

South Africa publishes draft rules for collection and administration of Carbon Tax for public consultation

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Executive summary

On 30 April 2019, the South African Revenue Service (SARS) published draft rules, schedules and forms relating to the collection and administration of the Carbon Tax, which becomes effective in June 2019. The purpose of these draft documents is to amend certain schedules and rules to the *Customs and Excise Act* (the Act) for the administration and collection of the Carbon Tax. The draft rules, schedules and forms contain provisions relating to registration and licensing, rebates and refunds and the submission of accounts. The due date for comments on these draft rules is 20 May 2019.

Detailed discussion

The draft rules address various matters related to the administration of the Carbon Tax including licensing and registration, calculation of the levy payable, submission of accounts and payment; they also introduce several related forms.

Licensing and registration

The licensing and registration requirements applicable to any person who operates emission generation facilities are dependent first on whether a Carbon Tax threshold applies to the emission generation facility, second, on whether an allowance for fossil fuel combustion applies, and third, on whether the person operates emissions generation facilities at a combined capacity equal to or above the carbon tax threshold.

An emissions generation facility is one or more emissions generation points where the source category activity of the same Intergovernmental Panel on Climate Change (IPCC) code occurs. An emissions generation point is the place where emissions liable to environmental levy are generated.

In cases where a person's emission generating activity falls within a category where a carbon tax threshold is not applicable, the person must not license the facility and should also not register. Similarly, where the *Carbon Tax Act* provides for a 100% allowance for fossil fuel combustion, the facility will not be licensed and the person will not register.

Where a person operates emissions generation facilities at a combined capacity above the Carbon Tax threshold (as per the *Carbon Tax Act*), the person must license each emissions generation facility as a customs and excise manufacturing warehouse. The practical effect of this is that a person who operates emissions generation facilities at a combined capacity above the thresholds established in the *Carbon Tax Act* will be required to license each emission generating facility (which may consist of multiple points) as a customs and excise manufacturing warehouse.

A person who operates emissions generation facilities at a combined capacity below the Carbon Tax threshold (as per the *Carbon Tax Act*) must still register in terms of the *Customs and Excise Act*. The practical effect is that even in cases where a person will not be liable to pay any amount of Carbon Tax (due to the threshold), such person will still have to register under the *Customs and Excise Act*.

Amount of levy payable

The draft rules refer to the Carbon Tax as an environmental levy and provide that every licensee must calculate the amount of the environmental levy payable for each tax period in respect of each licensed emissions generation facility of that licensee in the following manner:

- ▶ Determine the sum of the emissions liable to environmental levy in terms of Section 4 of the *Carbon Tax Act*.
- ▶ Determine the allowances to be used to reduce the above emissions in terms of Schedule 6 of the Act read with Part II and III of the *Carbon Tax Act*.
- ▶ Establish the rate of the environmental levy in accordance with Part 3F of Schedule 1 and Section 5 of the *Carbon Tax Act*.
- ▶ Determine the amount payable in accordance with Part 3F of Schedule 1 and Section 6 of the *Carbon Tax Act*.

Submission of account and payment

The draft rules further provide that a licensee must, for each tax period, submit an annual account on a DA 180 form in respect of each emission generating facility of the licensee. The DA 180, payment of the environmental levy and any supporting documents that the Commissioner may require must be submitted on or before the penultimate working day of July of the year following the tax period. The account for the 2019 tax period (June to December 2019) must therefore be submitted on or before 30 July 2020.

Amended forms

SARS has also published the following amended forms intended to be used for the registration and licensing of taxpayers:

- ▶ DA185, the application form which must be completed for the registration or licensing of customs and excise clients
- ▶ Annexure DA185.4A17 to be completed by the operator of an emissions generation facility below the carbon tax threshold
- ▶ Annexure DA 185.4B2 to be completed to register a manufacturing warehouse

The DA 180 form will be published at a later stage.

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