

23 August 2019

Ms Adele Collins and Team

South African Revenue Service and the National Treasury

Communicated electronically to: 2019AnnexCProp@treasury.gov.za; acollins@sars.gov.za

Dear Ms Collins and Team

CAIA comments on the draft tax laws amendments and other proposed changes to legislation with reference to the Carbon Tax

INTRODUCTION

The Chemical and Allied Industries' Association (CAIA) represents the interests of a large proportion of the chemical industry in South Africa; throughout its value chain. The chemical sector contributes about 3.0% to the Gross Domestic Product and 22% to manufacturing that occurs in South Africa, thereby contributing strongly to our economy. Economic growth increases the demand for products of the chemical industry, and this growth in turn drives product innovation. The contribution that the sector is making to the economy is falling due to, amongst other factors, the increasing cost of doing business in South Africa that includes the increasing imposition of regulatory and economic instruments.

CAIA is the custodian of the global Responsible Care® Initiative that was launched in South Africa in 1994. Through this Initiative, companies make a formal public commitment to continually improve their safety, health, and environmental performance.

The importance of a healthy, sustainable and growing chemical sector is key to many economies of the world. This is due to the upstream and downstream opportunities which are offered that are reflected in:

- the diversity and complexity of operations that the chemical industry is directly involved in; and
- the strong multiplier effects the chemical industry has on employment and Gross Domestic Product. In South Africa, these multiplier effects are 7.00x and 4.72x, respectively.

GENERAL COMMENTS

CAIA does not support the Carbon Tax, as has been communicated previously. Despite the implications of the Tax to the economy and society, it is generally recognised as a legal principle that the regulated need to understand the scope and requirements of legislation prior to it being implemented. CAIA believes this requirement has not been met. Given that the Carbon Tax Act is implemented from 1 June 2019, it is not prudent to still be developing the legislation. Furthermore, the need for some of the proposed amendments are indicative of the legislative framework not being sufficiently considered nor developed.

Given the above position, CAIA continues to engage from an implementation perspective.

SPECIFIC COMMENTS

Kindly note the specific comments that relate to draft documents, below.

Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill

- No information contained in the media statement nor explanatory memorandum on Carbon Tax Act-related amendments.
- Uncertain how the proposed amendments provide for the tax on fuel – further clarity is required.
- Wording should be “tax on emissions from liquid fuel combustion” (or similar more restrictive wording to distinguish petrol and diesel from other liquid fuel), rather than “tax on fuel”.

Draft Tax Administration Laws Amendment Bill

- No information contained in the media statement nor explanatory memorandum on Carbon Tax Act-related amendments.
- Department of Environmental Affairs should refer to the Department responsible for the environment.
- Department of Energy should refer to the Department responsible for energy.
- Customs and Excise Act reference to (iv)(B): should not refer to NAEIS but should refer to the National Greenhouse Gas (GHG) Emissions Reporting Regulations.

Income Tax Amendment Bill

- CAIA supports the Business Unity South Africa submission on the proposed amendments; calling for an increase in the timeframe for the Section 12L incentive to apply, and the cancellation of the proposed repeal of the Section 12K incentive.

Draft Taxation Laws Amendment Bill

Amendment 83:

- Supported.

Amendment 84:

- This is a problematic proposal as further misalignment is introduced; viz:
 - This proposal is purporting to change the threshold to “equal to or above” from “above” to align to the GHG Technical Guidelines. However;
 - The GHG Reporting Regulations (4)(1)(a) state “above”;
 - The GHG Reporting Regulations 5(1) state “above”; but
 - the GHG Reporting Regulation are themselves misaligned as follows:
 - Annexure I states “equal to and above”;
 - the Table states “above”;
 - the Note states “above”.
 - CAIA will be proposing that the GHG Reporting Regulations (including the Technical Guidelines) are aligned throughout to “above”, and the National Treasury legislation is aligned to “above”.
 - Therefore, this entire amendment is not needed.

Amendment 85(a):

- It should be noted that the Third Assessment Report (2006 IPCC) is being referred to. Discussion is required with the Department of Environment, Forestry and Fisheries (DEFF) for alignment of intention once the GHG Reporting Regulations have been amended.
- References to Department of Environmental Affairs should be to the Department responsible for the environment.
- The full official title of the Technical Guideline document must be used.

Amendment 85(b):

- Ambiguity is introduced as (b)(b) refers to the possibility of using both. This is understood not to be the intention of the proposed amendment.

Amendment 85(c) – (f):

- Supported (preliminary)

Amendment 86:

- There is no subsection (5) of the Act. It is assumed that the amendment is intended rather for subsection (3).
- The duplication of “by” in two instances should be deleted.
- CPI on its own is not a percentage. For example, the November 2017 and November 2018 CPIs were 104.2 and 109.6, respectively. This represents a percentage CHANGE of 5.2% to which the 2% must still be added. The intention of the National Treasury with the policy of “CPI” is not clear.
- Timing change: November to November is supported.
- “by” is unnecessary text – should read “change by the percentage change in CPI from November to November”; if this is the intention.

Amendment 87:

- Supported.

Amendment 88:

- Supported.

Amendment 89:

- No input at this time (preliminary).

Amendment 90:

- Supported.

Amendment 91:

- Supported.

Amendment 92:

- No input at this time (preliminary).

CONCLUSION

CAIA submits these comments as preliminary input for the purpose of engagement and looks forward to acknowledgement of receipt, a response to its comments and discussions on the way forward.

Yours Sincerely



Deidre Penfold
Executive Director