



**ERC**

ENERGY RESEARCH CENTRE  
University of Cape Town



## **Comments on second *Draft Carbon Tax Bill***

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**COMMENTS BY ENERGY RESEARCH CENTRE  
AT THE UNIVERSITY OF CAPE TOWN**

Bill published by National Treasury for comment in December 2017  
Comments submitted in March 2018

**COMMENTS**

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**Recommendations are in green font.**

**Suggested textual changes are in red font.**

## 1. Introduction

The Energy Research Centre (ERC) at the University of Cape Town (UCT) welcomes the opportunity to comment on the *Second Draft Carbon Tax Bill*, published by National Treasury on 14 December 2017 for introduction in Parliament, as well as public comment and hearing in Parliament (National Treasury 2017c). We have reviewed the current Bill (National Treasury 2017a), together with the explanatory memorandum (National Treasury 2017b), socio-economic impact assessment (DPME 2017) and response document comments to the first draft Bill (National Treasury 2017d). ERC was among those who commented earlier (ERC 2015) on the previous draft of the Bill (National Treasury 2015).

In reviewing the second draft, we acknowledge the extensive work, analysis and consultation undertaken by National Treasury on a carbon tax. We recall earlier research commissioned on a framework for market-based instruments (Eunomia & UP 2004) and that a carbon tax was mentioned in the 2005 budget review (National Treasury 2005). Without reciting all the intervening policy documents, we are of the view that the time for climate action is now. Our research on climate change provides the basis for this view.

## 2. General

### 2.1 Importance of implementing a well-designed tax

The Finance Minister announced in the 2018 budget speech that “Parliament is currently considering the draft Carbon Tax Bill, which will assist South Africa to meet its climate change commitments to reduce our carbon emissions. The tax will be implemented from 1 January 2019.” (Gigaba 2018). ERC welcomes the setting of a clear date for implementation, which ends years of deferral of implementation of a carbon tax. Our country joins those taking leadership in pricing carbon.

Climate action and a carbon tax are in our national interest, in several respects. Firstly, SA has an interest in effective global action on climate change, as the impacts of climate change depend on collective action but will hit poor communities and households the most – and this last dimension connects the global to our national interest. Secondly, to position itself in a future carbon-constrained world, SA has to transition away from a dependence on coal and build new forms of comparative advantage in low-emissions development paths, technologies, systems and behaviour. Thirdly, and more recently, some mitigation options – notably renewable energy – are now less costly than coal or nuclear power. And fourthly, SA can use revenues from the carbon tax to reduce poverty (which is possible at scale (Winkler 2017)).

Now that the date of implementation is fixed, the design of the carbon tax becomes even more important. Poor design is likely to lead to ineffective implementation. However, design and implementation of an effective carbon tax is complex to establish. As in previous comments, ERC believes that a simpler design would be better and more effective.

Looking to the future, as the system evolves Treasury should consider looking at options that include greater flexibility for the economy, including cap and trade, for example, or other variations such as consumer- rather than producer-based tax, and border tax adjustments to either exempt export of energy intense products to jurisdiction without carbon pricing, or to tax imports from jurisdictions without carbon pricing.

**ERC recommends that Parliament in its consideration of the Bill include consideration of a full tax at the margin, with energy-intensive and trade-exposed companies applying for assistance in implementing mitigation and contributing to jobs and competitiveness.**

## 2.2 Consider a simpler and more effective tax design

The ERC does not specialise in legal research; however we closely observe in energy policy and law, as well as climate change policy and negotiations. From that perspective, and based on our research (cited in this document), believe a simpler tax design would be more effective. We comment on the following specific matters from a technical perspective: (1) the objective of the legislation; (2) how the legislation will achieve the objective; (3) precision in the legal text; (4) ensuring administrative simplicity; (5) consistency in principles of operation; and (6) allocation of items to the Act and regulations, the latter to be promulgated under the Act.

The introduction of a well-designed carbon tax is supported by findings of ERC and other SA research as a key instrument for reducing GHG emissions.

## 2.3 No operational link to national mitigation goal

There is no operational link between mitigation goals and the carbon tax. The GHG emission trajectory range in our international obligation (NDC) based on national policy is the benchmark. ERC suggests that the carbon tax rate be adjusted on an annual basis, depending on where we find ourselves in relation to the peak, plateau and decline trajectory – see the specific recommendation in section 3.5 below.

# 3. Comments on specific sections

## 3.1 Preamble

ERC welcomes reference to the polluter pays principle.

The preamble refers to the carbon tax providing “appropriate price signals to help nudge the economy towards a more sustainable growth path”. Given the urgency for climate action outlined in our general comments, it should be clear that much more than a gentle ‘nudge’ is required. What is required is no less than the transformation of our energy economy.

**Preamble, p. 3: Suggest that ‘help nudge’ be replaced with “send a clear, consistent and adequate carbon price signal”**

## 3.2 Definitions

“Carbon budget”: is presented as a limit, but would be better framed as “allowable emissions” or “allowable emissions up to a limit”. The rationale is cognate to Treasury considering the SA budget not as a limit on total expenditure, but the allocations of the budget under the total.

**Definitions, p. 6, carbon budget: Replace ‘limit’ with “allowable emissions”**

“Emissions”: Why are there two options for defining “emissions”? relevant is emission to atmosphere. The explanatory memorandum says “and / or”, suggesting both could be applied, whereas the Bill at ‘or’ meaning they are mutually exclusive options.

**Definitions, p. 6: Emissions: Delete sub-paragraph (a)**

“Emissions intensity”: must be made consistent by ending in “relative to an activity level”; as it stands, the definition is ambiguous whether absolute quantities or relative emissions are meant. Consequently, the benchmark must include the level of activity, e.g. tons of steel produced, not just the activity of steel production. Note Table 3 refers to tons of gas / ton of product, so for consistency, the definition needs to refer to activity levels.

**Definitions, p. 7, emissions intensity: Replace ‘in relation to an activity’ with “relative to activity levels”**

“Fugitive emissions” are emitted to the atmosphere, which is relevant and necessary to specify. The definition should align with the IPCC 2006 Guideline Glossary.

**Definitions, p. 7, fugitive emissions: Replace current definition with “Emissions that are released to the atmosphere by any other means other than through an intentional release through stack or vent. This can include leaks from industrial plant and pipelines.”**

“Greenhouse gas” – definition should remain open to further GHGs being identified by IPCC and agreed for use

**Definitions, p. 7, greenhouse gas: add at end “... and other gases as may be identified by the IPCC and adopted by the UNFCCC from time to time”**

“Process emissions” - definition should remain open to the adoption of further chemical transformations; suggest this definition aligns with that in the IPCC 2006 Guideline Glossary.

**Definitions, p. 8, process emissions: Replace current definition with “Emissions that are released into the atmosphere from industrial processes involving chemical transformations other than combustion.”**

Application of the carbon tax – this should include emissions source classification provided by the IPCC 2006 Guidelines, rather than economic sector description. The current description in the Explanatory Memorandum (Annexure 1) would exempt of combustion activities in the waste economic sector, including incineration of waste, and gassification.

**Annexure 1, p.9, “The carbon tax applies to all sectors and activities except the Agriculture Forestry and Other Land Use (AFOLU) and waste sectors,...”: Replace with “The carbon tax applies to emissions source categories identified by the IPCC 2006 Guidelines except for Agriculture Forestry and Other Land Use (AFOLU) and Waste.”**

The exclusion of biomass emissions from carbon tax reporting may create a perverse incentive in terms of that biomass crops have an emissios factor of zero, and that the carbon offset allowance of up to 5% would include afforestation projects.

**Annexure 1, p.13: Amend to include biomass combustion emissions, and, or remove the carbon offset allowance.**

The description of allowances should be worded so that there is no ambiguity in terms of the total emission for which an allowance might be applied, in other words that the allowance applies only to qualifying emissions and not any grearer amount of qualifying applicants’ emissions.

**Annexure 1, p. 26: “Allowance in respect of fugitive emissions: Section 9”: Amend the text in this section to “This section provides a tax-free allowance on total fugitive emissions...”**

### 3.3 Person

ERC assumes that companies will be the legal persons paying tax, not individual tax-payers. Possibly these are excluded by the thresholds, but consideration might be given to the scope of taxpayers envisaged by Treasury. To be consistent with GHG reporting regulations by the Department of Environmental Affairs (DEA 2017), the reporting must be disaggregated to facility level.

**Section 3: after ‘... if that person conducts an activity’ add “in a facility on which it reports”**

### 3.4 Tax base

Section 4(1) indicates tax levied on “the sum of” GHG. The “total” over the tax period seems more accurate, as the operators in the formulas following include multiplications as well as additions. The total is over a tax period of presumably one (1) year, so “annual total” might be specified.

**Section 4(1): Replace ‘sum’ with “annual total”**

Bunker fuels: Approaches to taxing emissions from aviation are noted in the response document to the 2015 draft Bill. ERC supports the view that international aviation emissions should be dealt with by the Carbon Offsetting and Reduction Scheme for International Aviation

(CORSA). While not perfect, CORSA is the internationally agreed market-based mechanism. ERC supports the view of Treasury that domestic flights must be subject to the domestic carbon tax regime (National Treasury 2017d). While there is relatively little internal shipping, in principle cognate approaches should be applied to emission from maritime sources.

It is assumed that the fuel tax regime applies to all liquid fuels. Clarity is requested as to how the carbon tax will be levied on natural gas if used as transport fuel.

### 3.5 Rate of tax

As noted in section 2.3 above, the *Draft Bill* fails to make any link between the tax rate and the level of GHG emissions.

#### 3.5.1 Adjust the tax rate in relation to the GHG emission trajectory on an annual basis

The impact assessment indicates that the economic and emissions impact will be reviewed “to gauge the effectiveness of the tax given our national emissions commitments” (DPME 2017). Furthermore, the media statement indicates this review would be undertaken after three years (National Treasury 2017c). The review process is essential for consideration of effectiveness of action, and it provides credible and economic rationale for further action. For the carbon tax, this means adjusting emissions as appropriate. A regular and annual review cycle provides for flexible carbon pricing that responds to assessment of effectiveness of the tax.

**ERC recommends that the rate of tax be adjusted on an annual basis, following review of emissions in SA’s latest GHG inventory to the peak, plateau and decline trajectory, increasing the rate if emissions are or are projected to rise above the PPD trajectory and lowering the rate if emissions are below the PPD range.**

The response document in section 2.7 reports a study by business, arguing that SA’s current GHG emissions trajectory is below that envisaged by the peak-plateau and decline trajectory (National Treasury 2017d). One comment on this claim is that the same business organisations appear to argue that emissions are too high or too low, depending on the outcome that prefer. In the context of a carbon tax, they argue emissions are already low. Would they then agree that carbon budgets allocated to companies so that SA can remain within the PPD range be reduced? Be that as it may, is the claim accurate? It is not, in that the PPD trajectory is a *range*, as indicated by the 398 to 614 MT CO<sub>2</sub>-eq in the national policy and NDC. There is no doubt that our emissions are significantly above lower PPD.

More interesting than inconsistent and fuzzy arguments is Treasury’s response. Referring to the full range, Treasury indicates that the “main aim of the carbon tax is to put a price on the environmental and economic damages caused by excessive emissions of greenhouse gases. A secondary aim is to change the behaviour of firms and consumers, encouraging them to use cleaner technology” (National Treasury 2017d). The fact that the level of emissions might be below the target during a specific period does not mean the carbon tax should be zero or negate the need for a carbon tax. This merely indicates that the level of the tax need not to be increased further, or by too much, to achieve and or maintain a longer term emissions trajectory” (National Treasury 2017d). We would agree and suggest that this argument provides a sound basis for an adjustment mechanism – whether the rate in a particular situation needs to be adjusted up- or down-wards.

**Proposed new Section 5(2) bis (i.e. inserted after existing 5(2)): The Minister must review the rate of the tax specified in subsections (1) and (2) every year, in consultation with the Minister of Environmental Affairs, taking into account the latest available information on GHG emissions in relation to GHG emission trajectory range as specified in national climate policy. The Minister must adjust the tax rate as necessary to keep national GHG emissions within that range.**

### 3.5.2 Tax rate should start from a higher level and increase for much longer

The tax rate increases by CPI+2 until 2022, and then by CPI inflation. If the carbon tax is implemented from 1 January 2019, that would be only four years of increasing the rate. Ending increases by a fixed date goes against environmental integrity. The DPME assessment reports a tax rate per ton of CO<sub>2</sub>-eq of R120 in 2018, rising to R181 by 2022 in nominal terms (DPME 2017).<sup>1</sup> To be effective, the tax rate will have to increase in *real* terms for significantly longer.

**In order to make a material difference to SA GHG emission and given the low tax rate and high percentages of allowances, the tax rate must be increased by several percentage points above CPI each year. Real increases should start in the first year after implementation of the Carbon Tax Act and continue until there is a) certainty that SA emissions will remain below the PDD trajectory or b) globally no further action is required on climate change.**

**Section 5(3): Replace ‘... by the amount of the consumer price inflation for the preceding tax year as determined by Statistics South Africa’ with “... by the amount necessary to keep GHG emissions at the lower end of the PPD emission trajectory range, or may be decreased if GHG emissions are at a level requiring no enhanced action on climate change”.**

### 3.5.3 Effective tax rate of R 6 to R 48 per ton is too low to transform our energy economy

A tax rate of R120 per ton CO<sub>2</sub>-eq is too low to transform SA’s energy economy or to make a contribution to mitigation required globally at the scale and rate required. Our analysis suggests that significant mitigation requires a changes in the energy economy seen at significantly higher tax rates (Merven, Moyo, Stone, Dane & Winkler 2014; Winkler *et al* 2007), a finding confirmed by other studies (Alton, Arndt, Davies, Hartley, Makrelov, Thurlow & Ubogu 2012; Devarajan, Go, Robinson & Thierfelder 2009) and National Treasury’s own modelling.

Government’s own socio-economic impact assessment identifies as a risk that the proposed “tax is too low to affect behaviour change” (DPME 2017). It suggests to “review after phase 1 to determine impacts and how allowances, incentives and tax rates could be changed to have an impact on behaviour and support1 adaptation” (ibid.)

**ERC recommends that much higher tax rates that R 6 to 12 for most firms be applied. A general exemption of R 78 out of R120 for each ton of emissions from the burning of fossil fuels goes against the purpose of a carbon tax in SA – to reduce emissions by rapidly phasing out fossil fuels, in particular coal.**

**Remove Parts II and III**

## 3.6 New section: Jobs and Competitiveness Programme

The socio-economic impact assessment makes clear that poor communities and households are most vulnerable to the impacts of climate change, even though they are least responsible. The assessment indicates that Treasury “will have to ensure allocation of resources to minimise the impact on incomes for poor and working people” (DPME 2017). Funding of adaptation to climate change would be required. It is also the case that firms that are more energy-intensive would tend to have energy as a greater share of their total expenditure and would feel a greater impact from a carbon tax (since most emissions are from energy use and supply) than less energy-intensive firms (Winkler , Jooste & Marquard 2010). Trade-exposure is another consideration, though with ratification of the Paris Agreement becoming very wide-spread (174 out of 197 countries), the situation where competitors overseas face no constrain on carbon is becoming less salient.

To avoid negative impact on poor households and energy-intensive firms, a Jobs and Competitiveness Programme (JCP) is proposed. It is proposed as an alternative to Parts II and

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<sup>1</sup> As far as we can tell, DPME seems to be assuming CPI of 5.3% at minimum and 5.9% maximum over the five-year period.

III of the Carbon Tax Bill, containing multiple, complex allowances. Instead, the full nominal rate of R120 would be levied on the margin – a much simpler design and easier to administer. Revenues would be allocated on-budget via the National Revenue Fund to fund programmes previously mooted by Treasury such as additional support for free basic electricity to low income households and public transport, consistent with analysis of programmes to reduce energy poverty and inequality (see examples in Winkler (2017)). Energy-intensive firms would need to apply

**An enabling provision should be included in the legislation on recycling of revenues, establishing a Jobs and Competitiveness Programme that would ensure a) assistance to poor households and b) transitional assistance for mitigation by energy-intensive firms, against agreed plans. Performance in implementing such plans should be subject to monitoring and evaluation (M&E), with future claw-backs depending on effective implementation of the agreed plans.**

## **Part II bis**

### **Jobs and Competitiveness Programme**

#### **Establishment and Aims**

- 7. (1) A Jobs and Competitiveness Programme (JCP) is hereby established.**
- (2) The aims of the JCP are to ensure that in implementing a carbon tax in South Africa:**
  - (a) Support is provided for programmes to ensure that poor households receive a net benefit and their incomes are not negatively affected; and**
  - (b) Transitional assistance may be applied for by energy-intensive firms that perform well in mitigation against agreed plans.**

#### **Support for pro-poor programmes**

- (3) The Minister, in consultation with the Commissioner and the Ministers of Finance and Energy, must**
  - (a) Identify programmes that result in net benefits to poor households, in the context of the carbon tax rate; and**
  - (b) Consolidate information on the on-budget allocations required to fund such programmes;**
- (4) The Commissioner must report annually to the Minister of Finance the total revenue received from the carbon tax for the previous year, and project revenues for each of the following 5 years;**

#### **Transitional assistance to energy intensive firms**

- (5) The Minister, in consultation with the Commissioner and the Ministers of Environmental Affairs and Energy, must:**
  - (a) enable the identification of activities as emissions-intensive activities; and**
  - (b) enable the provision of transitional assistance in respect of such an activity if carried on in South Africa; and**
  - (c) ensure that such assistance in a manner that is economically and environmentally efficient, until such assistance is no longer warranted, having regard to:**



- i) whether foreign countries that are responsible for the substantial majority of the world's emissions of greenhouse gases have implemented measures to reduce those emissions that have an impact that is comparable to the impact of South African mitigation policies and measures (including the impact of associated assistance); and
  - ii) any other relevant matters.
- (6) The transitional assistance referred to in paragraph (1) (c ) above must:
  - (a) Be made available only to persons identified as energy-intensive; and
  - (b) Require the person applying for transitional assistance to
    - i) Provide data on its energy-intensity over the last 10 years; and
    - ii) Have that data verified by an independent third party, at the person's cost; and
    - iii) Provide a draft mitigation plan indicating how the person intends to implement mitigation measures that are best-in-class in its sector and indicating the extent of transitional assistance sought and purposes for which such assistance must be used; and
    - iv) Submit the draft mitigation plan for approval by the Minister; and
    - v) Revise the plan in response to consultation with the Minister, until the plan is approved by the Minister at which time it will be considered approved; and
    - vi) Undertake to implement the agreed plan; and
    - vii) Report on implementation of the agreed plan;
- (7) The Minister must:
  - (a) Review the data provided by a person seeking transitional assistance; and
  - (b) Review the draft mitigation plan of such a person, ensuring that it represents best-in-class mitigation efforts; and
  - (c) Indicate to the Minister of Finance the extent of transitional assistance which the Minister supports
- (8) The Jobs and Competitiveness Programme must provide that free GHG emission units must not be issued to a person as a carbon budget allocated to a firm by the Minister of Environmental Affairs unless the person:
  - (a) meets such requirements as are specified in the programme; and
  - (b) has provided data required by the Jobs and Competitiveness Programme.
- (9) The Jobs and Competitiveness Program must not provide that the extraction of coal is an activity that, under the program, is taken to be an emissions-intensive activity.
- (10) The Jobs and Competitiveness Program may make provision for and in relation to requiring the person to
  - (a) give one or more written reports to the Minister or the Commissioner; and
  - (b) requiring the person to make records of information specified in the program; and retain such a record, or a copy, for 10 years after the record was made.

## Regulations and Commencement

**(11) The Minister must take all reasonable steps to ensure that regulations are made for the purposes of subsection (1) before 1 May 2019.**

**(12) The Jobs and Competitiveness Programme shall take effect as soon as possible and no later than six (6) months after the date of implementation of the carbon tax**

### **3.7 Allowances**

#### **3.7.1 Much simpler tax design would be to charge 'full' R 120 and allow companies to claw back via the proposed Jobs and Competitiveness Programme**

The nominal tax rate of R120 creates an illusion, given that all taxpayers receive a 60% basic free allowance. The effective tax rate starts at R 48 / ton CO<sub>2</sub>-eq, not R 120. As argued in previous comments, a simpler and more effective design would be to tax the 'full' amount of R 120 (which is still arguably low to entirely transform the energy economy, but a better starting point).

**ERC is of the firm view that raising tax but deducting allowances is a sub-optimal design of the carbon tax. It would be far preferable to levy the full tax and then provide for a 'jobs and competitiveness programme' which would allow energy-intensive and trade exposed payers, who also demonstrate their contribution to increased employment, to claw back part of the carbon tax paid (up to 50%) in order to reduce both unemployment and GHG emissions, i.e. to assist them with mitigation and socio-economic transformation.**

#### **3.7.2 If persisting with complex design, limit and phase out allowances**

As above and in previous comments, ERC does not think allowances are the best design. On specific elements.

- Trade exposure: A practical way needs to be determine trade exposure in para 10. The rationale of a Jobs and Competitiveness Programme would mean that those facing competition from by trade with countries without carbon constraints (which will become increasingly rare with near-universal NDCs), would suggest trade-exposure be used to allow for a claw-back, not to give an allowance upfront. The current design lacks a measure for how effective a 10% allowance might be for any trade intensive sector. If there is concern about carbon leakage, for example the introduction of a carbon tax in South Africa might increase emissions in cross-border trade partner countries with less or no carbon controls, then this could be more efficiently dealt with by use of a combination of border tax adjustments and adjustments to carbon tax rebates on basic commodities for exports to jurisdictions with no carbon tax.
- A 5% allowance for carbon budgets makes little sense. Firms who keep GHG emissions within regulated limits are simply in compliance. If firms need assistance to mitigate more and keep within company-level carbon budgets, they should apply under a JCP programme (see above).
- The performance allowance is administratively challenging and at best it duplicates the incentive created by the tax itself; this allowance would be an unproductive use of administrative resources to incentivize something already incentivized by the carbon tax and energy efficiency incentives.
- Without regulation there is risk of double counting of emissions reductions for projects that would qualify as a carbon offset project reported under the carbon tax and that could simultaneously be registered for international carbon trade. Carbon projects would either be re-packaged in this way, or the effective carbon price will be so low that it is unlikely to have any mitigation effect.
- If allowances were to be deducted from the nominal tax rate, the carbon budget and off-set allowances should be dropped.

- The economic rationale for the amount for each allowance is not provided. This rationale is essential for assessing the design of an effective carbon tax.

**The explanatory memorandum indicates the allowances are “transitional” (National Treasury 2017b). The Act therefore needs to make provision for phasing out of allowances. ERC suggests this is done by 2030 for energy-intensive and trade-exposed sectors and by 2025 for all other sectors. The exception would be allowance for performance – it may remain desirable to incentivise those mitigating most effectively within their sector. Allowances for carbon budgets, off-sets should not be implemented at all.**

- Having maximum total allowances for some firms at 100% means they will pay not tax at all. Many other sectors listed in Schedule 2 can have allowance up to 90 or 95%. With the lax design of the carbon tax, many firms can be expected to qualify and would thus only be paying 5% or 10% of R 120, i.e. R 6 or R 12 / t CO<sub>2</sub>-eq. ALL firms receive a “basic tax free allowance for fossil fuel combustion” of 60%.
- The response document in section 2.6 indicates that in “line with the Income Tax Act, to the extent that the carbon tax forms part of a company’s business expense it may therefore be deductible for income tax purposes” (National Treasury 2017d). Assuming that this means the amount of carbon tax paid would be deducted from taxable income for firms, this would mean that the effective tax rate is further reduced – beyond the maximum amounts of threshold. Assume that corporate income tax rates varied between 25 and 45%, and consider a firm with the receives maximum allowances, say 95%. It then pays not the ‘full’ 5%, but only a net 3.75% or 2.75% by further deducting the payment from income tax. The resulting carbon tax of R 4.50 or R 3.33 / ton CO<sub>2</sub>-eq is so low as to justify calling it negligible.

**Combining a low tax rate, multiple allowance and deduction from income tax would result in net payments that are negligible. To operationalise the ‘polluters pays principle’, the effective tax rate must be of a non-trivial amount. At the super-low rates that the current draft implies, no change in behaviour can be expected.**

### 3.8 Administration

Legal opinion is required on the implication of the carbon tax being as if it “were an environmental levy as contemplated in section 54A of the Customs and Excise Act (No 91 of 1964).

The alignment of reporting under carbon tax and National Greenhouse Gas Inventory requirements provide valuable efficiencies in the reporting system. However, the data requirements for the carbon tax and for MRV of GHG emissions are not the same, either in terms of the level of rigour, nor the agency requirements. Clarity is required as to what will the process be for the audit or technical information if SARS suspects incorrect reporting? Can SARS override acceptance of data by another agency, or request more detailed information? Would SARS have authority to audit emissions data on the same basis as other reported tax data, going back over the same period of time?

### 3.9 Reporting

Reporting for the purposes of the Carbon Tax Act (once passed) must be consistent with domestic legislation and reporting legislation, as well as international requirements for transparency, including measurement, reporting and verification (MRV).

Reporting of GHG emissions in general is to be undertaken according to regulations by the Minister of Environmental Affairs (DEA 2017). Taxpayers are required to report tax paid to the South African Revenue Services.

**Reporting of GHG's must adhere to GHG reporting regulations to DEA, and the amount of carbon tax paid must be reported to SARS.**

**Section 18: add new sub-sections:**

- (1) A person subject to tax as specified in Section 3 must report their GHG emissions to comply with the provisions of this Act and the GHG reporting regulations promulgated by the Minister of Environmental Affairs.**
- (2) A person subject to tax as specified in Section 3 must report the total tax payable under this Act annually to the South African Revenue Services.**
- (3) [existing text]**
- (4) The Commissioner must publish the information referred to in subsections (1) and (3) annually.**

The Act must require the institution, board or body envisaged in para 19(c)(iv) to ensure the principles of the Paris Agreement are respected. Article 4.13 of the Paris Agreement requires “environmental integrity, transparency, accuracy, completeness, comparability and consistency, and ensure the avoidance of double counting” in relation to mitigation (for which market mechanisms are one instrument). Transparency and domestic measurement, reporting and verification (MRV) systems being implemented by DEA should be referenced here. Furthermore, Article 6.2 regulates internationally transferred mitigation outcomes (ITMOs), which is the Paris language for carbon credits. The Act and regulations adopted pursuant to the Act must “promote sustainable development and ensure environmental integrity and transparency, including in governance, and shall apply robust accounting to ensure, inter alia, the avoidance of double counting”. These provision must be revised from time to time “consistent with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement”.

**Subsection 19 (c) (v): add at end of clause “ ..., in order to ensure environmental integrity, transparency, accuracy, completeness, comparability and consistency, and the avoidance of double counting by the development and application of robust accounting guidelines; and to promote sustainable development; revising its guidelines and procedures in order to remain consistent with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement”**

Off-sets (para 13 and 19): Carbon off-sets are notoriously of variable quality. It seems doubtful that National Treasury or SARS would have the capacity to distinguish off-sets which have no environmental integrity from those that might. Para 18 requires the Minister (of Finance) to make regulations to set up a body to *inter alia* ‘administer the off-set allowance’ (19 (c) (iv).

**Offsets create uncertainty in reporting and threaten environmental integrity; allowances for off-sets should be removed from the Bill.**

### **3.10 Amendment**

Several aspects relating to the carbon tax require updating from time to time – the tax rate, GHGs to be included, emissions factors, activity levels etc. Good practice would suggest that the Draft Bill be revised to provide for review every year. ERC elaborated this point more fully in earlier comments (ERC 2015).

**The Act must provide for a review each year on an annual basis of any factors that require updating, including the rate of tax, GHGs included, emission factors**

**Section 20: New sub-section: The Minister must review this Act every year and revise any elements, as appropriate, including in the review consideration of the rate of tax, GHGs in the tax base, emission factors.**

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