

## GENERAL EXPLANATORY NOTE:

[       ] Words that are between square brackets and in bold typeface, indicate deletions from the existing rules

\_\_\_\_\_ Words that are underlined with a solid line, indicate insertions in the existing rules

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### DRAFT AMENDMENT OF RULES in terms of the Customs and Excise Act, 1964

The following amendments are proposed in terms of sections 54AA, 54F and 120:

#### 1. Insertion of rules 54FD

The following rules are hereby inserted in the Rules to the Customs and Excise Act, 1964 (Act No. 91 of 1964), after rule 54FC.04:

#### **Environmental levy in respect of carbon tax imposed in terms of Carbon Tax Act, 2019**

##### **Application of provisions**

54FD.01 (a) The provisions of these rules apply to –

- (i) the carbon dioxide (CO<sub>2</sub>) equivalent of greenhouse gas emissions generated in the Republic liable to environmental levy in terms of item 157.00 in Section F of Part 3 of Schedule No. 1 and the Notes thereto;
- (ii) the licensing of an emissions facility as a customs and excise manufacturing warehouse for the generation of emissions liable to carbon tax;
- (iii) the calculation of the amount of environmental levy payable for each tax period in respect of a licensed emissions facility;
- (iv) the submission of account and payment of environmental levy in respect of a licensed emissions facility; and
- (v) other matters relating to the administration of environmental levy for purposes of Chapter VA.

(b) For purposes of Chapter VA, these rules and any form to which these rules relate, unless the context otherwise indicates, any reference to –

“emissions facility” means the premises where a taxpayer controls or conducts any taxable activity.

“environmental levy” means environmental levy in terms of item 157.00 in Section F of Part 3 of Schedule No. 1 and the Notes thereto.

“licensee” means the holder of a licence in respect of a customs and excise manufacturing warehouse.

“taxable activity” means an activity listed in Schedule 2 of the Carbon Tax Act in respect of which a taxpayer has a –

(i) total installed capacity equal to or above the tax threshold; or

(ii) tax threshold indicated as ‘none’.

“tax threshold” means the value determined by matching the activity listed in the column ‘Activity/Sector’ with the corresponding entry in the column ‘Threshold’ in Schedule 2 of the Carbon Tax Act.

(c) Except as otherwise provided in Chapter VA and these rules –

(i) any provision of this Act relating to a customs and excise manufacturing warehouse; liability for duty; submission of account; payment of duty; keeping of books, accounts and documents; responsibility of the licensee; and any other requirement prescribed in connection with any such warehouse; and

(ii) section 60 and the rules thereunder, including the definitions in such rules; shall apply with any necessary changes as the context may require to any licensee contemplated in these rules.

#### **Licensing of emissions facilities**

54FD.02 (a) (i) Every taxpayer must license each of its emissions facilities as a customs and excise manufacturing warehouse for the generation of emissions liable to carbon tax.

(ii) Every taxpayer that conducts taxable activities of domestic aviation, railways or water-borne navigation must designate the premises of its operational control in the Republic as its emissions facility and license such emissions facility as a customs and excise manufacturing warehouse for the generation of emissions liable to carbon tax.

(iii) The provisions of rule 19A.02 shall apply with any necessary changes as the context may require to any application for a licence or renewal of a licence contemplated in this rule.

(b) Notwithstanding paragraph (a), no taxpayer must license its emissions facilities where it exclusively conducts activities in respect of which the tax threshold is not applicable, or a basic tax-free allowance of 100% applies.

(c) Every licensee must advise the Commissioner in accordance with rule 21A.09 of any change in particulars provided in its application for licensing.

**Determination of amount of environmental levy payable**

54FD.03 Every licensee must calculate the amount of environmental levy payable for each tax period in respect of each of its licensed emissions facilities in the following manner –

(a) The sum of the emissions liable to environmental levy consists of the fuel combustion emissions, industrial process emissions and fugitive emissions that must be determined in accordance with –

(i) an emissions determination methodology approved by the Department of Environmental Affairs as contemplated in section 4(1) of the Carbon Tax Act; or

(ii) an emissions determination methodology that employs –

(aa) readily available statistical data on the intensity of processes (activity data) and emission factors as specified in the 'IPCC Guidelines For National Greenhouse Gas Inventories' (2006); or

(bb) the statistical data and emission factors as specified in item (aa) including country-specific emission factors;

as contemplated in section 4(2) of the Carbon Tax Act.

(b) The allowances that are used to reduce the emissions contemplated in paragraph (a) must be determined in accordance with Part 6 of Schedule No. 6 and Part II and Part III of the Carbon Tax Act.

(c) The rate of environmental levy must be determined in accordance with Section F of Part 3 of Schedule No. 1 and section 5 of the Carbon Tax Act.

(d) The amount of environmental levy payable must be determined in accordance with Section F of Part 3 of Schedule No. 1 and section 6 of the Carbon Tax Act.

**Submission of carbon tax account and payment**

54FD.04 For the purposes of payment of environmental levy, every licensee must submit for each tax period within the period prescribed in paragraph (b) –

(a) (i) a separate annual account on form DA 180 and its annexures that calculates the environmental levy liability in accordance with rule 54FD.03 in respect of each of its licensed emissions facilities;

- (ii) a consolidated payment for the total environmental levy liability; and
- (iii) any supporting documents the Commissioner may require.
- (b) The documents and payment specified in paragraph (a) must be submitted in the month of July of the year following the tax period, but not later than the penultimate working day of that month.

### **Implementation provisions**

- 54FD.05 (a) The period for the application of licensing contemplated in paragraph (a) of rule 54FD.02 commences on 1 January 2020.
- (b) Every licence application that is approved will be issued with effect from the date the environmental levy liability of that taxpayer arose in terms of the Carbon Tax Act.
- (c) For purposes of the tax period of 1 June 2019 to 31 December 2019, the taxpayer should determine the amount of environmental levy payable by applying the calculation contemplated in rule 54FD.03 proportionally.
- (d) The period for the submission of documents and payment contemplated in paragraph (b) of rule 54FD.04 commences on 1 July 2020

## **2. Substitution of forms**

Item 202.00 of the Schedule to the rules is hereby amended by the substitution for forms DA 185 and DA 185.4B2 of the following forms:

“DA 185           Application form: Registration/Licensing of Customs and Excise Clients  
DA 185.4B2    Licensing Client type 4B2 – Manufacturing warehouse”

## **3. Insertion of forms**

Item 202.00 of the Schedule to the rules is hereby amended by the insertion of the following forms:

“DA 180           Environmental Levy Account for Carbon Tax  
DA 180.01A.1    Fuel Combustion Stationary  
DA 180.01A.2    Fuel Combustion Non Stationary  
DA 180.01B.1    Fugitive (Oil and Natural Gas)

DA 180.01B.2 Fugitive (Coal Mining and Handling)

DA 180.01C Industrial Process

DA 180.02 Carbon Tax Allowances

Completion notes to form DA 180 and annexures”

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