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Tax and Legal News

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Where was Carbon Tax in the 2021 Budget Speech?

Finance Minister Tito Mboweni's announcement that the corporate income tax rate will be reduced from 28% to 27% has certainly garnered the attention of corporate taxpayers. Although there was no mention of anything related to carbon tax in the 2021 Budget Speech, there is a surprising amount of detail on proposed amendments to the carbon tax legislation, as contained in Annexure C to the 2021/22 Budget, which should cause corporate taxpayers to pay more attention to their Greenhouse Gas (GHG) emissions.

The Carbon Tax Act No. 15 of 2019 (the **Carbon Tax Act**) was assented to by the President on 23 May 2019 and became effective from 1 June 2019 - making South Africa the first African nation to launch a carbon tax. While the Act sets out how the tax will be managed for Phase 1 (ending 31 December 2022), many companies have unanswered questions regarding the financial impact of the tax for Phase 2, which will run from 2023 to 31 December 2030.

The reason for the lack of clarity on Phase 2 can be found in the Explanatory Memorandum on the Carbon Tax Bill, 2018, published on 20 November 2018: "*A review of the impact of the tax will be conducted after at least three years implementation*". This review, which should commence in 2022, will take into account the progress made in reducing GHG emissions. If the desired behavioural change which the implementation of the Carbon Tax Act set out to achieve is not realised, we may see substantial changes (such as the decrease (if not entire withdrawal) of the tax-free thresholds and allowances) to the Act. The proposed amendments in Annexure C have, however, provided us with some insight into what is to come.

Carbon tax rate increase

For the 2021 calendar year, the carbon tax rate will increase from R127 per tonne of carbon dioxide equivalent (**CO_2e**) to R134 per tonne of CO_2e.

Important amendments to reporting requirements

The following changes to Schedule 2 of the Carbon Tax Act are proposed, effective from 1 January 2021:

- Threshold change for activity *1A2m brick manufacturing*
- Emissions from the following activities are now reportable for:
  - *1A2n manufacture of ceramic products by firing, in particular roofing tiles, tiles, stoneware or porcelain*
  - *2A4a ceramics*, *2A4b soda ash*, and *2A4d - other*
  - *2B10 chemicals industry - other*
  - *2C7 metal industry - other*
  - *2G1B electrical equipment*
- Previously exempt activities are now reportable for:
  - *3A2 manure management*
  - *3C1a biomass burning in forest lands, 3C4 direct nitrous oxide emissions from managed soils,* and *3C5 indirect nitrous oxide emissions from managed soils*
  - *3D1 harvest wood products*.

Carbon budget allowance

The Department of Environment, Forestry and Fisheries (DEFF) proposes to regulate GHG emissions under the voluntary carbon budgeting system by imposing caps on companies for a five-year period. Additionally, once legislation on carbon budgets is enacted, the carbon budget allowance of 5%, per Section 12(1) of the Carbon Tax Act, will be phased out.

Offset of renewable energy premiums

In Phase 1 of the carbon tax, renewable electricity purchases can be offset against the carbon tax liability of electricity generators. An amendment is proposed to clarify that only entities that conduct electricity generation activities and purchase additional primary renewable energy, either directly under the Renewable Energy Independent Power Procurement Programme or from private independent power producers with a power purchase agreement, are eligible to claim the tax deduction for their renewable energy purchases, effective from 1 January 2021.

Fugitive emissions activities

Intergovernmental Panel on Climate Change (**IPCC**) activity code 1B3 relating to "*other emissions from energy production*" was unintentionally excluded from section 4(2), which relates to country specific emission factors or default emissions factors prescribed by the IPCC. It is proposed that an additional category be included to cover these activities.

Carbon capture and sequestration

For fuel combustion activities where carbon capture and storage technologies are used, the GHG emissions (net of sequestered emissions) should be reported to the DEFF. To address possible double benefits for the same sequestered emissions, it is proposed that the definition of greenhouse gas emissions sequestration be amended to remove carbon capture and storage in geological reservoirs from the scope of the deduction.

In addition, to address concerns regarding the permanence of sequestered emissions in harvested wood products, it is also proposed that only actual forestry plantation sequestered emissions should be eligible for the deduction under the Carbon Tax Act.

Waste tyre greenhouse gas emissions

Although the Carbon Tax Act covers GHG emissions from waste incineration emissions, Schedule 1 of the Carbon Tax Act, which is aligned with the DEFF's technical guidelines, does not include a waste tyre fuel type and relevant emission factor. As such, there is uncertainty over whether emissions due to the use of waste tyres are subject to the carbon tax. The DEFF will, therefore, develop appropriate emission factors for waste tyres for possible inclusion in the 2022 Budget Review.

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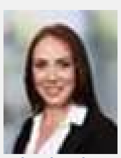

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