

The EU's Net-Zero Act, Taxation, and Carbon Storage Market



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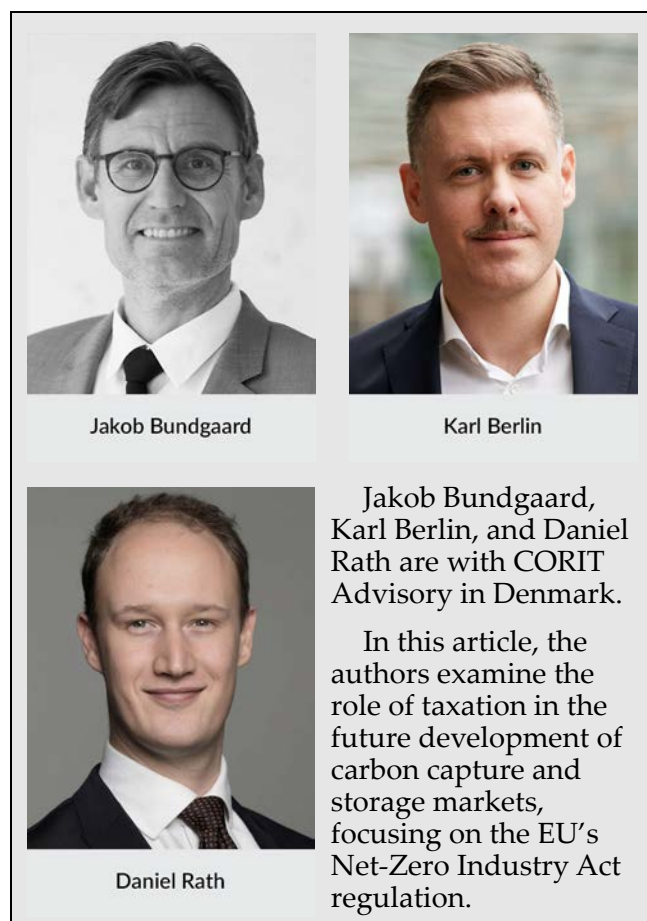
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by Jakob Bundgaard, Karl Berlin, and Daniel Rath

Reprinted from *Tax Notes International*, February 24, 2025, p. 1213

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Introduction

This article provides a first take on the legal and tax consequences of the development of a future market for carbon capture and storage (CCS) with specific emphasis on the EU in light of the Net-Zero Industry Act Regulation (EU) 2024/1735 (Regulation).

Stemming from the Green Deal Industrial Plan, the Regulation constitutes an ambitious take on the green transition. Overall, the Regulation provides optimal conditions for investing in and establishing green technologies, catalysing the green transition, and making the EU more energy

independent. The level of support is evident in the Regulation — it shows the EU has set its sights on pushing the green transition forward.

Despite EU ambition, the Regulation lacks details and guidance on some cornerstones, resulting in uncertainties for entities affected by it. The scale of the Regulation, combined with the requirements and obligations it introduces for the oil and gas industry, creates a suboptimal situation.

Below we address some of the legal and tax implications on the CCS market, as well as some of the uncertainties that still prevail.

The Purpose of the Regulation

The general objective of the Regulation is to improve the functioning of the internal market by establishing a framework to ensure EU access to a secure and sustainable supply of net-zero technologies, including scaling up their manufacturing capacity and supply chains.

EU's climate objective is that EU wide greenhouse gas emissions and removals regulated in the EU law shall be balanced within the EU at the latest by 2050, thus reducing emissions to net zero by that date, and the EU shall aim to achieve negative emissions thereafter. In order to reach that, the binding EU 2030 climate target shall be a domestic reduction of net greenhouse gas emissions (emissions after deduction of removals) by at least 55 percent compared to 1990 levels by 2030.¹

Of particular interest, the Regulation lays down measures to establish an EU market for carbon dioxide storage services.

¹Regulation (EU) 2021/1119, Articles 2(1) and 4(1).