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Ref #: 773069

Submission File

15 July 2022

National Treasury
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Dear Sir

SUBMISSION: CARBON TAX POLICY MATTERS

INTRODUCTION

1. As always, the South African Institute of Chartered Accountants (SAICA) thanks the National Treasury for the ongoing opportunity to provide constructive comments in relation to tax operational and legislative matters. In this regard, we refer to the 2022 Budget Speech where Government indicated that the impact of the carbon tax will be reviewed before the next phase is implemented and additional changes to rates, thresholds and allowances will be made thereafter.

2. The SAICA Carbon Tax Committee (a sub-committee of the SAICA National Tax Committee) met recently and the review of the next phase of the carbon tax was discussed. The Committee thought it would be pro-active and raise certain matters that the Government should take into consideration during the review period. These matters are briefly discussed below.

Increase in carbon tax prices – in US$

3. The 2022 Budget Speech, on page 49, stated that in order to prepare South Africa for the structural transition to a climate-resilient economy, government proposes to progressively increase the carbon price every year by at least US$1 to reach US$20 per tonne of carbon dioxide equivalent (tCO_2e) emissions by 2026. For the second phase, government intends to increase the carbon price more rapidly every year, to at least US$30 by 2030, accelerating to higher levels by 2035, 2040 and up to US$120 beyond 2050.

4. We understand that the impact of these proposed rate changes has been quantified by a number of high emitting taxpayers. This calculation relates to both the tax payable directly to SARS by the emitter, as well as the passthrough of carbon tax in the electricity price, and commodities like chemical raw materials, cement and metals. The additional carbon tax payable using the proposed rates will likely amount to billions of Rands.

5. The committee does not, in principle, have a problem with the rapid increase in carbon tax rates, as long as these rates take cognizance of changes in the global economy. Should the proposed changes in carbon tax rates not align with global economic and climate changes, this would negatively impact on the country's competitiveness and be detrimental to its economy as a whole.

6. <u>Submission</u>: National Treasury should ensure broad stakeholder consultations, especially with the Presidential Climate Commission, to ensure internal government policy alignment.

7. The committee does question why the rates have been indicated in US Dollars (US$) and South African Rands. From an international perspective, the rates are typically set in the currency of the country concerned. A further concern is that South Africa has one of the most volatile currencies in the world.

8. It has also been argued[1] that pegging carbon prices to the US$ results in an additional externality (other than greenhouse gas emissions) and "causes conflicts of economic interest between domestic monetary independence and external stabilization" for countries that are exposed to the US$. This may be ascribed to fact that the US$ is the dominating global currency and that the US Federal Reserve frequently implements monetary policies that are not aligned with the global common interest.

9. Taking these factors into account, it is unclear why the rates were provided in US$.

10. <u>Submission</u>: As the impact of the proposed rate increases for many taxpayers is very large, it would be prudent for National Treasury to explain why it has decided to indicate the proposed carbon tax rate increases in US$ and not South African Rands, taking into consideration the dire economic situation that the country finds itself in and the volatility of the Rand.

11. Furthermore, National Treasury should provide clearer guidance on the roll-out of Phase 2 of the carbon tax. The policy documents released by National Treasury, post the February 2022 Budget Speech, included the following points (in Chapter 4) under its comments on the proposals made as a result of the extension of Phase 1:

12. "*The basic tax-free allowances will also be gradually reduced to strengthen the price signals under the carbon tax from 1 January 2026 to 31 December 2030.*"

[1] Liu, Q., Chen, Z., & Xiao, S.X. (2022). A theory of carbon currency. *Fundamental Research*, *2*(3), 375-383.

13. *"Extending the electricity price neutrality commitment until 31 December 2025*"

14. National Treasury are encouraged to give a clearer indication of Eskom's inclusion at the start of Phase 2 and the rate by which the tax-free allowances will be reduced year-on-year.

15. The uncertainty of the above creates difficulty when one considers forecasting models and impairment models for clients who are carbon intensive. As such, dramatic and aggressive changes to the status quo without giving clear guidance on the position of Phase 2, will have a huge impact on many taxpayers.

Climate Change Bill

16. Once enacted, the Climate Change Bill will make it compulsory for taxpayers to participate in the carbon budget system. This process allocates a greenhouse gas emissions allowance to an emitter for a specific period of time. The company's actual emissions arising from its operations should stay within the budgeted allowance or it risks facing a substantial penalty in the form of a higher carbon tax rate on its excess emissions.

17. The Climate Change Bill is, however, silent on what the levels and mechanisms of setting the carbon budgets will be. It is understood that the accompanying regulations will contain the substantive details for the allocation of the carbon budgets. However, it is not known when these regulations will be drafted.

18. Consequently, the interaction between the Carbon Tax Act, No. 15 of 2019, and the Climate Change Bill is unclear. It is understood that in order to give effect to the carbon tax penalty, amendments shall be made to the Carbon Tax Act. It is assumed that the date of implementation of the carbon budgets will be clarified in the Taxation Laws Amendment Bill that will be released by the end of July 2022 for comment and it is furthermore assumed that the carbon budget regulations will be released at the same time or soon thereafter.

19. Submission: Clarity is needed on the levels and mechanisms of setting the carbon budgets as well as what the progress is on the drafting of these regulations.

20. Carbon budgets should not result in retroactive regulation. In other words, if a company has been given an environmental authorisation to operate a plant at a certain output, the imposition of a carbon budget should not limit the output under which this plant can operate.

21. It should thus be ensured that sufficient time is provided for meaningful public input into the regulations so as to prevent any retroactive regulations from being implemented.

22. This is particularly important because should taxpayers exceed their carbon budgets, they will be subject to a "super tax" or "penal provision" i.e. R640 per tCO_2e on excess emissions, which is substantially higher than the current rate of R144 per tCO_2e emissions.

23. It is possible that extensive public consultation on these Regulations will likely see the start date of the mandatory carbon budgeting system being pushed out beyond the intended start date of 1 January 2023.

24. As it currently stands, the carbon budget allowance expires at the end of 2022 to align with the start date of the mandatory carbon budget process. As such, should the mandatory carbon budget process (in terms of the Climate Change Bill) be extended to beyond 1 January 2023, the carbon budget allowance should accordingly also be extended for taxpayers participating in the voluntary process. This will ensure alignment with the new start date of the mandatory carbon budget process.

Renewal of carbon tax licence requirement

25. Under the Customs and Excise Act, No. 91 of 1964, all carbon tax licence holders are required to renew their carbon tax licence 30 days before expiry. However, on 2 July 2021, SARS issued a carbon tax communique,[2] stating that the validity period for licenses for customs and excise manufacturing warehouses for the generation of emissions liable to carbon tax is from the effective date until 31 December 2021 and thereafter 31 December of the following year.

26. The deadline of "on or before 31 December of each year" is confusing as SARS normally requires renewal applications - that are applied for by submitting an updated form for licensing (DA185 and its annexure DA185.4B2) with the required supporting documents - to be made 30 calendar days before it expires.

27. Submission: We recommend that SARS makes it clear in all future communication and on its website that taxpayers are required to submit their renewal applications on or before 30 November each year.

28. As mentioned above, all licensees must annually apply to renew their licences on or before 30 November of each year, as from 2021. The licence renewal process has been found to be administratively burdensome for many taxpayers as there are inconsistencies of requirements by different SARS branch officials. It is also a time-consuming process requiring numerous documents to be submitted in person at a branch office. In some instances, SARS took so long to process the registration that the certification of the documents was outdated (i.e. older than 3 months). The taxpayer was then requested to recertify and resubmit the documents.

29. In other instances, there is also uncertainty regarding taxpayers who have only registered in, for example, the 2021 year of assessment. The question then arises as to whether such a taxpayer's license would be valid for submission purposes of the 2019, 2020 and 2021 year of assessment. That is, would a registration and licensing application made in 2021 be applicable for all prior periods or would a separate license

[2] SARS. (2021). *Communique - Annual carbon tax accounts and payments now due*, available at: https://www.sars.gov.za/wp-content/uploads/Docs/CarbonTax/Carbon-Tax-stakeholder-communique-02072021.pdf.

be required for submission of each period? A single license per submission is considered needlessly excessive.

30. Submission: National Treasury should clarify the policy rationale behind the requirement to renew carbon tax licences each year and the need to provide all necessary supporting documentation once again, as this results in unnecessary tax compliance costs for entities and a waste of precious SARS resources.

31. We submit that a once-off registration should be sufficient and only if there are operational changes, for example, a decommissioning of equipment below the threshold, or an additional emissions facility is created, should there be a requirement to update the existing information of a carbon taxpayer by the submission of a renewal application to revise their particulars.

32. If SARS is not amenable to amending the provisions for the renewal, the period of validity should at the very least be extended to a period of, say, 5 years, with the exception that an earlier renewal ought to be done should there be administrative or operational changes.

We look forward to hearing National Treasury's views on the above matters. Should you wish the Committee to clarify any of the above matters, please do not hesitate to contact us.

Yours sincerely

Dr Lee-Ann Steenkamp
Chairperson: Carbon Tax Committee

Dr Sharon Smulders
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South African Institute of Chartered Accountants