

Short notes on:

THE CARBON TAX ACT

The Carbon Tax Act 15 of 2019 (the “Act”) was enacted as a result of the increase of greenhouse gas emissions in the atmosphere, which is causing and contributing to global climate change. The Act in its preamble, therefore, aims to contribute to the worldwide effort to stabilise greenhouse gas emissions by employing the "polluter pays principle".

The polluter pays principle is primarily founded on the idea that the costs of remedying pollution, environmental degradation and consequent adverse health effects and of preventing, controlling or minimising further pollution, environmental damage or adverse health effects must be paid for by those responsible for harming the environment.

Who is a taxpayer in this context?

Section 3 of the Act refers to persons subject to tax. Liability for the carbon emissions tax arises for every entity that conducts an activity and emits greenhouse gas emissions above the threshold as stipulated in Schedule 2 of the Act.

Reporting

The UN Framework Convention on Climate Change (“UNFCCC”) is an agreement between 197 member states, including South Africa. It requires member countries to report their greenhouse gas emissions and what they are doing to reduce them.

South Africa’s National reports

These assess in detail a country's efforts to address climate change in detail and are also useful for policymaking. They include information on greenhouse gas inventories and are meant to be submitted every four years. South Africa has so far made three, in 2003, 2011 and 2018.

Biennial reports

These are updates of national reports. To date, South Africa has submitted three biennial reports, in 2014, 2017 and most recently in June 2019.

The UN's Intergovernmental Panel on Climate Change ("IPCC") reporting guidelines contain four sectors: energy, IPPU (industrial processes and product use), waste and agriculture, forestry and other land use.

Local reporting

Emissions are to be calculated under a reporting methodology approved by the Department of Environmental Affairs (the DEA). The burden of providing the above information lies on the taxpayer to accumulate and deliver it to the DEA to ascertain whether the carbon emissions are above the thresholds.

Allowances and deductions

A wide variety of tax-free allowances are catered for by the Act. These allowances are believed to be the cause for a smooth transitioning into the implementation of the Act as well as a low carbon economy. The tax-free allowances are as follows together with their weighting, which is deducted from the rate of the carbon tax for those who qualify and are above the threshold:

- A basic tax-free allowance (60%);
- An additional tax-free allowance in respect of industrial process emissions (10%);
- An additional tax-free allowance in respect of fugitive emissions (10%);
- A variable tax-free allowance for trade-exposed sectors (maximum of 10%);
- A tax-free allowance based on performance (maximum 5%);
- A carbon budget allowance (5%);
- A carbon offset allowance.

Conclusion

In the strict legal sense, Carbon Tax is a levy, not a tax. More specifically, it is an environmental levy, as contemplated in Section 54A of the Customs and Excise Act 91 of 1964. Thus, the administrative actions, as well as the collection and payment of the carbon-tax, are also regulated by the Customs and Excise Act. It is essential to note the applicable provisions to comply as efficiently as possible.