

American Opportunity Carbon Fee Act
Section-by-Section Summary

Section 1. Short Title

Names the legislation the “American Opportunity Carbon Fee Act of 2017.”

Title I—Carbon Dioxide and Other Greenhouse Gas Emissions Fees

Section 101. Carbon Dioxide and Other Greenhouse Gas Emission Fees

Amends Chapter 38 of the Internal Revenue Code of 1986 by adding the following subchapter:

Subchapter E. Carbon Dioxide and Other Greenhouse Gas Emission Fees

SECTION 4691. FEE FOR CARBON DIOXIDE EMISSIONS

(a) General provisions.

(1) Assesses a fee on fossil fuels based on the amount of carbon dioxide that would be emitted through combustion. The fee is assessed on:

- Coal – upon removal from a mine or entry into the United States for consumption, use, or warehousing;
- Petroleum products – upon removal from a refinery or terminal or entry into the United States for consumption, use, or warehousing; and
- Natural gas – upon entry into a processor or entry into the United States for consumption, use, or warehousing.

(2) Assesses a fee on carbon dioxide emissions from facilities required to report under the Environmental Protection Agency (EPA) Greenhouse Gas Reporting Rule [generally sources that emit 25,000 tons or more of carbon dioxide annually]. The fee is assessed on emissions resulting from the combustion or processing of substances other than coal, petroleum products, or natural gas.

(b) Applicable amount. The fee will be assessed starting in 2018 at \$49 per ton of carbon dioxide. The fee will increase each year at a rate equal to the change in the consumer price index (CPI) plus 2%. If the total United States greenhouse gas emissions are less than 20% of 2005 levels in any year, the increase the following year will be limited to the change in the CPI.

(c) Refunds. Refunds will be provided to entities that: (1) capture carbon dioxide during the use of coal, petroleum products, or natural gas for which a fee has been assessed and utilize the carbon dioxide or sequester it in secure storage; (2) use coal, petroleum products, or natural gas to manufacture goods that encapsulate carbon dioxide in a manner such that it does not result in the direct emission of carbon dioxide in the manufacturing or subsequent use of such good [e.g. for the production of biofuels]; and (3) export coal, petroleum products, or natural gas. The amount of the refund corresponds to fees previously paid for carbon dioxide that is not ultimately emitted in

the United States. Refunds for capture and storage or utilization are discounted by the amount of anticipated leakage due to imperfect technology. In the case of exports, refunds do not include any fees paid under section 4694 (escaped methane).

SECTION 4692. Fee for Fluorinated Greenhouse Gases

(a) In General. Assesses a fee on fluorinated greenhouse gases produced at a fluorinated greenhouse gas production facility or imported into the U.S. by a fluorinated greenhouse gas importer. Also assesses a fee on fluorinated greenhouse gases (not otherwise subject to the fee on production or import) that are emitted by an industrial fluorinated greenhouse gas facility.

(b) Amount of Fee. The amount of the fee equals the applicable percentage (as defined in subsection (c)(5)) the carbon dioxide equivalent of the greenhouse gas multiplied by the rate in effect under Section 4691(b) [which begins in 2018 at \$49 per ton] for the first three years.

(c) Definitions

(1) “fluorinated greenhouse gases” means sulfur hexafluoride (SF₆), nitrogen trifluoride (NF₃), any hydrofluorocarbon, any perfluorocarbon, any fully fluorinated linear, branched or cyclic alkane, ether, tertiary amine or aminoether, any perfluoropolyether, any hydrofluoropolyether, and any other fluorocarbon except for substances with vapor pressures of less than 1 mm of Hg absolute at 25 degrees Celsius (adapted from the definition of fluorinated greenhouse gases in 40 CFR 98.6).

(2) “fluorinated greenhouse gas production facility” means any producer included under the source category for industrial gas suppliers (subpart OO of EPA’s Greenhouse Gas Reporting Rule).

(3) “fluorinated greenhouse gas importer” means any importer included under the source categories for industrial gas suppliers (subpart OO) or importers or exporters of equipment pre-charged with fluorinated greenhouse gases or containing fluorinated greenhouse gases in closed-cell foams (subpart QQ).

(4) “industrial fluorinated greenhouse gas facility” means any facility that is included under the source categories for aluminum production (subpart F), HCFC-22 production and HFC-23 production (subpart O), or fluorinated gas production (subpart L).

(5) “applicable percentage” means the percentage determined in accordance with the following table:

“In the case of any taxable year beginning in calendar year:	The applicable percentage is:
2018, 2019, or 2020	10 percent
2021	20 percent
2022	30 percent
2023	40 percent
2024	50 percent
2025	60 percent
2026	70 percent
2027	80 percent
2028	90 percent
2029 or thereafter	100 percent.

(d) **Exemption for Exports.** Exempts fluorinated greenhouse gases produced in or imported into the United States from the fee if such fluorinated greenhouse gases are exported from the United States in bulk or in equipment pre-charged with fluorinated greenhouse gases or containing fluorinated greenhouse gases in closed cell foams.

(e) **Refund for Consumptive Uses and Destruction.** Refunds will be provided to entities that use fluorinated greenhouse gases as inputs for manufactured goods that transform the fluorinated greenhouse gas such that it cannot later be emitted or otherwise destroy the gas (without emissions). The amount of the refund corresponds to fees previously paid for the fluorinated greenhouse gases that are not ultimately emitted in the U.S., less an adjustment to account for any fluorinated greenhouse gases created as the result of the transformation or destruction process.

SECTION 4693. FEE FOR OTHER GREENHOUSE GAS EMISSIONS

(a) **In General.** Assesses a fee on emissions of non-carbon dioxide greenhouse gases from greenhouse gas emissions sources.

(b) **Amount of Fee.** The amount of the fee equals the carbon dioxide equivalent of the greenhouse gas multiplied by the rate in effect under Section 4691 [which begins in 2018 at \$49 per ton].

(c) **Greenhouse Gas Emissions Source.** Defines a greenhouse gas emissions source as a facility (1) required to report under EPA's Greenhouse Gas Reporting Rule; and (2) that emitted 25,000 tons or more of carbon dioxide equivalent greenhouse gases (excluding carbon dioxide) in the previous calendar year.

SECTION 4693. ASSOCIATED EMISSIONS

(a) **Reporting program.**

(1) The Secretary of Treasury, in consultation with the Environmental Protection Agency Administrator, Department of the Interior Secretary, Energy Information

Administration Administrator, and the Pipeline and Hazardous Materials Safety Administration Administrator, is required to establish a program by January 1, 2020, to identify all major sources of associated emissions and collect data on associated emissions from fossil fuel supply chains.

(2) No later than 12 months after the establishment of the data collection program, the Secretary of Treasury is required to issue an annual report, to be made available to the public and Congress, on associated emissions.

(b) Supplementary Fee for Associated Emissions. Beginning in 2020, the Secretary shall increase the fees assessed on coal, petroleum products, and natural gas under section 4691 by the amounts necessary to ensure that the total fees collected account for the associated emissions reported under subsection (a).

SECTION 4694. BORDER ADJUSTMENTS

(a) Purpose. To ensure the environmental effectiveness of this subchapter.

(b) Exports. In the case of any energy-intensive manufactured good exported from the U.S., directs the Secretary to pay the exporter a refund equal to the cost of the good attributable to fees imposed under this subchapter. The amount of the refund will be reduced by the amount, if any, of fees imposed on comparable goods by the foreign nation to which the good is exported.

(c) Imports. In the case of any energy-intensive manufactured good imported into the U.S., directs the Secretary to impose an equivalency fee on the importer equal to the cost of the good which would be attributable to fees imposed under this subchapter if the inputs were subject to such fees. The amount of equivalency fee will be reduced by the amount, if any, of fees imposed by the foreign nation from which the good was imported.

(d) Treatment of Alternative Policies. Under regulations established by the Secretary, foreign policies that have substantially the same effect in reducing emissions of greenhouse gases shall be treated as fees for purposes of subsections (b)(2) and (c)(2).

(e) Regulatory Authority. Directs the Secretary to consult with the EPA Administrator and Secretary of Energy in establishing rules and regulations for border adjustments. The Secretary, in consultation with the Secretary of State, may adjust the amounts of border adjustments in a manner consistent with any obligations of the U.S. under an international agreement.

SECTION 4695. DEFINITIONS AND OTHER RULES

(a) Definitions.

(1) “carbon dioxide equivalent” means the quantity of a greenhouse gas that has a global warming potential equivalent to one metric ton of carbon dioxide as listed in Table A-1 of Subpart A EPA’s Greenhouse Gas Reporting Rule.

(2) “greenhouse gas” means any greenhouse gas identified defined in Table A-1 of Subpart A of EPA’s Greenhouse Gas Reporting Rule.

(3) “coal” has the same meaning as under Section 48A(c)(4) of the Tax Code.

(4) “petroleum product” has the same meaning as in Section 4612(a)(3) of the Tax Code.

(5) “associated emissions” means greenhouse gas emissions attributable to venting, flaring, and leakage across the supply chain.

(6) “supply chain” means extraction and processing of coal and natural gas, extraction and refining of petroleum products, and the transmission, transport, storage, distribution, import, export, and other activities related to supplying coal, petroleum products, and natural gas to a consumer, not otherwise covered elsewhere in the bill, as determined by the Administrator.

(7) “energy-intensive manufactured good” means any manufactured good for which not less than 5 percent of the cost is attributable to energy costs, as determined by the Secretary. Not later than 180 days after enactment of this Act, the Secretary shall publish a list of such goods and shall update the list annually.

(8) “ton” means 1,000 kilograms, and in the case of any greenhouse gas, means the amount of such gas in cubic meters which is the equivalent of 1,000 kilograms on a molecular weight basis.

(9) “United States” has the same meaning as in Section 4612(a)(4) of the Tax Code [the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands].

(b) Other Rules.

(1) Fees imposed by this subchapter shall be assessed and collected in the same manner as taxes under this subtitle.

(2) The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter.

(c) Clerical Amendment [to the table of subchapters of the Tax Code]

(d) The amendments made by this act shall apply beginning in tax year 2018.

Title II—Returning the Fee to the American People

Section 201. Reduction in the Corporate Tax Rate

(a) In general, the rate of tax on taxable income exceeding \$75,000 is 29%.

(b) Conforming Amendments [references to the prior 34% and 35% rates are changed to 29%].

(c) This amendment is effective beginning in tax year 2018.

(d) Changes to withholding shall take effect January 1, 2018.

Section 202. Establishment of Refundable Credit for Workers

Adds Section 36A “Carbon Fee Offset Credit” to the Tax Code.

(a) In general, eligible individuals will receive a credit against taxes paid equal to the lesser of 6.2% of earned income or \$550 (twice such amount in the case of a joint return).

(b) An eligible individual is any individual other than (A) a nonresident alien; (B) a person for whom a section 151 deduction is allowable to another taxpayer; (C) an individual entitled to a benefit under Section 203 of this Act.

(c) earned income has the same meaning as in section 32(c)(2) except it does not include net earnings from self-employment which are not taken into account in computing taxable income. Earned income includes combat zone compensation excluded from gross income under section 112.

(d) the dollar amount in subsection (a) will be adjusted for inflation beginning in years after 2018. All amounts shall be rounded down to the next multiple of \$10.

(e) Refunds under this section shall not be taken into account in determining eligibility for federal programs or state or local programs receiving federal funds.

(f) Conforming amendments [to the organization of the Tax Code]

(g) The amendments made by this section shall be effective beginning in tax year 2018.

Section 203. Establishment of Payments to Social Security Beneficiaries and other Retired and Disabled Americans

(a) The Secretary beginning in the period between April 1 and May 15 of 2018 and every year thereafter shall distribute a payment under this section to eligible beneficiaries.

(b) Eligible beneficiaries are those who in the prior December were entitled to benefits listed in Sections 2201(a)(1) (B) and (C) of the American Recovery and Reinvestment Act of 2009 [benefits under Social Security; Supplemental Security Income (SSI); Railroad Retirement; and certain programs administered by the Department of Veterans Affairs (i.e., disability compensation; pension; dependency indemnity compensation; and special payments to disabled children of certain veterans)].

(c) Payments under this section may only be made to eligible beneficiaries who reside in any state [defined to include DC and certain territories].

(d) Any eligible beneficiary may not receive more than one payment per year under this section.

(e) Identification of Recipients.—The Commissioner of Social Security, the Railroad Retirement Board, and the Secretary of Veterans Affairs shall certify the eligible beneficiaries entitled to receive payments under this section and provide the Secretary with any information necessary to disburse such payments.

(f) Additional rules, adopts rules from subsections (a)(4), (c), and (d) of the Recovery Act [including: withholding benefits from those imprisoned or deceased; disregarding payments for tax and program eligibility purposes; and payments to representatives and fiduciaries].

Section 204. State-Based Cost Mitigation Grant Program

(a) In general, the Secretary shall provide each state that meets the requirements of subsection (d) a grant for each calendar year.

(b) Such funds shall be used to: (1) assist low-income households in reducing energy expenses and meeting cost increases attributable to the fees imposed by this Act; (2) to assist rural households in reducing energy expenses and meeting such cost increases; and (3) to provide job training and worker transition assistance, with priority given to workers and former workers in fossil-fuel related industries.

(c) Grants will be distributed to states on a per capita basis. The initial grant fund will total \$10 billion in 2018 and rise with inflation in subsequent years. Any unclaimed grants will be distributed to participating states on a per capita basis.

(d) (1) In general, A state will be eligible for a grant if (A) the governor certifies the state will use such grant as needed to deliver benefits to all eligible low-income individuals through a household rebate program; (2) it has filed with the Secretary a plan detailing use of the funds; (3) it agrees to audit requirements; and (4) the state has complied in all previous years or has remedied prior noncompliance.

(2) Household Rebate Program

(A) in general a household rebate program is a program for delivering to all eligible low-income individuals through an electronic benefit transfer system monthly benefits in an aggregate annual amount equal to the applicable amount

(B) the applicable amount in any year is the amount equal to the excess of the credit amount under section 36A(a)(2) of the Internal Revenue Code of 1986 and any amount claimed as a credit by such individual under such section.

(C) An eligible individual is one who has (i) attained the age of 18 before the end of the calendar year; (ii) lives in a household that has gross income that does not exceed 150% of the poverty line; (iii) participates in a federally-funded state-administered program or

otherwise applies for such benefits and (iv) is not eligible for a payment under Section 203 of this Act.

(e) The Secretary shall audit the state use of grants to ensure compliance and may withhold grants in the event of noncompliance.

(f) the term “state” includes DC, PR, Guam, American Samoa, Northern Mariana Islands, and the USVI.

(g) there are appropriated such sums as necessary for making grants under this section.

Title III—Other Provisions

Section 301. Public Disclosure of Revenues and Expenditures

(a) Establishment of website. The Secretary shall establish a website to make the disclosures listed in (b).

(b) Disclosures. The Secretary shall disclose, on an ongoing basis and as frequently as possible: (1) the amount and sources of revenue attributable to the fees under this Act; and (2) the amount, of tax savings and benefits as a result of title II of this Act.

Section 302. Severability

If a provision of this Act is held to be unconstitutional, the remainder of the Act shall not be affected by the holding.

Embargoed until 3PM EST 07/26/2017