



31 August 2024

To: The National Treasury

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RE: DRAFT TAXATION LAWS AMENDMENT BILL, 2024: ENVIRONMENTAL TAX

Dear Colleagues,

We attach the comments from the SAIT Environmental Tax Technical Work Group (**the WG**) on the proposals contained in the draft Taxation Laws Amendment Bill, 2024 (**DTLAB**), as it pertains to environmental tax and related matters.

We value the opportunity to participate in the legislative process and would welcome further engagement where appropriate.

Please do not hesitate to contact us should you need further information.

Yours sincerely,

SAIT Environmental Tax Technical Work Group

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All references to the legislation are to the Carbon Tax Act, No. 15 of 2019 (the Carbon Tax Act) and the relevant clauses in the draft Taxation Laws Amendment Bill, 2024 (DTLAB)

1. Comments on Proposed changes to Table 1, Schedule 1

1.1. WG response

- 1.1.1. For some calorific values (CVs), it has been proposed that the values at the upper and lower limits of the 95% confidence interval are removed. It is argued that these values should be retained in the Carbon Tax Act so that the carbon taxpayer can use a calorific value for its fuel that is made available by its fuel supplier, provided it falls within the limits. This allows the carbon taxpayer to more accurately calculate its greenhouse gas emissions.
- 1.1.2. The proposed calorific value for other bituminous coal does not align with the South African Department of Forestry, Fisheries and Environment's (DFFE's) value. It should remain 0.0243 TJ/tonne, in line with Coal General Purpose in Annexure D of DFFE's Methodological Guidelines for the Quantification of Greenhouse Gas Emissions.
- 1.1.3. Some of the calorific values for diesel are 0.0381 TJ/tonne whereas others are 0.043 TJ/tonne. These values should all be 0.043 TJ/tonne to align with DFFE's Methodological Guidelines for the Quantification of Greenhouse Gas Emissions.

1.2. Recommended proposal

- 1.2.1. There is a country-specific CO₂ emission factor for natural gas. The schedule should be updated to include this country-specific CO₂ emission factor.
- 1.2.2. For both natural gas and methane-rich gas, there are country-specific calorific values. The schedule should be updated to include these country-specific calorific values.

2. Comments on Table 2: Schedule 1

2.1. WG response and recommended solution

- 2.1.1. The table should clearly specify the units of measure for each greenhouse gas type. For example, for 1B2b Gas Transmission and Storage, the unit of measure is given in Gg-CO₂/year/km. It is assumed that this unit of measure applies to all three greenhouse gas types. However, being specific will be useful so that it is applied as National Treasury intends.



3. Comments on the Draft Carbon Offset Regulations (“COR”)

3.1. Amendments to the COR

- 3.1.1. Regulation 4 of the COR deals with Carbon offsets of a taxpayer conducting an activity in respect of any power purchase agreement or renewable energy generated in respect of technology.
- 3.1.2. The draft COR propose the following amendment of capacity requirements:
 - 3.1.2.1. In respect of any power purchase agreement with contracted capacity exceeding 30 (previously 15) Megawatt, with a cost equal to or lower than R1.09 per kilowatt hour; and
 - 3.1.2.2. In respect of renewable energy generated in respect of a technology with an installed capacity exceeding 30 (previously 15) Megawatt, with a cost equal to or lower than R1.09 per kilowatt hour.

3.2. WG response and Recommendation

- 3.2.1. It is unclear whether the Carbon offsets would be available on a project or a legal entity basis.
- 3.2.2. We therefore recommend that it is clarified whether or not a taxpayer may conduct more than one activity of which each individually do not exceed the maximum capacity.

4. General Comments:

- 4.1. The process emission factor for 2A3 glass production in Table 3 has a unit of measure of tonnes glass. It must be made clear that cullet percentage must be subtracted prior to applying the emission factor. This is in line with DFFE's Methodological Guidelines for the Quantification of Greenhouse Gas Emissions and the IPCC 2006 Guidelines. The use of recycled glass (called cullet) does not result in any process emissions as it does not contain any carbon that is released. It is only the use of virgin raw materials that results in the release of carbon when used to produce glass.
- 4.2. The Carbon Tax Act must be clear on the fact that a carbon taxpayer must align with its submission to DFFE, if using a Tier 3 method to calculate its emissions for the purpose of the carbon tax. If using a Tier 1 or 2 method to calculate its emissions for the purpose of the carbon tax, it must align with Schedule 1 of the Carbon Tax Act.
- 4.3. The Carbon Tax Act must also specify whether any method can be adopted (Tier 1, 2 or 3) by the carbon taxpayer or whether the method adopted to calculate its emissions for the purpose of the carbon tax should be aligned with that used for reporting to DFFE.
- 4.4. This is not currently explicitly stated in section 4 of the Carbon Tax Act, which in turn creates confusion.

End.