

REPUBLIC OF SOUTH AFRICA

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# CARBON TAX BILL

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*(As amended by the Standing Committee on Finance (National Assembly))*  
*(The English text is the official text of the Bill)*

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(MINISTER OF FINANCE)

**[B 46B—2018]**

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# **BILL**

**To provide for the imposition of a tax on the carbon dioxide (CO<sub>2</sub>) equivalent of greenhouse gas emissions; and to provide for matters connected therewith.**

## **PREAMBLE**

**SINCE** the causality of the increasing of anthropogenic greenhouse gas emissions in the atmosphere and the global climate change has been scientifically confirmed;

**AND SINCE** it has consequently become necessary to manage the inevitable climate change impact through interventions that build and sustain South Africa's social, economic and environmental resilience and emergency response capacity;

**AND SINCE** it has also become necessary to make a contribution to the global effort to stabilise greenhouse gas concentrations in the atmosphere at a level that avoids dangerous anthropogenic interference with the climate system within a timeframe that enables economic, social and environmental development to proceed in a sustainable manner;

**AND SINCE** the costs of remedying pollution, environmental degradation and consequent adverse health effects and of preventing, controlling or minimising further pollution, environmental damage or adverse health effects must be paid for by those responsible for harming the environment (the polluter pays principle);

**AND SINCE** government is desirous to utilise a package of measures in an effort to address the challenges posed by climate change;

**AND SINCE** this package of measures will be achieved by the deployment of a range of measures to support the system of desired emissions reduction outcomes, including the appropriate pricing of carbon and economic incentives, as well as the use of emissions offsets;

**AND SINCE** government is of the view that imposing a tax on greenhouse gas emissions and concomitant measures such as providing tax incentives for rewarding the efficient use of energy will provide appropriate price signals to help nudge the economy towards a more sustainable growth path,

**B**E IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

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#### **SCHEDULE 3**

*Part I**Definitions and general provisions relating to imposition of carbon tax***Definitions**

1. In this Act, unless the context otherwise indicates—
- “**allowance**” means any amount allowed to be taken into account in terms of Part II, subject to section 14, for the purposes of determining the amount of carbon tax payable; 5
- “**carbon budget**” means an amount of greenhouse gas emissions permitted, against which direct emissions arising from the operations of a person during a defined time period will be accounted for; 10
- “**carbon dioxide (CO<sub>2</sub>) equivalent**” means the concentration of carbon dioxide that would cause the same amount of radiative forcing (the difference of sunlight absorbed by the Earth and energy radiated back to space) as a given mixture of carbon dioxide and other greenhouse gases;
- “**carbon tax**” means a tax on the carbon dioxide (CO<sub>2</sub>) equivalent of greenhouse gas emissions imposed in terms of section 2; 15
- “**combustion**” means the exothermic reaction of a fuel with oxygen;
- “**Commissioner**” means the Commissioner for the South African Revenue Service;
- “**emission factor**” means the average emission rate of a given greenhouse gas for a given source, relative to the activity data of a source stream assuming complete oxidation for combustion and complete conversion for all other chemical reactions; 20
- “**emissions**” means—
- (a) the release of greenhouse gases or their precursors; or
- (b) the release of greenhouse gases and their precursors, into the atmosphere, over a specified area and period of time; 25
- “**emissions intensity**” means an indicator of the result of the measurement of the quantity of greenhouse gas emissions in relation to an activity;
- “**emissions intensity benchmark**” means the result of the measurement in respect of an activity that creates greenhouse gas emissions— 30
- (a) expressed as a predetermined value of the quantity of specified greenhouse gas emissions;
- (b) in relation to an activity that is differentiated from other activities by means of a product, a type of fuel or a technology; and
- (c) compared against the quantity of greenhouse gas emissions, in relation to an identical activity undertaken by another person; 35
- “**fugitive emissions**” means emissions that are released into the atmosphere by any other means than through an intentional release through stack or vent including extraction, processing, delivery and burning for energy production of fossil fuels, including leaks from industrial plant and pipelines; 40
- “**greenhouse gas**” means gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation, and includes carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF<sub>6</sub>);
- “**industrial process**” means a manufacturing process that chemically or physically transforms materials; 45
- “**IPCC**” means the Intergovernmental Panel on Climate Change established for the purposes of providing internationally co-ordinated scientific assessments of the magnitude, timing and potential environmental and socio-economic impact of climate change by the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) and endorsed by the United Nations by General Assembly Resolution 43/53 made at the 70th plenary meeting on 6 December 1988; 50
- “**IPCC code**” means the source code in respect of an activity resulting in the emission of a greenhouse gas as stipulated in the “Guidelines for National Greenhouse Gas Inventories” (2006) issued by the IPCC;
- “**Minister**” means the Minister of Finance;
- “**person**” includes—
- (a) a partnership;
- (b) a trust; 60

- (c) a municipal entity as defined in section 1 of the Local Government: Municipal Systems, 2000 (Act No. 32 of 2000); and
- (d) a public entity listed in Schedules 2, 3A, 3B, 3C and 3D to the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- “**taxpayer**” means a person liable for the carbon tax in terms of section 3; and 5
- “**tax period**” means a period in respect of which tax is payable as prescribed under section 16.

### Imposition of carbon tax

2. There must be levied and collected for the benefit of the National Revenue Fund, a tax to be known as the carbon tax. 10

### Persons subject to tax

3. A person is—
- (a) a taxpayer for the purposes of this Act; and
- (b) liable to pay an amount of carbon tax calculated as contemplated in section 6 in respect of a tax period as specified in section 16, 15
- if that person conducts an activity in the Republic resulting in greenhouse gas emissions above the threshold determined by matching the activity listed in the column “Activity/Sector” in Schedule 2 with the number in the corresponding line of the column “Threshold” of that table.

### Tax base 20

4. (1) The carbon tax must be levied in respect of the sum of the greenhouse gas emissions of a taxpayer in respect of a tax period expressed as the carbon dioxide equivalent of those greenhouse gas emissions resulting from fuel combustion and industrial processes, and fugitive emissions in accordance with the emissions factors determined in accordance with a reporting methodology approved by the Department of Environmental Affairs. 25

(2) If a reporting methodology approved by the Department of Environmental Affairs for the purposes of determining emission factors does not exist in respect of the calculation of greenhouse gas emissions resulting from fuel combustion, and industrial processes, and fugitive emissions the carbon tax must be levied in respect of the sum of the greenhouse gas emissions of a taxpayer in respect of a tax period expressed as the carbon dioxide equivalent of those greenhouse gas emissions resulting from— 30

- (a) fuel combustion in respect of that tax period that is a number constituted by the sum of the respective numbers determined for each type of fuel in respect of which a greenhouse gas is emitted in respect of that tax period which respective numbers must be determined in accordance with the formula: 35

$$E = (A \times B)$$

in which formula—

- (i) “**E**” represents the number to be determined;
- (ii) “**A**” represents the mass of any one type of the fuel expressed in tonne that is the source of the greenhouse gas emission, other than any fuel utilised for the purposes of international aviation and maritime transport;
- (iii) “**B**” represents the greenhouse gas emission factor in carbon dioxide equivalent per tonne that must be determined in accordance with the formula: 45

$$X = \{(C \times 1) + (M \times 23) + (N \times 296)\} \times D$$

in which formula—

- (aa) “**X**” represents the number to be determined;
- (bb) “**C**” represents the carbon dioxide emissions of a fuel type determined by matching the fuel type listed in the column “fuel type” in Table 1 of Schedule 1 with the number in the corresponding line of the column “CO<sub>2</sub> (KGCO<sub>2</sub>/TJ)” of that table;
- (cc) “**M**” represents the methane emissions of a fuel type determined by matching the fuel type listed in the column “fuel type” in Table 1 of Schedule 1 with the number in the corresponding line of the column “CH<sub>4</sub> (KGCH<sub>4</sub>/TJ)” of that table; 55
- (dd) “**N**” represents the Nitrous Oxide emissions of a fuel type determined