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12 September 2025

To: The National Treasury
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PRETORIA
0001

The South African Revenue Service
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Via email: National Treasury (2025AnnexCProp@treasury.gov.za); and
SARS (2025legislationcomments@sars.gov.za)

RE: DRAFT TAXATION LAWS AMENDMENT BILL, 2025: ENVIRONMENTAL TAX TECHNICAL WORK GROUP (CARBON TAX)

Dear Colleagues,

We attach the comments from the SAIT Environmental Tax Technical Work Group (**WG**) on the proposals contained in the draft Taxation Laws Amendment Bill, 2025 (**DTLAB**).

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.

SAIT Environmental Tax Technical Work Group

All references to the legislation are to the Carbon Tax Act, No 15 of 2019 (the Carbon Tax Act), the Income Tax Act, No. 58 of 1962 (the Act), and proposals contained in the draft Taxation Laws Amendment Bill (DTLAB)

1. Electricity price neutrality extension and electricity levy repeal

[Applicable provisions: Section 6(2) of the Carbon Tax Act 15 of 2019 ("the Carbon Tax Act")]

1.1 Government Proposal

1.1.1 Over the past seven years, electricity consumers have experienced steep price increases, alongside the added burden of supply disruptions and loadshedding, which have significantly affected energy-intensive businesses and the broader economy. To support consumers and maintain price stability, Government proposes to extend its commitment to electricity price neutrality by ensuring that the carbon tax remains revenue-neutral and does not affect electricity prices until 2030. This will be achieved by repealing the electricity generation levy under the Customs and Excise Act and limiting the carbon tax, from 2026, to apply only to combustion emissions. The carbon tax will effectively replace the existing levy, with electricity generators continuing to deduct a portion of the renewable energy (RE) premium from their carbon tax liability, calculated as the difference between the carbon tax and what would have been paid under the electricity levy.

1.1.2 The proposal includes several amendments to Section 6 of the Carbon Tax Act and related provisions in the Customs and Excise Act. Specifically, these amendments are set to come into effect on 1 January 2026.

1.2 WG response

1.2.1 The proposal to extend price neutrality on electricity was discussed in detail. The mechanism ensures that carbon tax costs are not passed through to electricity consumers, originally set to expire in December 2025 but now proposed for extension to 31 December 2030. This is achieved by allowing electricity generators to deduct the renewable energy premium, thus maintaining neutral electricity prices.

1.2.2 The environmental levy is to be repealed and replaced by the carbon tax, with the renewable energy premium deduction extended. The maximum deductible amount is the difference between the tax liability for combustion emissions and the deduction, ensuring no negative credits. The calculation is based on the carbon tax liability minus the product of electricity generated and the environmental levy rate (R0.035/kWh). The proposal is that the rate applies to electricity generated from non-renewable sources, where non-renewables such as coal, petroleum liquid products and natural gas. The environmental levy has previously also applied to nuclear power, however the wording in the DTLAB proposes that nuclear is excluded.

1.2.3 Participants generally supported the extension, recognising its importance in stabilising electricity prices. However, it was noted that a more detailed review of the implications, particularly for electricity generators, is still required. Clarity is also requested if the application of the environmental levy to non-renewable sources has changed and if an explanation can be provided for the motivation for this. The group agreed to revisit this section once further analysis is completed.

2. Energy Efficiency savings incentive

[Applicable provision: Section 12L of the Act]

2.1. **Government Proposal**

2.1.1. During stakeholder consultations, there was broad support for extending the section 12L energy-efficiency tax incentive. Stakeholders highlighted practical challenges in transitioning section 12L projects into the carbon offsets mechanism, noting that many of these projects are implemented within the taxable operations of entities, making integration difficult. Furthermore, section 12L projects are typically smaller in scale and may not meet the viability thresholds set by international carbon standards. In light of these considerations, the 2025 Budget proposed a five-year extension of the section 12L incentive to 31 December 2030.

2.1.2. It is therefore proposed that section 12L be amended to replace the current sunset date—years of assessment ending before 1 January 2026—with a new date of years of assessment ending before 1 January 2031. This amendment is set to take effect on 1 January 2026.

2.2. **WG response**

2.2.1. The WG took note of the proposed extension of the section 12L energy-efficiency tax incentive. The extension was broadly welcomed, with no objections raised. It was acknowledged as a positive and constructive step toward promoting continued investment in energy efficiency improvements.

3. Sequestration deduction

[Applicable provision: Section 6 of the Carbon Tax Act]

3.1. Government Proposal

3.1.1. Following the development and acceptance of a robust carbon sequestration protocol, it is now proposed to expand the scope of the carbon sequestration deduction available under the Carbon Tax Act to include timber supplied by third parties. Currently, this deduction is limited to activities under the direct operational control of the taxpayer. The proposed amendment aims to extend eligibility to carbon stored in forestry plantations and harvested wood products originating from third-party timber producers, provided that sequestration is measured and verified in accordance with the approved protocol.

3.1.2. This change will apply specifically to emissions from fuel combustion in the pulp, paper, and print industry (IPCC code 1A2d), as well as the wood and wood products sector (IPCC code 1A2j), as declared under section 4 of the Carbon Tax Act. The intention is to ensure equitable treatment for all contributors to carbon sequestration, regardless of whether they operate within integrated mill structures or as independent suppliers.

3.1.3. To give effect to this, it is proposed that section 6(4) of the Carbon Tax Act be amended to explicitly include "third-party timber production" in the definition of "sequestrate" for the relevant IPCC codes. The amendment will come into operation on 1 January 2026.

3.2. WG response

3.2.1. The group discussed the proposal to extend the sequestration deduction to registered and verified third-party timber growers. This amendment was broadly welcomed, as it allows a wider range of companies—particularly those that do not own plantations but contribute to forest maintenance and sustainability—to benefit from the incentive. The change was seen as a positive step toward encouraging broader participation in carbon sequestration initiatives, supporting South Africa's environmental and climate-related goals.

3.2.1.1. **Recommendations**

3.2.1.2. While the potential for increased administrative burden on the verifying authorities was acknowledged, stakeholders agreed that this should not outweigh the environmental and economic benefits of broader inclusion. In this context, we have set out below suggestions mechanisms to streamline the verification and compliance process:

3.2.1.2.1. Develop a centralised registration portal where third-party timber growers can register and upload standardised documentation for verification, reducing paper-based processes and improving accessibility.

3.2.1.2.2. Introduction of a risk based tiered verification approach where smaller or lower-risk growers are subject to simplified requirements, while larger operations undergo more detailed assessments.

3.2.1.2.3. The introduction of an annual self-certification with random audits which will permit registered growers to self-certify sequestration-related activities annually, subject to randomised audits to ensure compliance and data integrity.

4. Carbon offset allowance increase

[Applicable provisions: Schedule 2 of the Carbon Tax Act 15 of 2019]

4.1. Government Proposal

4.1.1. As we understand it, the proposed amendment stems from consultations on the discussion paper with stakeholders who had expressed support for a moderate increase to the carbon offset allowance, citing the time needed to develop offset projects and concerns about the availability of offset supply in the market. In response, it is proposed to increase the offset allowance by 5 percentage points—raising the allowance for combustion emissions from 10% to 15%, and for fugitive and process emissions from 5% to 10%. This adjustment is intended to provide a targeted economic incentive to accelerate low-carbon investments and promote technological innovation in the short to medium term.

4.1.2. To give effect to this change, amendments to Schedule 2 of the Carbon Tax Act are proposed.

4.2. WG response

4.2.1. The WG considered the proposed amendment and noted that the proposal to increase the carbon offset allowance for fuel combustion from 10% to 15%, and for process emissions from 5% to 10% (effective 2026), was discussed. The WG viewed this as a positive step, likely to incentivise the market and increase demand for offset credits.

4.2.2. Concerns were raised about the availability of sufficient offset credits in the market, but the relationship between the basic allowance and offset allowance was considered fair. No objections were raised, and the amendment is supported.

4.2.3. As part of the Budget Speech proposals in 2025, it was stated that National Treasury plans to include more carbon standards as eligible standards for claiming the carbon offset allowance. Clarity is sought on whether a local carbon offset standard is being considered as well as the inclusion of the Paris Agreement Carbon Standard which is replacing the Clean Development Mechanism.

5. Carbon budget and carbon tax – higher tax rate
[Applicable provision: Sections 1, 4, 5, 6, 14 and 16 of the Carbon Tax Act]

5.1. Government proposals

5.1.1. In the 2022 Budget, government proposed a higher carbon tax rate of R640 per ton of CO_2 equivalent (tCO_2e) for emissions that exceed the carbon budget allocated to companies. This elevated rate applies strictly to emissions above the carbon budget threshold, with no tax-free allowances. The carbon budget effectively sets the maximum permissible emissions level for each entity.

5.1.2. The rationale for the higher tax rate is grounded in the need to better reflect the external costs of climate change and the broader climate-related risks to the economy. This approach aligns with the polluter pays principle, sending a strong price signal to incentivize behavioural change. High emitters are thus encouraged to either transition to lower-carbon technologies or face a significantly higher tax penalty for non-compliance with their allocated carbon budgets.

5.2. Commentary

5.2.1. The Climate Change Act 22 of 2024 ("CCA") was enacted in July 2024 with key sections of the CCA providing for the implementation of the National mitigation system including mandatory carbon budgets, sectoral emissions targets and GHG mitigation plan requirements which came into effect on 17 March 2025. The Minister in the Department of Forestry, Fisheries and the Environment ("DFFE") approved the publication of draft regulations, issued in August 2025, for public comment by 30 September 2025.

5.2.2. Since the CCA has come into effect and the relevant regulations will be gazetted soon, it is proposed that amendments to the Carbon Tax Act are made to provide for the higher tax rate of R640/tCO_2e to the quantum of emissions of GHG above the allocated carbon budget of an entity.

5.3. WG response

5.3.1. The WG considered this amendment and appreciated that this rate is aligned with international carbon pricing benchmarks and is intended as a punitive measure to drive behavioural change. As we understand it, the annual allocation is to be divided equally over five years, with annual assessments and penalties for exceedance.

5.3.2. The following concerns were raised:

5.3.2.1. We believe that it would be premature to implement the proposed changes to the Carbon Tax Act before the Carbon Budget Regulations are finalised and tested. If we assume that the regulations come into effect in December 2025, it is not practical to expect companies to have their carbon budgets allocated by the Minister of DFFE before the third quarter of 2026. This would mean that companies would operate under an uncertain tax regime for at least the first half of the year, with no clarity on their liability for the excess tax. Given these uncertainties, we believe that it would be prudent to defer the implementation of the carbon budget-linked amendments to the Carbon Tax Act until the following year.

5.3.2.2. Penalising companies from the date of promulgation of the carbon budget regulations for exceeding their allocated budgets—via a process that remains untested—raises concerns, particularly considering the removal of the 5% carbon budget allowance and the concurrent exponential increase in the headline carbon tax rate. The process should be a phased in process over a five-year period

5.3.2.3. In addition, it is also proposed that the voluntary carbon budget process be extended by one year to allow for the carbon budget and mitigation plan regulations to be finalised. It is also requested that the carbon budget allowance be extended to 31 December 2026 to align with these timeframes.

5.3.2.4. The proposed carbon tax rate of R640/tCO_2e for emissions exceeding the carbon budget appears disproportionately high. It is unclear whether any thorough benchmarking or comparative analysis was conducted to substantiate the figure.

5.3.2.5. Concerns were raised about the administrative complexity of annual assessments, particularly given the lag in reviews of reporting and verification by the DFFE.

5.3.2.6. The WG further proposed that penalties are applied at the end of the five-year period, after final verification, rather than annually. Under the current annualised approach proposed by National Treasury, some taxpayers may exceed their carbon budget allocations in certain years but remain within their overall five-year carbon budget. Imposing penalties annually could result in over-taxation, particularly in cases where temporary exceedances are offset by lower emissions in other years within the five-year period. Applying penalties only after the full commitment period would ensure a fairer and more accurate assessment of compliance.

5.3.2.7. The Customs and Excise Act currently does not provide a mechanism for carbon taxpayers to claim refunds for overpayments made in prior periods of up to five years, in cases where they have been over-taxed for exceeding their carbon budget emissions under the annualised approach proposed by National Treasury. Section 77 of the Customs and Excise Act only allows for the set-off of amounts and refunds for Schedule 6 items within a two-year period from the date the duty was paid. Consequently, taxpayers may be unfairly penalised if, for example, they exceed their carbon budget in some years but remain under their overall five-year allocation. In such cases, taxpayers would have paid the higher proposed rate earlier in the five-year period, without any recourse to recover overpaid amounts once their emissions are reconciled against the full five-year carbon budget.

5.3.2.8. While we appreciate that offset credits cannot be used against the excess liability, reinforcing the punitive intent of the measure. The WG recommends that these points be clarified in the final legislation.

5.3.2.9. The DTLAB proposes the following amendments to sections of the Carbon Tax Act in which we have highlighted some concerns/issues pertaining to the amendments:

5.3.2.9.1. Section 6 be amended to include a new formula to calculate a carbon tax payable on total GHG emissions above the approved carbon budget multiplied at the higher tax rate of R640/tCO2e

5.3.2.9.2. Section 14 be amended by the insertion of a new clause specifically indicating that no allowances contemplated in Part II of the Carbon tax Act will apply where emissions are above the carbon budget.

We set out further issues that pertain to 5.3.2.9.1 above:

a) *New formula introduced*

The DTLAB does not provide any clarity or guidance on the ordering of symbol “TP” representing the tax payable in the new formula when compared to symbol “X” in the existing formula which also represents the amount of tax payable. As such, it is not clear whether the new formula overrides the existing formula as the tax payable in the tax period when actual emissions exceed the approved carbon budget. Furthermore, it is unclear why the symbol “TP” is introduced and how this interacts with the existing symbol “X”.

b) *Double taxation*

The DTLAB does not amend the current existing formula under section 6(1) to exclude the carbon tax payable determined under the new formula calculated on emissions exceeding the approved carbon budget. As such, based on the DTLAB amendments in its current form, actual emissions would be subject to a carbon tax rate under the existing formula at the lower rate as well as under the new formula at the higher rate resulting in a risk of double taxation for the taxpayer.

c) *Straight line annualising of emissions under the carbon budget*

The DFFE provides for accounting of carbon budgets on an annual period and over a 5-year period *i.e. the commitment period* whereas carbon taxes are determined and paid annually on a calendar year *i.e. the tax period*. The Explanatory Memorandum ("EM") to the DTLAB suggests this is to prevent a situation where the taxpayer may be required to make a once-off exorbitant carbon tax payment at the end of the 5 years and as such allows for smoothing of the tax liability over the 5-year period.

The example provided in the EM to the DTLAB suggests that the 5-year carbon budget allocation will be annualised on a straight-line basis such that where emissions are above the carbon budget in a specific tax period, the company will be required to pay the higher tax on those emissions in that year.

However, on a cumulative basis over the 5-year period in the said example, the company is still within its carbon budget allocation for the commitment period yet there is no reversal or credit provided back to the company for the taxes paid in prior periods at the higher rate. This practice is *procedurally unfair* and infringes on the constitutional rights of the taxpayer.

We now set out issues identified on point 5.3.2.9.2 above:

d) *Ambiguity in the prescript section regarding tax-free allowances where emissions exceed the carbon budget*

The EM to the DTLAB 2025 states that it is *"agreed in principle that emissions within the carbon budget will be taxed at a lower rate (all tax-free allowances applicable) while emissions above the carbon budget will be taxed at a higher rate"*.

However, the new section to be inserted as section 14A specifically refers that where *"emissions are above the carbon budget as approved by the Department of Forestry, Fisheries and the Environment, <u>no allowances</u> contemplated in Part II in respect of a tax period will apply." (own emphasis)*

The phrasing of the language creates an impression that tax-free allowances will not apply to all emissions when the carbon budget allocations have been exceeded.

Recommendation

a) *New formula introduced*

It is recommended that the legislation be amended to clearly stipulate the ordering of the formulas contained in section 6 and plainly clarifies the interaction between symbol "TP" and symbol "X" as to what amount is the final carbon tax payable.

b) *Double taxation*

It is recommended that the current existing formulas in section 6 be amended to:

- determine emissions based on the lower of actuals or the DFFE approved carbon budget to ensure that there is no double taxation on the same emissions above carbon budget and that the tax-free allowances are only calculated on the portion of emissions below the approved carbon budget; or

- exclude the portion of actual emissions which exceed the approved carbon budget, as calculated under the new formula and taxed as the higher tax rate of R640/tCO2e, such that there is no inference of double taxation.

c) *Straight line annualising of emissions under the carbon budget*

Carbon emissions fluctuate year on year due to various factors therefore equalising of emissions on a straight-line basis are not reflective of commercial practice. The carbon budget, as defined in the CCA and regulations thereto, refers to a *commitment period* of 5 years to consider fluctuations of emissions over a 5-year period.

This is further highlighted in a simplistic example depicted below where a taxpayer with an initial approved carbon budget of 275 million t/CO2e for the commitment period may have fluctuating levels of emissions over 5 years but have not exceeded the carbon budget over the commitment period in total. Strategic fluctuations in emissions may occur for example due to product demand or operational shutdowns in manufacturing plants.

It is therefore recommended that:

- the higher tax rate of R640t/CO2e in respect of emissions *in excess* of the carbon budget be determined at the end of the commitment period, *i.e. end of 5 years*, when the tax liability ultimately becomes due and payable; or

- when a company emits below its allocated budget in one year, it should be able to carry forward that credit to offset higher emissions in subsequent years within the commitment period. This flexibility is essential for fair and accurate tax liability assessment.

YEAR	ACTUAL EMMISSIONS* (t/CO2e)	STRAIGHT-LINED CARBON BUDGET EMMISSIONS (t/CO2e)	EMISSIONS IN EXCESS OF CARBON BUDGET	COMMENTARY
Year 1	60,000,000	55,000,000	5,000,000	*Higher Tax rate used to calculate a 'penalty' tax payable for the annual carbon tax period.*
Year 2	57,000,000	55,000,000	2,000,000	
Year 3	54,000,000	55,000,000	0	
Year 4	51,000,000	55,000,000	0	
Year 5	47,000,000	55,000,000	0	
TOTAL	**269,000,000**	**275,000,000**	**0**	**No higher tax rate applicable at the end of the commitment period**

**If a taxpayers' approved Mitigation Plans are successfully carried out, actual emissions should ideally reduce year-on-year. Emissions may also be lower due to operational shutdowns.*

The above simplistic example clearly depicts how taxpayers would be unfairly penalised in the former years of a commitment period when overall still being within the approved carbon budget over the 5 year commitment period.

Paragraph 8 of the Draft Technical Guidelines for the National Greenhouse Gas Carbon Budget and Mitigation Plan Regulations ("CBMP Regulations"), on page 80, specifically refers to the Annual Carbon Budget as the portion of the total carbon budget allocation approved, annualised and disaggregated using a methodology employed at the discretion of each individual Data Provider. In the example contained in the CBMP Regulations, on page 80, a Company would only be subject to compliance penalties in terms of the Carbon Tax Act if actual emissions exceeded the carbon budget at the end of the commitment period.

d) *Ambiguity in the prescript section regarding tax-free allowances where emissions exceed the carbon budget*

If amendments are made to the existing formula, as discussed under (b) above, then there would be no need for section 14A to be introduced.

6. Diesel refund relief for primary sectors

[Applicable provision: Note 6(b)(i) in Schedule 6 Part 3 of the Customs and Excise Act]

6.1. Government proposal

6.1.1. The current 80:20 policy under the diesel refund system assumes that 20% of diesel purchased is used for non-qualifying purposes and is therefore excluded from the refund. This approach was originally intended to prevent abuse of the system. However, Government now proposes to allow a refund on the full volume of eligible diesel purchases declared to SARS, in line with the original policy intent. This change is expected to simplify the administration of the diesel refund system and provide approximately R1 billion in additional relief to qualifying taxpayers.

6.1.2. To implement this adjustment, it is proposed that Note 6(b) in Schedule 6, Part 3 of the Customs and Excise Act be amended accordingly.

6.2. WG response

6.2.1. The WG discussed the proposal to allow qualifying off-road activities to claim a 100% diesel refund, removing the previous 80% limitation. While the intention was supported, concerns were raised about the clarity and alignment of the wording in the draft, as the 80% reference remains in some examples.

6.2.2. It was also noted that the change is only mentioned in the explanatory memorandum, not in the DTLAB itself. The WG recommended that the wording be clarified and outdated references removed before implementation with an effective date proposed for April 2026.

7. Aligning schedule 1 of the Carbon Tax Act emission factors
[Applicable provision: Schedule 1 of the Carbon Tax Act]

7.1. Government proposal

7.1.1. In 2023, the Department of Forestry, Fisheries and the Environment (DFFE) approved the use of country-specific Tier 2 emission factors for natural gas and coal to improve the accuracy of emissions reporting for both stationary and non-stationary fuel combustion. A formal submission was also made requesting updates to the carbon dioxide emission factors for approximately sixteen fuel types under the National Greenhouse Gas Emission Reporting Regulations of April 2017. In May 2024, the DFFE approved a country-specific CO_2 emission factor of 54,891 kg/TJ and a net calorific value of 0.000033141 TJ/m^3 for methane-rich gas, applicable for the 2025 to 2027 reporting cycles.

7.1.2. To align the Carbon Tax Act with these updated values, amendments to the carbon dioxide emission factors and net calorific values for coal, natural gas, and methane-rich gas contained in Schedule 1 are proposed.

7.2. WG response

7.2.1. The WG discussed updates to Tier 2 emission factors for natural gas, methane-rich gas, and coal are proposed to align the Carbon Tax Act with current fuel combustion tools. This alignment was supported, as it ensures consistency between reporting to authorities and carbon tax returns.

7.2.2. However, a misalignment in units (normal cubic metre vs. per tonne) was noted and the WG noted that this should be corrected.

7.2.2.1. Methane rich gas net calorific value

The Net Caloric Value proposed by the National Treasury, for Methane Rich Gas will be assigned units of TJ/Tonne as per the heading of Table 1 in Schedule 1. This means the Net Calorific Value for Methane Rich Gas will read as 0.033141 TJ/Tonne, which is incorrect. As per the DFFE's most recent Emission Factor Approval Letter issued to Sasol, the Net Calorific Value for Methane Rich Gas is 0.000033141 TJ/m3. Hence, the National Treasury has applied the incorrect units to the value. The density of the fuel should be considered to convert the 0.000033141 TJ/m3 to TJ/Tonne before incorporating the value into Table 1 of Schedule 1.

7.2.2.2. Natural gas emission factor

The CO_2 emission factor for Natural Gas of 55 709 $kgCO_2$/TJ proposed by the National Treasury is not aligned with the most recent approved value. As per the DFFE's most recent Emission Factor Approval Letter issued to Sasol, the CO_2 emission factor for Natural Gas is 55 664 $kgCO_2$/TJ.

7.2.2.3. Natural gas net calorific value

The Net Caloric Value proposed by the National Treasury, for Natural Gas will be assigned units of TJ/Tonne as per the heading of Table 1 in Schedule 1. This means the Net Calorific Value for Natural Gas will read as 0.03701 TJ/Tonne, which is incorrect. As per the DFFE's most recent Emission Factor Approval Letter issued to Sasol, the Net Calorific Value for Methane Rich Gas is 0.000036856 TJ/m3. Hence, the National Treasury has applied the incorrect value and units. The density of the fuel should be considered to convert the value from 0.000036856 TJ/m3 to TJ/Tonne before incorporating the value into Table 1 of Schedule 1.

7.2.3. Proposed changes to TLAB

The Methane Rich Gas Net Calorific Value to be updated to ensure the TJ/Tonne value is incorporated in Table 1 of Schedule 1. The Natural Gas CO2 emission factor: by the substitution in the line corresponding to Fuel Type "Natural Gas" for the Greenhouse Gas in the column "CO2 (KGCO2/TJ)" of the following value: "[56 100] 55 664". The Natural Gas Net Calorific Value to be updated to ensure the TJ/Tonne value is incorporated in Table 1 of Schedule 1.

It is recommended that the changes apply from 1 January 2026, however it is requested to ensure that the emission factors apply for the emissions that cover the tax period starting 1 January 2025. This will create more alignment with the GHG emission submissions made to the DFFE in March 2026 and the carbon tax return submission deadline in July 2026.

8. Formula for fugitive emissions calculation

[Applicable provision: Section 4(2)(b)(b)(iii)(aa) of the Carbon Tax Act]

8.1. Government proposal

8.2. The DTLAB proposes an amendment to the formulas used by companies to calculate their GHG emissions for fugitive emission activities under section 4(2)(b)(b) of the Carbon Tax Act. Amendments were made to the table contained in Schedule 1 to add in the new fugitive emission source categories for solid fuel transformation and coal- and gas-to-liquid fuels.

8.3. WG response

8.3.1. The draft TLAB proposes that the amendments are deemed to come into operation on 1 January 2024. As such, this would mean that the revised formulas in respect of fugitive emission activities calculated under section 4(2)(b)(b) of the CTA should have been used in the tax return submission for the 2024 tax period which was submitted and carbon taxes paid to SARS by no later than 29 July 2025.

8.3.2. Retroactive application of legislation undermines the rule of law and places the taxpayer in a precarious position to arrange their affairs to comply with legislation and to determine the correct amount of taxes due as seen in the judgement against taxpayers in *Pienaar Brothers*[1].

8.3.3. Where taxpayers have not used the revised formulas in their 2024 tax return submissions and payments, this amendment may result in additional tax liabilities in respect of the 2024 tax period from an understatement of taxes which may further result in potential penalties and interest becoming due upon assessment as a result of this retroactive amendment.

8.4. WG response

8.4.1. It is recommended the effective date be revised so that the proposed amendments be deemed to come into operation on 1 January 2025 and applicable only for tax periods after that date.

End.

[1] *Pienaar Brothers (Pty) Ltd v the Commissioner for the South African Revenue Service and Another (87760/2014) [2017]*