

Get Ready For Carbon Tax

20 May 2019

In brief

Carbon Tax (“CT”) is set to become effective on 5 June 2019. SARS recently published the draft amendments to the rules and schedules as well as the forms relating to the registration requirements, collection and administration of the CT. The due date for comments on these draft amendments has been extended to 14 June 2019.

What does your organisation’s CT readiness look like? What needs to be done the day before the CT effective date?

In this Tax Alert, we briefly touch on the key considerations that need to be considered by taxpayers to get ready for CT.

In Detail

CT will be levied at a tax rate of R120/tCO₂e. Tax-free allowances are available to reduce the CT liability to a maximum of 95% of taxable emissions. Taking into account the allowances, the effective tax rate is much lower and ranges between R6 and R48/tCO₂e. CT must be levied in respect of the sum of the scope 1 GHG emissions of a taxpayer in respect of a tax period expressed as the CO₂e of those greenhouse gas (“GHG”) emissions resulting from fuel combustion, industrial processes and fugitive emissions.

GHG Emissions are determined by way of direct observation or by way of estimation. The methods that allow for direct emissions monitoring and the estimation of emissions are set out in the National Environmental Management Air Quality Act, 2004 (Act No. 39 of 2004), read with the National Greenhouse and Energy Reporting (“NGER”) Regulations and the Technical Guidelines for Monitoring, Reporting and Verification of GHG emissions by industry and is based on the 2006 Intergovernmental Panel on Climate Change (“IPCC”) Guidelines (the “Regulations”).



The Regulations came into effect on 3 April 2017. Under the Regulations, a person conducting an activity above the specified threshold must report the GHG emissions and activity data for all the facilities in the prescribed format for the preceding calendar year by 31 March each year. The deadline for reporting GHG emissions and activity data for the 2018 calendar year has been extended to 30 April 2019.

The scope 1 GHG emissions reported to the Department of Environmental Affairs (“DEA”) as provided for in the Regulations would in effect be the tax base for purposes of determining CT.

How does a person use the emissions reported to the DEA to calculate the CT liability? In the remaining part of this Indirect Tax Alert, we illustrate a high-level overview of the CT Legislation and how this links back to the GHG emissions reported to the DEA as provided for in the Regulations.

South African CT overview



Carbon Tax Act, 2019 (Act No. 15 of 2019)

Taxpayer: Entities that conduct activities conducted in SA and that have scope 1 GHG emissions exceeding the threshold determined by matching the activity with the corresponding threshold as provided for in Schedule 2 of the Carbon Tax Act. In general the threshold is thermal capacity of 10MW.

Tax base: The sum of the scope 1 GHG emissions of a taxpayer in respect of a tax period expressed as the CO₂e of those scope 1 GHG emissions resulting from fuel combustion, industrial processes and fugitive emissions.

Rate of tax: R120 p/tCO₂e of the GHG emitted by a taxpayer. The rate will increase annually by CPI + 2% until 31 December 2022 and thereafter by CPI.

Calculation of CT payable: Calculated in accordance with the formulae provided in section 6 of the Carbon Tax Act. In simplified terms, the formula may be summarized as the calculated emissions less allowances multiplied by the rate of CT (calculated per activity).

Allowances (limited to 95% of total GHG emissions):

- Basic tax-free allowance of 60%.
- An additional tax-free allowance of 10% for process emissions.
- An additional tax-free allowance of 10% for fugitive emissions.
- A variable tax-free allowance for **trade-exposed sectors** (up to a maximum of 10%).
- A maximum tax-free **performance allowance** of 5% where a taxpayer has implemented measures to reduce GHG emissions.
- A 5% tax-free allowance for companies who participate in the **carbon budget system**.
- A **carbon offset** allowance of either 5% or 10%.

The underlying regulations for the trade-exposed allowance, the performance allowance and the carbon offset allowance have not yet been finalised.

Tax period:

- **First:** 5 June 2019 – 31 December (payment and submission of forms in July of the year following the tax period).
- **Thereafter:** 1 January – 31 December (payment and submission of forms in July of the year following the tax period).

Customs and Excise Act, 1964 (Act No. 91 of 1964)

(Published draft rules for collection and administration of CT for public consultation)

Administration of the Carbon Tax Act: The CT is administered as if the CT is an environmental levy as contemplated in section 54A of the Customs and Excise Act.

Licensing & registration: The operation of *emission generation facilities* at a *combined capacity* equal to or above the CT threshold must be registered individually as a *customs and excise manufacturing warehouse*.

This means that even if actual usage is below the thresholds as provided for in the Carbon Tax Act, i.e. no CT is payable, a taxpayer would still be required to register.

Emission generation facility = one or more emissions generation points where the source category of the same IPCC code occurs.

Where the threshold in Schedule 2 of the Carbon Tax Act is 'N/A' or the fossil fuel consumption allowance is 100%, no registration is required. This would typically include, but not be limited to 'Agriculture, forestry and other land use' sectors.

Amount of environmental levy payable: The amount of environmental levy should be calculated per licensed emission generation facility.

Submission of account & payment:

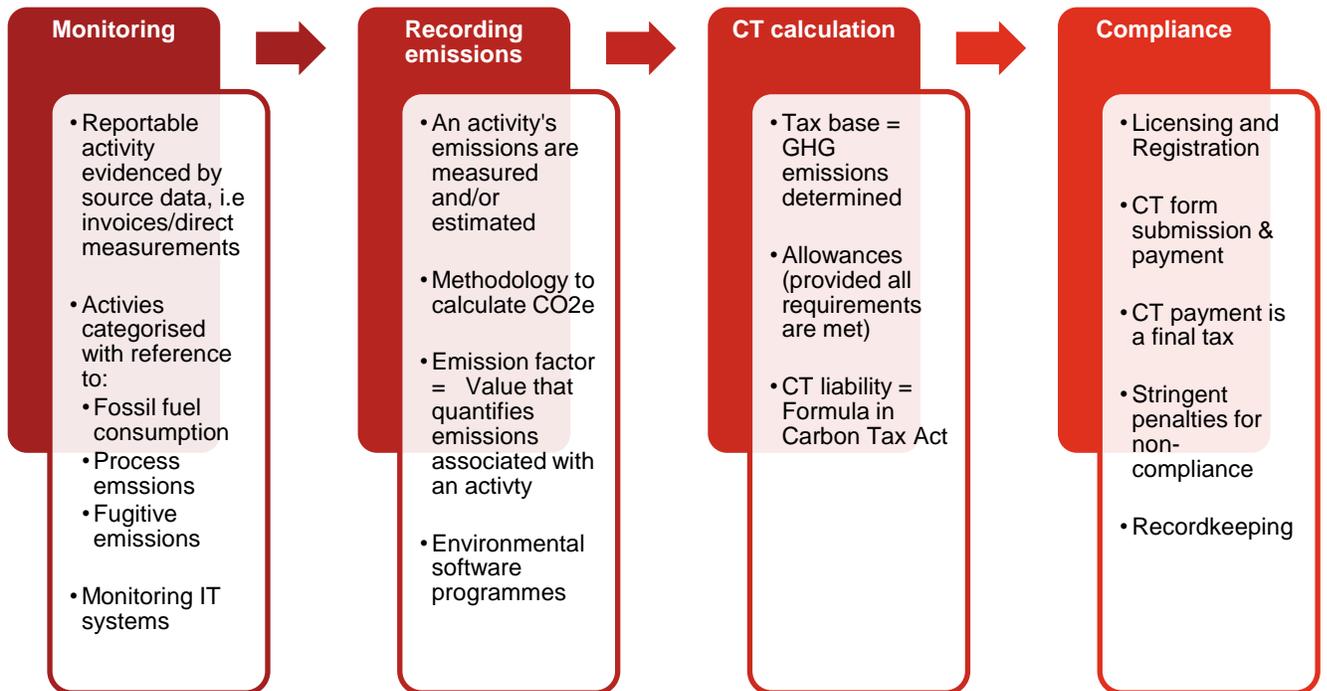
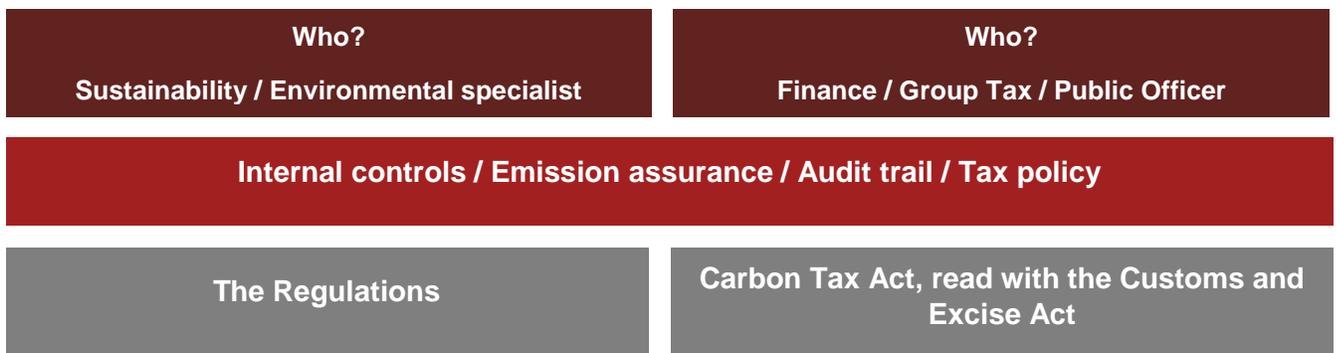
- Form DA180 in respect of each licensed emission generation facility.
- Payment of the environmental levy as calculated in DA180 and its annexures.
- Any supporting documents as may be required by the Commissioner.
- Payment and submission of forms in July of the year following the tax period.
- Form DA180 – environmental levy return for carbon tax has recently been published (Submission in July 2020).

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"Surely we have a responsibility to leave for future generations a planet that is healthy and habitable by all species" - Sir David Attenborough

Connecting the sustainability / environmental teams with finance and/or group tax teams



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Important considerations for your Business

- Determine whether the taxpayer is in control of a listed activity as provided for in the Regulations, and whether such activity exceeds the indicated threshold. Scope 1 emissions reported to the DEA will be subject to CT.
- Are the identified emission sources complete?
- Have the emission sources been assured to ensure completeness and accuracy? Is there a clear audit trail from the source of the emissions to the calculation of the CT? Is there a centralised point where all source data will be kept?
- Are the necessary measures in place to determine the GHG emissions for the first tax period from 5 June 2019 to 31 December 2019 (i.e. raw material stock take, meter readings etc.) on 4 June 2019?
- Determine which allowances will apply and whether all the requirements as provided for in the Carbon Tax Act are met. Finalisation of the underlying regulations to the relevant allowances to be monitored.
- Does the taxpayer participate in the DEA's voluntary carbon budget system? If so, has the DEA confirm in writing that the taxpayer is participating in the carbon budget system?
- Has the taxpayer identified all its emission generation facilities?
- How will this new tax impact the taxpayer's tax policy and strategy, internal control and accountability framework and financial month-end procedures?



Let's talk

For a deeper discussion of how we can assist you with your Carbon Tax needs, please contact us on our details below:

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