May 2019

Carbon Tax: Guidance issued on the administration under the C&E Act

Carbon Tax will be implemented on 1 June 2019. SARS has issued various draft documents and forms regarding the administration of the Carbon Tax under the Customs and Excise Act. These draft documents have been released for public comment. Taxpayers will be relieved to see payment of the tax and submission of the attendant return for the first tax period (1 June 2019 to 31 December 2019) are delayed until July 2020.

SARS has issued specific draft documents and forms for public comment in relation to the administration of the Carbon Tax in terms of the Customs and Excise Act 1964 (“the Customs and Excise Act”). The carbon tax for purposes of the Customs and Excise Act will be known as the **Environmental Levy on Carbon Emissions** (for ease of reference, we refer to the carbon tax only below).

The forms released for public comment include, *inter alia*:
- **DA 185**: Application form – Registration / licensing of customs and excise clients;
- **DA 185.4A17**: Client Type 4A17 – Operator of an emissions generation facility below the carbon tax threshold; and
- **DA 185.4B2**: Licensing Client Type 4B2 – Manufacturing Warehouse.

Notably form DA 180, the Environmental Levy Return for Carbon Tax (the return that will disclose the carbon tax liability) has not been issued as yet.

Draft Rules and an Explanatory Memorandum have also been released to assist with understanding how the carbon tax will be administered. The Draft Rules have provided some clarity on the following aspects:
**Licensing and registration**

In respect of licensing and registration, the Draft Rules note as follows:

- very person who operates emissions generation facilities (being a place or point where emissions are produced from an activity which is subject to carbon tax) with a combined capacity equal to or above the carbon tax thresholds in Schedule 2 of the Bill, must license each facility as a customs and excise manufacturing warehouse.

- Every person who operates emissions generation facilities at a combined capacity below the carbon tax threshold must also register.

- Those persons whose emissions are subject to a 100% allowance in terms of the Carbon Tax Bill (for example Agriculture, Forestry and Land Use and Waste), are not required to register at this stage.

This will be a significant administrative burden for clients, particularly those clients that have a number of facilities which will fall within the carbon tax regime.

**Submission of account and payment**

For the purposes of payment of the carbon tax, every licensee (being the person who is liable for the carbon tax) must submit for each tax period:

- A DA 180 form in respect of each licensed emissions generation facility of that licensee.

- Payment of environmental levy as calculated on the said form DA180.

- Any supporting documents the Commissioner may require.

**Timing of payment and submission of forms**

- Most notably, the DA 180 form and attendant payment is only required to be submitted by the penultimate working day of July of the year following the tax period (for example, for the 2019 tax period taxpayers will be required to submit the form and make payment by Thursday 29, July 2020).