

Carbon tax title released just as filing season opens

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The first period for filing of carbon tax returns opened on 1 October 2020, and will close on 29 October, at 3pm. During that limited timeframe, carbon taxpayers are required to file their initial tax returns, using SARS eFiling, and pay carbon tax liability for operating emissions of greenhouse gas between 1 June and 31 December 2019.

Submission of carbon tax returns and payment of carbon tax will become an annual event. However, the 2020 filing poses particular hurdles due to the fact that SARS has continued to publish guidance and support material, essential for a proper completion of a carbon tax return, until as recently as 21 September 2020.

“Framing effective and efficient responses to the new carbon tax legal regime demands intimate knowledge of the complex interaction of three statutes, five sets of regulations, numerous rules and myriad calculation and reporting obligations – which are governed and administered according to the dictates of three different government departments,” says Andrew Gilder, Director Climate Legal and co-author of ***Concise Guide to Carbon Tax***. “It is understandable that carbon taxpayers are asking for assistance, and the *Concise Guide* is precisely the help that taxpayers have been seeking.”

By assembling and explaining the entire suite of relevant documentation, legal instruments, forms and practical processes the ***Concise Guide to Carbon Tax***, published by LexisNexis South Africa and released in print on 14 October and eBook on 05 October, provides a single point-of-reference for the entire carbon tax legal regime, and equips taxpayers to manage their carbon tax compliance and payment obligations. To purchase the title ISBN/ISSN: 9780639012650 - R488.75 [click here](#).

Authored by seasoned climate change, carbon market, carbon tax and tax law practitioners Andrew Gilder (Director at Climate Legal), Olivia Rumble (Director at Climate Legal) and Mansoor Parker (Tax Executive at ENSafrica), the *Concise to Carbon Tax* is set to become a standard practitioners’ reference in the emerging field of carbon tax, in South Africa.

With the first carbon tax season already underway, the launch of the *Concise Guide to Carbon Tax* could not be better-timed and to support its release, the authors, hosted by LexisNexis, will provide clarity and guidance on a webinar: ***Concise Guide to Carbon Tax Overview and Functionality*** on 8 October from 14:00 – 15:30. A panel discussion will take place, facilitated by Gina Downes, Chief Advisor: Environmental Economics at Eskom. [To register click here](#).

Extract from chapter 5 of the guide:

The Customs and Excise Act is the administrative lens through which the entire carbon tax legal regime is focused, and section 54AA (‘Provisions relating to the carbon tax’) is the counterintuitively cryptic institutional crux of the suite of laws and regulations examined in Chapters 1 to 4. Section 54AA outlines a governance framework for the carbon tax that is firmly founded in excise administration and practice.

While Chapters 1 to 4 are primarily concerned with the ambit of the Carbon Tax Act TA and the regulations promulgated thereunder, the Act and regulations address neither the licensing and registration of emitting facilities and carbon taxpayers nor the preparation and submission of carbon tax returns. The deceptively limited legislative space occupied by section 54AA deals with these issues and forms the basis for a complex and convoluted institutional and administrative design, which considerably widens the scope of this Guide.

The purpose of the present chapter is to explain this complex and convoluted design and to unpack its consequent legal requirements and obligations. Section 54AA of the CEA even suggests a useful and practically oriented approach for the content and structure of this chapter. Instead of conducting an academic examination of that section in a way that is

disassociated from its legal ramifications, Chapter 5 proceeds first by isolating the broadly separate requirements and obligations that arise from section 54AA and secondly by using such requirements and obligations as the framework for a series of conceptually distinct substantive paragraphs.

About the Authors:



Andrew Gilder BA LLB LLM

Andrew Gilder is a Director of Climate Legal, with 17 years' legal practice experience specialising in climate change (mitigation and adaptation), climate finance and development, carbon markets, carbon tax, environmental and energy law, policy, and governance. Andrew is admitted as an attorney of the High Court of South Africa (Gauteng and Western Cape) and holds a BA LLB (University of Natal – now KwaZulu-Natal) and LLM (Marine and Environmental Law, University of Cape Town). He has practical experience which expands over a range of African jurisdictions and includes advice to public and private sectors on the development and implementation of climate change, climate finance, carbon markets, carbon tax, environmental and energy law, policy and governance as well as regulatory and transactional advice to industries, foreign embassies and municipalities on the implementation of infrastructure development projects.



Olivia Rumble PPE, LLB LLM

Olivia Rumble is a Director of Climate Legal with 10 years' legal practice experience specialising in environmental law, energy law policy and governance, climate change (mitigation and adaptation), climate finance, carbon markets, and carbon tax. Olivia is admitted as an attorney of the High Court of South Africa (Gauteng and Western Cape), and holds a PPE (Politics, Philosophy and Economics, University of Stellenbosch); an LLB (University of Cape Town); and an LLM in Environmental Law (University of Cape Town - with distinction). She has a strong background in water law as well as climate change law and

has acted for governments and regional institutions by pioneering legal reform initiatives in climate change and water law in South Africa and SADC. She regularly counsels clients, including multi-nationals, on the legal considerations relevant to emerging opportunities in low carbon development and sustainable energy practices and has expertise in South Africa's complex air quality and greenhouse gas legal regime.

She is responsible for drafting the evolving Climate Change Bill for South Africa and has also acted for lenders and bidders in the provision of environmental regulatory advice for new build renewable energy facilities as part of the Independent Renewable Energy Power Procurement Programme.

Mansoor Parker: BA LLB, HDip Tax Law.

Mansoor Parker is an Executive at ENSafrica in the Tax department and specialises in corporate tax, energy tax, sports tax, and international tax. He has advised clients on setting up new operations in South Africa, carrying out the necessary tax due diligence, acquiring competitors, developing tax compliant structures that optimise investment while ensuring smooth implementation and management, completing the tax-related post-deal activities, negotiating with tax authorities and devising

employee compensation and retention plans.



Mansoor advises clients on the various fiscal provisions relevant to the tax treatment of energy with a particular focus on the introduction of the proposed carbon tax. He advises clients on the determination of their carbon tax liability including the various statutory mechanisms which are proposed to enable carbon tax liable entities to reduce their ultimate liability.

He is a member of the International Bar Association, the South African Institute of Tax Practitioners and the South African Fiscal Association.

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