

Carbon Tax:

“I’ve submitted my greenhouse gas emissions report – now what?”

The Carbon Tax Act (CTA)¹ was promulgated in 2019 and forms an integral part of South Africa’s climate change response by compelling companies to take environmental costs into account in future production, consumption and investment decisions.

The CTA and the National Greenhouse Gas Regulations (NGERs)² are closely linked in that the thresholds for reporting greenhouse gases (GHG) as per the NGERs correspond to those specified by the CTA. In other words, if your company qualifies to report its GHG emissions then your company is also obliged to pay carbon tax (with a few exceptions for activities that have been granted a 100 % basic tax-free allowance).

The deadline for GHG reporting via the South African Greenhouse Gas Emissions Reporting System (SAGERS), for the 2020 tax period, was the 31st of March 2021. The paragraphs below describe the next steps that you need to take to ensure that your company’s carbon tax payment is made in time.

1. Licensing

Section 54AA of the Customs and Excise Act (CEA)³ contains the administrative actions that must be followed by companies to satisfy the requirements of the CTA. Rule 54FD.02 of the CEA states that every carbon taxpayer must obtain a licence for their “customs and excise manufacturing warehouse”. Customs and excise manufacturing warehouses are defined by the CEA rules as being “the combination of each of the emissions facilities of a taxpayer that must be consolidated and licensed as such a warehouse”.⁴

In practice, this is not as complicated as it sounds. To register for a license, your company must:

- a) Complete the SARS DA185 form,
- b) Complete the SARS DA185.4B2 form,
- c) Gather the following supporting documents:
 - i. Certified copy of the registration certificate of the business,
 - ii. Certified copies of the identity or passport documents of individuals of sole proprietorships, partners of partnerships, all members of close corporations, or trustees / all directors of companies,
 - iii. Confirmation of the physical address of the company,
 - iv. Confirmation of business bank details,

¹ Act 15 of 2019

² GN 275 of 3 April 2017

³ Act 91 of 1964

⁴ CEA Rule 54FD.01 (b)

- v. Resolution or consent on a company letterhead (A letter stating that the company wishes to apply for a customs and excise manufacturing warehouse licence. The letter must be dated and signed by the individual company owner or the partners, members, trustees or directors of the company),
- vi. Letter of authority or power of attorney for the person submitting the application on behalf of the company.

The completed forms were previously to be submitted to the nearest SARS Customs and Excise branch. However, for the duration of the COVID-19 lockdown restrictions, these documents are to be emailed to carbontax@sars.gov.za.⁵

There is no licencing fee.

Licence applications have been accepted since the 02nd of January 2020 and are renewable annually, 30 days before the expiry date of the previous licence. Renewal applications should also be submitted using the DA185 and DA185.4B2 forms, however, the supporting documents need not be resubmitted if the company's details have not changed.⁶

While licence applications will be accepted throughout the filing period, SARS advises that licence applications should be submitted before the filing period, so as to minimise delays in filing carbon tax.⁷ The dates of the filing period are described in step 3 beneath.

2. Calculation of carbon tax payable

Determining the carbon tax for which your company is liable is a multi-step process:

- a) Firstly, those GHG emissions from fuel combustion, industrial processes and fugitive emissions that trigger carbon tax, must be calculated in accordance with the methods that are contemplated in section 4(1) or section 4(2) of the CTA. Section 4(1) of the CTA refers to a tier 3 approach of estimating GHG emissions using actual GHG emissions measurements. Section 4(2) of the CTA refers to a tier 1 and tier 2 approach of estimating GHG emissions using emissions factors, thus not requiring GHG emissions measurements to take place.
- b) Applicable allowances must be identified, and their magnitude determined.
- c) The rate of tax must be determined.
- d) The amount of carbon tax must be determined.⁸

Correct carbon tax calculations are critical to ensure that your company is not over- or under-taxed.

⁵ Carbon tax implementation in South Africa slides 19-21

⁶ Carbon tax implementation in South Africa slide 24

⁷ Concise Guide to Carbon Tax page 78

⁸ CEA Rule 54.FD.03

3. Filing your carbon tax return and paying carbon tax

If your company is not already registered as a SARS excise client, this must be done before the carbon tax return can be filed.⁹ The carbon tax filing season opens on the 01st of July each year and closes at 15H00 on the 31st of July.¹⁰

The carbon tax liability that was calculated in step 2 must be used to complete the SARS DA180 form and its relevant annexures.

The completed DA180 form and its annexures must then be used to populate the electronic version of the form, EXD 180, via the SARS eFiling portal. Some of the form will have been prepopulated with data that was submitted for GHG reporting through the SAGERS portal. Relevant annexures and supporting documents must also be uploaded onto the eFiling portal. The return must be submitted, and the payment made through eFiling.¹¹

It must be noted that failure to comply with provisions of the CEA is an offence and may result in monetary penalties, criminal prosecution, and/or suspension and/or cancellation of the company's registration and/or licence.¹²

Help?

As chemical engineers with extensive legal experience in the air quality space, Yellow Tree is perfectly positioned to calculate the carbon tax for which your company is liable. We can also assist with licensing your company and submitting your carbon tax return. We have been submitting GHG emissions reports on behalf of our clients since the inception of the NGERs and have offered a carbon tax consulting service since the inception of the CTA. Please contact us.

Should you prefer to use another carbon tax consultant, or to perform the carbon tax calculations yourself, it would not be unreasonable to have Yellow Tree review the accuracy of these calculations before submission to provide you with peace of mind. We are here to help!

If you would like to study Carbon Tax in depth, we highly recommend "Concise Guide to Carbon Tax" written by Andrew Gilder, Olivia Rumble and Mansoor Parker.

Alternatively you can read this simple summary of carbon tax on our website:

<https://yellowtree.co.za/carbon-tax-act/>

Finally, please do send this article that summarizes the next steps to registering for, calculating and paying your Carbon Tax, to the Financial Manager of your company to support them in their work.

⁹ Concise Guide to Carbon Tax page 81

¹⁰ Carbon tax implementation in South Africa slide 26

¹¹ Concise Guide to Carbon Tax page 81

¹² SARS Excise External Policy Carbon Tax para 2.5

References

1. Carbon Tax Act 15 of 2019
2. Carbon tax implementation in South Africa slideshow presented at the Carbon Tax Roadshow 2020
3. Customs and Excise Act 91 of 1964
4. Customs and Excise Act Rules
5. Gilder, Rumble and Parker (2020), Concise Guide to Carbon Tax (Lexis Nexis South Africa)
6. National Greenhouse Gas Regulations, GN 275 of 3 April 2017