



# COMPARISON OF THE **DRAFT CARBON TAX BILL 2015 AND 2017**

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Section and Title	2015	2017
<b>Part I: Definitions</b>		
“Emissions”	"emissions" means the release of greenhouse gases or their precursors <b>and aerosols into the atmosphere over a specified area and period of time;</b>	"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;
“Fugitive Emissions”	"fugitive emissions" means emissions that occur from the release of greenhouse gases during the extraction, processing and delivery of fossil fuels;	"fugitive emissions" means emissions that occur from the release of greenhouse gases during the extraction, processing and delivery of fossil fuels <b>including leaks from industrial plant and pipelines;</b>
“IPCC”	no definition for IPCC	"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;
“IPCC Code”	no definition for IPCC Code	"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 InventoriesII (2006) issued by the IPCC;
“Product Use”	“product use” means greenhouse gases used in products and product applications;	<b>no definition for “product use”</b>
Persons subject to tax	if that person conducts an activity <b>as set out in Annexure 1 to the Notice issued by the Minister responsible forenvironmental affairs in respect of the declaration of greenhouse gases as priority air pollutants under section 29(1) read with section 57(1) of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004).</b>	if that person conducts an activity 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.

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<p><b>Tax Base</b> <b>Sub-section 1</b></p>	<p>... resulting from— (a) <b>fossil</b> fuels combustion in respect of that tax period that is a number constituted by the sum of the respective numbers determined for each type of fossil 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...</p>	<p>... 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.</p>
<p><b>Tax Base</b> <b>Sub-section 2</b> <b>Sub-sections 1 and 2 in the two drafts have been swapped, with further expansion of sub-section 2 in the 2017 draft Bill</b></p>	<p>If there are no emission factors available for the purposes of the calculation of greenhouse gas emissions as contemplated in subsection (1), a reporting methodology as approved by the Department of Environmental Affairs must be applied for the purposes of determining those emission factors.</p>	<p>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—...</p>
<p><b>[The formulas]</b> <b>Fuel Combustion</b></p>	<p>(a) <b>fossil</b> fuels combustion in respect of that tax period that is a number constituted by the sum of the respective numbers determined for each type of <b>fossil</b> 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: <math>E = (A \times B)</math> in which formula— (i) "E" represents the number to be determined; (ii) "A" represents the mass of any one type of the <b>fossil</b> 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 by matching the type of fossil fuel of which the mass is determined in terms of symbol "A", listed in the column "fuel type" of Table 1 of Schedule 1 with the number in the corresponding line of the column "GHG emission factor (CO2e) per tonne";</p>	<p>(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: <math>E = (A \times B)</math> 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: <math>X = \{(C \times 1) + (M \times 23) + (N \times 296)\} \times D</math> in which formula—</p>

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Fuel Combustion continued...	no formula was included in the 2015 draft Bill	(aa) "X" represents the number to be (bb) "C" represents the carbon dioxide 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 "CO2 (KGCO2/TJ)" of that table; (cc) "M" represents the methane 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 "CH4 (KGCH4/TJ)" of that table"; (dd) "N" represents the Nitrous Oxide 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 "N2O (KGN2O/TJ)" of that table; and (ee) "D" represents the default calorific value (Terra Joule per tonne) 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 "DEFAULT CALORIFIC VALUE (TJ/TONNE)" of that table; and
Fugitive Emissions	(iii) "Q" represents the greenhouse gas emission factor in carbon dioxide equivalent expressed in tonne or cubic metres that must be determined by matching the type of fuel in respect of the greenhouse gas emissions listed in the column "source category activity" in Table 2 of Schedule 1 with the number in the corresponding line of the column "GHG emission factor"; and	(iii) "Q" represents the greenhouse gas emission factor in carbon dioxide equivalent per tonne or cubic metres that must be determined in accordance with formula— $X = (C \times 1) + (M \times 23) + (N \times 296)$ in which formula -
Fugitive Emissions continued...	no formula was included in the 2015 draft Bill	(aa) "X" represents the number to be determined; (bb) "C" represents the carbon dioxide of a fuel type determined by matching the fuel type listed in the column "fuel type" in Table 2 of Schedule 1 with the number in the corresponding line of the column "CO2" of that table; (cc) "M" represents the methane of a fuel type determined by matching the fuel type listed in the column "fuel type" in Table 2 of Schedule 1 with the number in the corresponding line of the column "CH4" of that table"; (dd) "N" represents the Nitrous Oxide of a fuel type determined by matching the fuel type listed in the column "fuel type" in Table 2 of Schedule 1 with the number in the corresponding line of the column "N2O" of that table; and
Process Emissions	industrial process and product use in respect of a tax period...	industrial process in respect of a tax period
Process Emissions continued	(i) "P" represents the amount to be determined;	(i) "P" represents the amount to be determined that must not be less than zero;

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Process Emissions continued...	<p>(iii) "H" represents the greenhouse gas emission factor in carbon dioxide emissions equivalent per tonne for each raw material used or product produced that must be determined by matching the raw material used or product produced listed in the column "source category activity/ raw material/ product" in Table 3 of Schedule 1 with the number in the corresponding line of the column "GHG emission factor (CO2e) per tonne" of that table.</p>	<p>(iii) "H" represents the greenhouse gas emission factor in carbon dioxide emissions equivalent per tonne for each raw material used or product produced that must be determined in accordance with the formula— <math>X = (C \times 1) + (M \times 23) + (N \times 296) + (H \times 11\,900) + (T \times 5\,700) + (S \times 22\,200)</math> in which formula -</p>
Process Emissions continued...	<p>no formula was included in the 2015 draft Bill</p>	<p>(aa) "X" represents the number to be determined;</p> <p>(bb) "C" represents the carbon dioxide of a raw material or product determined by matching the fuel type listed in the column "SOURCE CATEGORY ACTIVITY / RAW MATERIAL / PRODUCT" in Table 3 of Schedule 1 with the number in the corresponding line of the column "CO2/tonne product" of that table;</p> <p>(cc) "M" represents the methane of a raw material or product determined by matching the fuel type listed in the column "SOURCE CATEGORY ACTIVITY / RAW MATERIAL / PRODUCT" in Table 3 of Schedule 1 with the number in the corresponding line of the column "CH4/tonne product" of that table;</p> <p>(dd) "N" represents the Nitrous Oxide of a raw material or product determined by matching the fuel type listed in the column "SOURCE CATEGORY ACTIVITY / RAW MATERIAL / PRODUCT" in Table 3 of Schedule 1 with the number in the corresponding line of the column "N2O/ tonne product" of that table;</p> <p>(ee) "H" represents the Hexafluoroethane (C2F6) of a raw material or product determined by matching the fuel type listed in the column "SOURCE CATEGORY ACTIVITY / RAW MATERIAL / PRODUCT" in Table 3 of Schedule 1 with the number in the corresponding line of the column "C2F6/tonne product" of that table;</p> <p>(ff) "T" represents the carbon tetrafluoride (CF4) of a raw material or product determined by matching the fuel type listed in the column "SOURCE CATEGORY ACTIVITY / RAW MATERIAL / PRODUCT" in Table 3 of Schedule 1 with the number in the corresponding line of the column "CF4/tonne product" of that table; and</p> <p>(gg) "S" represents the Sulphur hexafluoride (SF6) of a raw material or product determined by matching the fuel type listed in the column "SOURCE CATEGORY ACTIVITY / RAW MATERIAL / PRODUCT" in Table 3 of Schedule 1 with the number in the corresponding line of the column "SF6/tonne product" of that table.</p>

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<b>Rate of Tax</b>	The rate of the carbon tax must be an amount of R120 per tonne carbon dioxide equivalent of the greenhouse gas emissions of a taxpayer.	<p>(1) The rate of the carbon tax on greenhouse gas emissions must be an amount of R120 per ton carbon dioxide equivalent of the greenhouse gas emissions of a taxpayer.</p> <p>(2) <b>The rate of tax specified in subsection (1) must be increased by the amount of the consumer price inflation plus 2 per cent for the preceding tax year as determined by Statistics South Africa per year until 31 December 2022.</b></p> <p>(3) The rate of tax must be increased after 31 December 2022 by the amount of the consumer price inflation for the preceding tax year as determined by Statistics South Africa.</p>
<b>Calculation of amount of tax payable</b>	(a) "X" represents the amount to be determined;	(a) "X" represents the amount to be determined <b>that must not be less than zero</b> ;
<b>Calculation of amount of tax payable</b>	(g) "P" represents the number in respect of the total industrial process <b>and product use</b> related greenhouse gas emissions...	(g) "P" represents the number in respect of the total industrial process related greenhouse gas emissions...
<b>Calculation of amount of tax payable</b>	(2) The amount of tax payable by a taxpayer in respect of the generation of electricity from fossil fuels in respect of a tax period must be calculated in accordance with the formula: $X = A - B$	(2) The amount of tax payable by a taxpayer in respect of the generation of electricity from fossil fuels in respect of a tax period must be calculated in accordance with the formula: $X = A - B - C$
<b>Calculation of amount of tax payable</b>	(c) "B" represents the renewable energy premium in respect of a tax period constituted by an amount expressed in Rand <b>of the revenue received or accrued in respect of the electricity tariff or price allowed as a recovery of cost by the Independent Power Producers as determined in terms of the Multi Year Price Determination Methodology published by the National Energy Regulator of South Africa established by section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004).</b>	(c) "B" represents the renewable energy premium in respect of a tax period, <b>until 31 December 2022</b> , constituted by an amount expressed in Rand <b>determined by the Minister by notice in the Gazette</b> ; and
<b>Calculation of amount of tax payable</b>	no subsection "d" was included in the 2015 draft Bill. The subtraction of the environmental levy was not included in the calculation of the tax payable in the 2015 draft Bill.	(d) "C" represents an amount equal to the environmental levy contemplated in respect of electricity generated in the Republic in Section B of Part 3 of Schedule 1 to the Customs and Excise Act, 1964 (Act No. 91 of 1964), paid in respect of a tax year, until 31 December 2022.
<b>Calculation of amount of tax payable</b>	(3) For the purposes of this section "sequesterate" means the process of increasing the carbon content of a carbon reservoir other than the atmosphere.	(3) For the purposes of this section "sequesterate" means the process of <b>storing a greenhouse gas</b> or increasing the carbon content of a carbon reservoir other than the atmosphere.

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<b>Part II: Allowances</b>	General: "may"	General: "must"
<b>Basic Allowance for fuel combustion emissions</b>	A taxpayer that conducts an activity that is listed in Schedule 2 in the column "Sector" may receive an allowance of 60 per cent of the total percentage of greenhouse gas emissions in respect of a tax period in respect of that activity.	(1) A taxpayer that conducts an activity in respect of fuel combustion emissions that is listed in Schedule 2 in the column "Activity/ Sector" may receive an allowance in respect of those emissions, determined in terms of subsection (2).
<b>Basic Allowance for fuel combustion emissions</b>	no subsection 2 was included in the 2015 draft Bill	(2) The percentage of the allowance referred to in subsection (1) must be calculated by matching the line in which the activity is contained in the column " Activity/ Sector " with the corresponding line in the column "Basic tax-free allowance for fossil fuel combustion emissions %" in Schedule 2 of the total percentage of greenhouse gas emissions in respect of a tax period in respect of that activity.
<b>Trade Exposure Allowance</b>	<p>A taxpayer that is liable for the carbon tax in respect of greenhouse gas emissions in respect of the export of goods out of the Republic may receive an allowance in respect of a tax period in respect of those greenhouse gas emissions which is the lower of—</p> <p>(a) an amount that must be determined in accordance with the formula:  <math>X = A \times B</math>                      in which formula—</p> <p>(i) "X" represents the amount to be determined;</p> <p>(ii) "A" represents the number 0.4;</p> <p>(iii) "B"—</p> <p>(aa) represents a number that bears to the number 100 the same ratio as the revenue received from goods that are exported bears to the total revenue received from all similar goods that are sold by that taxpayer;</p> <p>and (bb) must be deemed to be nil if the number determined in terms of subparagraph (aa) is lower than the number five;</p> <p>or</p> <p>(b) 10 per cent of the total greenhouse gas emissions.</p>	A taxpayer that is liable for the carbon tax in respect of greenhouse gas emissions must receive an allowance up to a maximum of ten per cent in respect of trade exposure as measured by value of exports plus imports divided by the total production by sector or subsector that must be determined in a manner prescribed by the Minister by Regulation.

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<b>Performance Allowance</b>	(a) "Z" represents the percentage to be determined;	(a) "Z" represents the percentage to be determined <b>that must not be less than zero</b> ;
<b>Carbon Budget Allowance</b>	A taxpayer that conducts an activity that is listed in Schedule 2 in the column "Sector", and participates in the carbon budget system during or before the tax period, <b>may</b> receive an additional allowance of 5 per cent of the total percentage of greenhouse gas emissions in respect of a tax period.	Subject to subsection (2), a taxpayer that conducts an activity that is listed in Schedule 2 in the column "Activity/ Sector", and participates in the carbon budget system during or before the tax period, <b>must</b> receive an additional allowance of 5 per cent of the total greenhouse gas emissions in respect of a tax period.
<b>Carbon Budget Allowance</b>	no subsection 2 was included in the 2015 draft Bill	<b>(2) A taxpayer must only receive the allowance as contemplated in subsection (1) if the Department of Environmental Affairs confirms in writing that that taxpayer is participating in the carbon budget system as referred to in subsection (1).</b>
<b>Part IV: ..., Tax Period,...</b>	(a) <b>the period commencing on 1 January 2017 and ending on 31 December 2017; and</b>	(a) <b>From a date determined by the Minister in the Gazette ending on 31 December of the year in which that date is determined; and</b>
<b>Part V: Impermissible Arrangements (abbreviated here)</b>	<p><b>Impermissible tax avoidance arrangements</b></p> <p>18. (1) If the Commissioner is satisfied that an arrangement— (a) has been entered into or carried out in a manner that has the effect of providing a tax benefit to a person; and - (b) having regard to the substance of the arrangement—</p> <p>(i) was entered into or carried out by any means or in a manner which would not normally be employed for purposes other than the obtaining of a tax benefit; (ii) has created rights or obligations which would not normally be created between persons dealing at arm's length; and (iii) was entered into or carried out solely or mainly for the purpose of obtaining a tax benefit, the Commissioner may determine the liability for tax imposed under this Act and the amount thereof as if the arrangement had not been entered into or carried out, or in such manner as in the circumstances of the case the Commissioner deems appropriate for the prevention or diminution of that tax benefit.</p> <p>(2) For the purposes of this section— "dealing at arm's length" means a transaction in the open market in which two or more independent persons acting in good faith...; "arrangement" includes any transaction, operation, scheme or understanding...; and "tax benefit" includes...</p>	This part has been omitted entirely from the 2017 draft Bill



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Part VI [V]: Reporting	(a) the greenhouse gas emissions reported; and		(a) the greenhouse gas emissions reported <b>in respect of which a taxpayer is liable for the carbon tax; and</b>
Regulations	No subsection b was included in the 2015 draft Bill		(b) the manner of determining the amount of the trade exposure allowance contemplated in section 10;
Regulations	(b) carbon offsets contemplated in section 13.		(c) carbon offsets contemplated in section 13 regarding— (i) the projects or activities in respect of which an offset is generated; (ii) the limitation on the carbon offset allowance; (iii) offset duration periods; (iv) the institution, board or body that must administer the offset allowance; (v) the powers and responsibilities of the institution, board or body contemplated in subparagraph (iv); (iv) the procedure that must be followed in claiming the offset allowance; (vi) the records that must be kept in respect of administering the offset allowance; and (vii) any other matter necessary for the regulation of the utilisation of the carbon offsets.
Short title and commencement	This Act is called the Carbon Tax Act, <b>2017</b> , and comes into operation on <b>1 January 2017</b> .		This Act is called the Carbon Tax Act, 2017, and comes into operation on a <b>date determined by the Minister by notice in the Gazette</b> .
<b>SCHEDULE 1: Tables 1,2,3 have all been amended</b>			
<b>SCHEDULE 2 has been amended to include IPCC codes and Thresholds</b>			
SCHEDULE 3	(b) a 'taxpayer' as defined in section 1 of the Carbon Tax Act is not required to license premises as contemplated in section 54E of this Act, but must register as may be prescribed by rule;		This clause has been removed.