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Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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Carbon Tax: filing season commences on 1 October 2020 – don't be left in the smoke!

In brief

On 23 December 2019, the insertion of Rule 54FD in the Rules to the Customs and Excise Act, 1964, was gazetted. Rule 54FD relates to the Environmental levy in respect of carbon tax imposed in terms of the Carbon Tax Act, 2019. Rule 54FD provides for, *inter alia*, the submission of the carbon tax account and payment thereof. Having regard to the fast approaching carbon tax submission deadline, entities would be well advised to consider the application of the Carbon Tax Act on their operations, if they have not already done so.

In detail

Background

As part of the COVID-19 tax relief measures, the Presidency announced carbon tax stimulus relief, which entailed delaying the filing and first payment of carbon tax by a period of three months from July 2020 to October 2020. This relief was effected by the publication of a notice, which amended the Rules of the Customs and Excise Act ('the Amendment Notice' and 'the Rules')

Having regard to the impending filing deadline, as well as the administrative burden imposed on entities liable for carbon tax prior to the submission of their SARS environmental levy account, entities that are liable to carbon tax are encouraged to license their emissions generating facilities as soon as possible. Carbon Tax is levied on the sum of greenhouse gas ('GHG') emissions, in respect of the tax period, expressed as the carbon dioxide equivalent of the greenhouse gases which are emitted.

A person is liable to pay carbon tax if that person conducts an activity in the Republic resulting in GHG emissions equal to or above the applicable threshold(s) specified for that activity, as legislated in terms of Schedule 2 of the Carbon Tax Act.

Submission of carbon tax account and payment

Rule 54FD.04 of the Rules, which was amended by the Amendment Notice, states the following regarding submission and payment:

For the purposes of payment of the environmental levy, every licensee must submit for each tax period within the period prescribed:

- a consolidated annual account on form DA180 and its annexures that calculates the environmental levy liability in accordance with Rule 54FD.03, in respect of its licensed customs and excise manufacturing warehouse;
- consolidated payment for the total environmental levy liability; and
- any supporting documents the Commissioner may request.

For the 2019 year of assessment, the submission of the above must take place by 31 October 2020. The due date for submission in all future years of assessment will remain 31 July.

Carbon tax liability reduction opportunities and key takeaways

It is highly recommended that taxpayers consider whether they can maximise the usage of the allowances under the Carbon Tax Act while simultaneously identifying emission reduction opportunities through energy efficiency, energy effectiveness and energy conservation.

The aim of the introduction of a carbon tax is to disincentivise future carbon-intensive investments and encourage energy efficiency through the use of alternative and cleaner technologies.

The South African government has acknowledged the crucial need to drastically reduce carbon emissions and has further identified the key benefits associated with the move towards a low carbon economy.

Having regard to its commitment in terms of the Paris Agreement on Climate Change, the South African government has set ambitious greenhouse gas emission reductions of 34% by 2020 and 42% by 2025 against a 'business as usual' curve. In order to achieve these targets, an intricate web of interconnected policies and frameworks has been developed to support South Africa's transition towards a low carbon economy.

Currently, Eskom's exclusion from the application of the Carbon Tax Act, along with the generous tax-free allowances provided for in the Act, have cushioned the carbon tax blow for many carbon intensive energy users during Phase One (1 June 2019 to 31 December 2022).

Circumspection should, however, be exercised as we are yet to receive clarity from National Treasury regarding Eskom's position once Phase Two is rolled out in January 2023. Furthermore, it is anticipated that the current allowances will be adjusted and drastically reduced in Phase Two.

At face value, at least from the outset, it appears that it is intended that the carbon tax should have minimal impact in order to allow entities to undertake and implement the necessary measures to become more sustainable and to contribute towards the fight against climate change. However, once Phase Two is rolled out, it is possible that the carbon tax will have a significant impact on entities that have failed to make the necessary changes during Phase One.

The global environment is becoming increasingly hostile towards countries that have excessive carbon emissions. Should South African entities not take the necessary steps to contribute towards the global initiative, they will be left behind.

Simultaneously, massive opportunity exists for entities that aim to hold the status of being carbon neutral. A fiscal and environmental web of opportunity has presented itself through the development of carbon offset projects.

Furthermore, with the finalization of the Climate Change Bill on the horizon, it is anticipated that the introduction of mandatory carbon budgets will be implemented. This will see increased development of the South African carbon emission trading market.