

# The Carbon Tax Act makes SA's position clear

By [Athi Jara](#)

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On 22 May 2019, the President signed into law the Carbon Tax Act 15 of 2019, which came into effect on 1 June 2019. The Act aims to impose a carbon tax on emitters of greenhouse gases. The Act is illustrative of South Africa's view on global issues such as climate change and global warming. In particular, the preamble of the Act recognises that global climate change is "scientifically confirmed" and that greenhouse gas emissions in the atmosphere are due to "anthropogenic" or human activities.



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In the spirit of this recognition, the Act states that it has become necessary to contribute to global efforts to stabilise greenhouse gas concentrations in the atmosphere. The preamble of the Act also recognises the polluter pays principle – i.e. that the costs of remedying pollution, environmental degradation and consequent adverse health effects must be paid for by those responsible for harming the environment.

Interestingly, the Carbon Tax Act does not distinguish the role played by mostly developed countries in contributing to global warming and climate change from the lesser role that has been played by developing countries. This is particularly relevant in light of the fact that:

- i. South Africa itself is a developing country; and
- ii. the fact that international treaties, such as the Paris Agreement (which South Africa ratified), recognise the principle of common but differentiated responsibilities between developed and developing countries.

This principle essentially assigns different responsibilities (including financial responsibilities) for combatting climate change between developing and developed countries. In doing so, the Paris Agreement and other international environmental law treaties recognise the need for developing countries to develop their economies and address important developmental issues that may not necessarily be a priority in the more developed countries. South Africa is a Third World country that is plagued by high levels of unemployment, slow economic growth and the need to address poverty alleviation. It is through the lens of these factors and differences that the provisions of the Carbon Tax Act must be considered.

The Act provides for the levying and collection of the carbon tax for the benefit of the National Revenue Fund. To this extent, companies or entities who conduct activities which result in greenhouse gas emissions in South Africa are liable to pay the carbon tax.

The carbon tax is levied in respect of the sum of greenhouse gas emissions of a company in a tax period expressed as the carbon dioxide equivalent of those greenhouse gas emissions resulting from fuel combustion and industrial processes, and fugitive emissions.

The rate of the carbon tax on greenhouse gas emissions is imposed at an amount of R120 per carbon dioxide equivalent on the greenhouse gas emissions of the company involved. This rate of tax is to be increased by CPI plus 2% per year until 31 December 2022. After 31 December 2022, the rate of tax will increase by CPI.

The Act provides for the calculation of the amount of tax payable. This calculation takes into account the total fuel combustion related greenhouse gas emissions of the company, the petrol and diesel related greenhouse gas emissions of the company, the total industrial process related greenhouse gas emissions of the company and the total fugitive greenhouse gas emissions of the entity involved.

The Act also provides for a special carbon tax calculation for those entities who generate electricity from fossil fuels. In this regard, the renewable energy premium and the environmental levy imposed by the Customs and Excise Act 91 of 1964 is deducted from the carbon tax payable.

Certain “allowances” are made in respect of, amongst others, fossil fuel combustion, industrial process emissions and fugitive emissions. The Act also provides for the use of carbon offsets which will reduce the amount of carbon tax payable by the taxpayer.

In terms of the Carbon Tax Act, the current tax period begins on 1 June 2019 and ends on 31 December 2019, and the following periods will commence on 1 January of each year and end on 31 December of that year. Carbon tax is payable for every tax period.

While South Africa must be applauded for the strides that the country has taken in order to contribute to addressing the global issue of climate change – such as the tabling of the Climate Change Bill in June 2018 and now the signing into law of the Carbon Tax Act – such strides should always be mindful of the everyday realities and challenges facing the country. These challenges include recent slow economic growth, growing rates of unemployment and the need to address poverty levels in the country. South Africa, as a developing country, should always prioritise development; although this development should not be at the expense of the environment, particularly in light of the environmental protection in the Bill of Rights (in section 24 of our Constitution). However, a more development-oriented approach to achieving sustainable development should be adopted.

Whether the implementation of the Carbon Tax Act will achieve a reduction in greenhouse gas emissions or instead, present a further obstacle to our development and economic growth as a country, is yet to be seen.

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