred to as a "Carbon Border Tax." This tax would levy a fee on imported products whose fabrication is carbon-intensive, similar to the European Union's CBAM proposal. While the details are unclear as to how the proposed U.S. tax would be calculated, which specific products the tax would include, or how the intensity of the carbon emissions would be measured, like the CBAM, the carbon border tax initially would only apply to a select number of goods with a high risk of carbon leakage, such as iron, steel, cement, fertilizer, aluminum, and electricity generation.

An important goal of proposed carbon border tax policies is to disincentivize carbon leakage, where producers dispatch fabrication or relocate facilities to regions that impose lower or no costs on carbon emissions. Theoretically, the import tax would create an economic incentive not to move jobs or production from the United States to avoid the cost of carbon emission regulation.

An Uncertain Path Forward

Although a U.S. carbon border tax could help pay for some of the expected costs of budget legislation, there is, at the moment, a great deal of uncertainty regarding both the substance and the

political support for such a proposal. For example, while such a tax theoretically would be calculated based on the costs an importer would have incurred to comply with U.S. environmental laws had the imported product been manufactured in the United States, environmental laws regulating carbon emissions, and the costs, if any, imposed on carbon emissions vary by state. Still, a consistent federal carbon tax would not be required under the proposal sponsored by Sen. Coons and Rep. Peters. Some in Congress have expressed concern that a border carbon tax would impose upward pressure on prices for imported goods, even as the economy faces increasing inflationary pressures. However, without the final language of the bill, its potential impacts are unclear.

If passed, the bill may have positive impacts such as providing more security for domestic manufacturers by preventing importers from undercutting domestic production by avoiding carbon emissions costs. It may also allow American exporters of traditionally high-intensity carbon products to recoup some costs by taking advantage of rebates, but without the exact language this cannot be known. If the EU's CBAM and the U.S.'s carbon border tax were both implemented by 2026 as proposed, they would potentially complement each other and pressure other areas to adopt laws and regulations that impose a tax on carbon emissions. However, the U.S. currently lacks any federal environmental law that imposes a consistent and direct tax on carbon emissions. It is also not known how the CBAM policy will look in the future or how emerging carbon exchange markets will grow and interact with the U.S. policies. The burden that this Act would place on importers is also unclear.

Conclusion

The carbon border tax is currently a legislative proposal and therefore still subject to discussion and review within Congress. Therefore, it will be necessary to wait until a draft or final version of the proposal is available in order to examine its practical impact on U.S. industry and global emissions. Finally, in addition to the carbon border tax, the framework proposes a methane reduction fee, which is expected to have an impact on emissions if adopted, but the degree of impact is likewise uncertain.

In any event, due to the broad implications of this proposed measure on the domestic and global economy, this development bears watching.

©2025 Greenberg Traurig, LLP. All rights reserved.

National Law Review, Volume XI, Number 230

Source URL: <https://natlawreview.com/article/proposed-federal-tax-import-carbon-intensive-products>