

Ripple effect of carbon tax on Customs and Excise Laws

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On 22 May 2019, the President assented to the Carbon Tax Act, 15 of 2019, effective from 1 June 2019.



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The Carbon Tax Act has been implemented as part of South Africa's commitments under the Paris Agreement as a means to reduce greenhouse gas emissions and the challenges of climate change. In essence, the Carbon Tax Act gives effect to the 'polluter pays principle' by imposing a tax, at the rate of R120 per tonne of CO₂e of greenhouse gas emissions until 31 December 2022 and thereafter increasing annually in line with inflation.

The Carbon Tax will be rolled out in two phases with only scope 1 emitters being liable for the tax during the first phase (1 June 2019 to 31 December 2022). During this phase, companies will be able to effectively reduce their Carbon Tax liability through the use of various allowances and offsets catered for under the Carbon Tax Act, up to a maximum of 95%.



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The South African Revenue Service Customs Division is the administrative authority mandated to implement Carbon Tax liability.

The President, also on 22 May 2019, assented to the Customs and Excise Amendment Act, 2019 (Amendment Act) which seeks to amend the Customs and Excise Act, 1964 (Customs Act). Like the Carbon Tax Act, the Amendment Act came into effect on 1 June 2019.

The purpose of the Amendment Act is to provide for the administration and collection of Carbon Tax revenue through the addition of section 54AA into the Customs Act.

Section 54AA provides, inter alia, that:

- i. any allowances and limitations of allowances prescribed in the Carbon Tax Act must be administered as rebates, refunds or drawbacks as may be applicable;
- ii. taxpayers, as defined in the Carbon Tax Act, must in terms of section 54E of the Customs Act license any premises on which emissions occur as a customs and excise manufacturing warehouse; and
- iii. the Commissioner of Sars, must, to the extent not catered for in the Carbon Tax Act, prescribe any administrative actions, requirements and procedures for purposes of submission and verification of accounts, collection and payment of carbon tax as an environmental levy or the performance of any duty, power or obligation or the exercise of any right, in the Rules to the Customs Act.

Carbon Tax is now a reality and it is important that affected businesses assess potential risks, which they may be exposed to during the administration and collection of the Carbon Tax. Accordingly, prescribed measures, such as the licensing requirement in terms of section 54E, should be noted and obtained as a matter of urgency to avoid penalties under the Customs Act, which, can be quite severe.

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