BUSA COMMENTS ON TREASURY RESPONSES

June 2018

3. Technical Comments

	SECTION	COMMENT	RESPONSE	BUSA RESPONSE
3.1 **3.1.1**	**Administration** **Use of the Customs and Excise Act**	Some stakeholders are of the view that the Customs and Excise Act is not the appropriate legislation under which to administer the carbon tax for the following reasons: - It is argued that it is not designed to deal with a tax of this nature. It is designed to deal with easily measurable goods that can be easily identified. Clarity is requested on the nature of the Carbon Tax, given that administering the Carbon Tax through the Customs Act may lead to various legal issues, especially if it is not considered to be a customs duty. - The Act requires licensing of warehouses; however, GHG emissions are reported at a company level. - The carbon tax is a different tax to a customs or excise duty as there is a separate Carbon Tax Bill. - There is a lack of alignment between the reporting requirements under DEA and the tax paying entity under SARS, which makes verification a challenge. - A separate Carbon Tax Administration Act is suggested to address administrative issues outlined above and or the tax to be administered in terms of the Tax Administration Act insofar as general matters are concerned, similar to other taxes such as the Mineral	**Not accepted.** The base of the carbon tax is the CO2e of GHG emissions. These gases are classified under the World Customs Organisation Harmonised System and are tradable commodities. This means the base of the carbon tax is goods as defined in the Customs and Excise Act, 1964. The administration of the carbon tax as an environmental levy under the Customs and Excise Act, 1964, is the most suitable solution, considering that these taxable GHG emissions are environmentally harmful goods of which the externality costs should be internalised. Excise taxation and specifically the existing environmental levy mechanism is the most appropriate tool to correct this market failure through the polluter-pays principle. The use of the existing administrative provisions under the Customs and Excise Act. 1964, with its underlying licensing, accounting, collection and enforcement systems is more efficient as it prevents the creation of an entirely new duplicate carbon tax administration. The administration of the carbon tax as an environmental levy under the Customs and Excise Act, 1964, would require the licensing of those facilities that give rise to the specified emissions that are subject to	

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		Royalties. Some stakeholders have suggested that if the administration of the Carbon Tax is set to remain within the realm of the Customs and Excise Act, taxpayers are informed of when the Customs schedules will be updated.	the carbon tax. The taxpayer as defined in the draft Carbon Tax Bill would be the licensee / license holder responsible for the accounts and payment of the tax in respect of the licensed emissions facilities. This licensing procedure is a simple once-off manual process that is in the process of being automated. The security requirement is based on the risk of each respective taxpayer. It is doubtful that any significant security would normally be required for carbon tax licensees. There is therefore no legal conflict in administering the carbon tax as an environmental levy under the Customs and Excise Act, 1964. The environmental levy accounting for the carbon tax per emissions facility should also not be as problematic for taxpayers as suggested. Taxpayers would in any event have to identify the taxable emissions per facility that need to be added up to calculate the aggregate amount to be declared to DEA. In addition, SARS is willing to consider innovative licensing solutions specific to the carbon tax. • For example, the licensing of facilities could be tied to the activity that gives rise to the taxable emissions. In those instances where several connected facilities are involved in a singular activity that is subject to the carbon tax, one consolidated license could be considered. • Alternatively, where a company holds several licenses over multiple licensed facilities, consideration could be given	

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			to combining those licenses under the company as a singular licensee.	
3.1.2	**Payment of the tax**	The draft carbon tax bill requires payment of the carbon tax based on 6 monthly environmental levy accounts as is with other environmental levies in terms of the Customs and Excise Act. Stakeholders are of the view that this is problematic for following reasons. - It is not aligned with the GHG reporting regulations which require reporting for the calendar year to be done by 31st march of the following year. It would therefore impose a further burden on companies. - It is not possible for measure certain of the allowances (e.g. Performance allowance) over this shorter period and it would not be possible to determine emissions for the 6 months, calculate the tax liability and pay it all on the last day of the 6-month period. Some have suggested that 6 monthly provisional tax payments system should be introduced for the carbon tax, similar to that applying to Mining Royalties, and for a final tax return and payment to be made within 6 months by the end of the tax period. Other stakeholders have suggested that this is particularly onerous in the case of GHG reporting and that the payment period is aligned with the DEA Reporting period of one calendar year and is paid annually after the final submission of	**Noted**. The environmental levy accounts are similar to the 6-monthly provisional tax payments of Mineral Royalties with final payment 6 months after the end of the annual tax period, albeit that the payment terms are slightly more generous. Carbon taxpayers would be expected to estimate their annual tax liability and pay this over in two six-monthly instalments by end of July (for the January to June account) and end of January (for the July to December account) respectively. An adjustment is then made in the following year's January to June account to reflect the final tax liability for the preceding year after DEA"s verification of true emissions levels and to effect final payment by the end of that July. Consideration could be given to the level of accuracy of the emissions estimates that would be acceptable without incurring a penalty. For example, an 80:20 principle is applied for other provisional tax payments in terms of which estimates that are 80 per cent accurate are considered sufficiently accurate to not attract penalties. Further consideration will be given to the request for one annual carbon tax payment. Under such a proposal, the tax period and accounting period would run from 1 January to 31 December. The account for that year, together with the payment of the carbon tax liability, would then be due by 30 June of the following year as DEA would only have verified the	

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		GHG emissions data to DEA. It is also requested that clarity is provided on the applicable penalties for under estimation of emissions.	declared emissions by May of that following year.	
3.1.3	**SARS Rules**	Stakeholders were of the view that SARS rules should be published for public comments and aligned with the legislation. It is suggested that the rules relating to the carbon tax should be made clear in the carbon tax bill and not be set by the Commissioner through insertion of Rules under the Customs and Excise Act.	**Partially accepted.** The rules will be published for public comments as with all other taxes. However, it is important to note that the rules contain technical detail that cannot be adequately accommodated in the primary legislation of the Carbon Tax Bill. The rules are secondary legislation that needs to form part of the rules to the Customs and Excise Act, 1964.	

3.2 Legal and other matters

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1. Definitions – suggestions from stakeholders	Carbon budget	• Definition should be replaced by the definition in the DEA‟s *DEROs Explanatory Note No. 4: Carbon Budget Design Document, First Phase (2016- 2020), May 2015*. **A carbon budget is a GHG emissions allowance, against which direct emissions arising from the operations of a company, during a defined period will be accounted. The term "carbon" in the carbon budget is shorthand for carbon dioxide, and further, for all GHGs accounted for in the latest South African inventory (2010), i.e. carbon dioxide, methane, nitrous oxide, Sulphur hexafluoride and the hydrofluorocarbons (HFC) and perfluorocarbons (PFC) families of gases currently reported in the national inventory**;	• **Accepted.** A carbon budget is a GHG emissions allowance, against which direct emissions arising from the operations of a company, during a defined period will be accounted.	
	Emissions	• Stakeholders queried the two options for defining "emissions". The explanatory memorandum says "and / or", suggesting both could be applied, whereas the Bill at „or‟ meaning these are mutually exclusive options. **p. 6, Delete sub-paragraph (a)**; • Deletion of (a) was suggested as this is essentially covered by (b) and aligns with the DEA GHG reporting methodology definition.	• **Not accepted.** For legal drafting purposes, there is a need for both the provisions.	
	Emission factor	• It was suggested that the DEA GHG reporting regulations definition is used: **means a coefficient that quantifies the emissions or removals of a gas per unit of activity. Emission factors are often based on a sample of measurement data, averaged to develop a representative rate of emission for a given activity level under a given set of operation conditions.**	• **Noted.** The definition provided in the bill is based on the UNFCC AR4-WG3 Report. Further consideration could be given to simplifying the definition in the bill.	

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	Fugitive emissions	• The definition should align with the IPCC 2006 Guideline Glossary and specify fugitive emissions are emitted to the atmosphere, which is relevant and necessary. **p. 7, Replace current definition with "Emissions that are released to the atmosphere by any other means other than through an intentional release through stack or vent including extraction, processing, delivery and burning (for energy production) of fossil fuels. This can include leaks from industrial plant and pipelines."** • Suggestions that the definition should be aligned with the DEA GHG reporting regulations **"means emissions that are not emitted through an intentional release through stack or vent"**; • Further suggestions that **"fugitive emissions refer to all cases of carbon emissions except those that are the result of emitting with the primary objective of doing so (i.e. not as a result of "extraction, processing and delivery)"**.	• **Accepted.** Emissions that are released into the atmosphere by any other means than through an intentional release through stack or vent including extraction, processing, delivery and burning for energy production of fossil fuels including leaks from industrial plant and pipelines.	
	Greenhouse gas emission	• Some stakeholders were of the view that the definition should remain open to further GHGs being identified by IPCC and agreed for use. - **p. 7, Add at end "… and other gases as may be identified by the IPCC and adopted by the UNFCCC from time to time".** • Definition not aligned to. Suggestions that the definition should be aligned with the DEA GHG reporting regulations **"means any one of the following gases; carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and Sulphur hexafluoride (SF_6)**; • Page 7 Means gaseous constituents of the atmosphere, both natural and anthropogenic,	• **Accepted.**	

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		that absorb and re-emit infrared radiation, and…" the bold part should be changed to **"absorb general radiation and re-emit infrared radiation"**.		
	IPCC Code	• Recommendations that the DEA make amendment to their regulations to align them with this Bill. Proposed: **"means the source code in respect of an activity resulting in the emission of a GHG as stipulated in the Guidelines for National Greenhouse Gas Inventories (2006) issued by the IPCC"**.	• **Noted.**	
	Person	• Page 8, "person" includes a partnership and a trust; " the bold part should be changed to **"means natural persons and all legal entities, including partnerships and trusts"**.	• **Noted.** This will be reviewed.	
2. Imposition of carbon tax	See policy related comments above.			
3. Persons subject to tax	Thresholds based on installed capacity	• Stakeholders requested clarity on how the different requirements, that is, mandatory GHG reporting regulations are based on installed capacity, while section 3 of the draft Bill refers to actual emissions could be harmonised in the determination of who is liable to pay the carbon tax. It is recommended that the thresholds be set in terms of absolute total emissions, rather than installed capacity; • The de minimus rule is supported where if all the activities of a person are below the threshold the Carbon Tax will not apply even if they are above the threshold when added together. It is suggested that any activity which falls below the threshold should be disregarded, even if the person is liable for Carbon Tax on its activities that exceed the threshold. This would be in line with the	• **Noted.** The reporting thresholds under the DEA Mandatory Reporting Regulations will apply for the carbon tax. Entities above the threshold will be subject to the tax and those below will not be required to report their emissions and will remain outside the scope of the carbon tax. The overall thermal capacity-based threshold is equivalent to about 20 000tons CO_2e which is similar to the emissions thresholds applied for inclusion under carbon pricing schemes in countries such as China, EU and Singapore carbon tax.	

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		Regulations; • In some cases, it is argued that whilst the units may exceed the capacity threshold, its utilisation may be much lower. Entities operating in these situations will be subject to the Carbon Tax because of installed thermal capacity as opposed to actual emissions, which seems contrary to what is intended;	This administrative threshold seeks to reduce the overall complexity and administration costs of the system by DEA and SARS and the compliance costs for the taxpayer.	
	Clarity on whether taxpayer is a juristic person	• Clarity is requested on whether the taxpayer will be the juristic person that is, legal entity or its holding company. It is suggested that the draft bill should state that the taxpayer is a legal entity in this context as with other tax regimes that is, company and legal entity are one and the same. • Some suggested that the definition should be more specific and include non- incorporated joint ventures or partnerships on the same basis as the vendor registration in the VAT act.	• **Noted.** National Treasury will consider the suggestions in this regard.	
	Clarity on who is regarded as conducting an activity	• Suggestion that to be consistent with the GHG reporting regulations by the DEA, the reporting must be disaggregated to facility level. **Section 3: after „… if that person conducts an activity" add "in a facility on which it reports"**; • Clarity is requested on who would be regarded as conducting the activity resulting in GHG emissions where there is a landlord-tenant relationship or any activity that is contracted out. It is argued that without sufficient clarity there is a risk on the one hand that both the landlord and tenant or on the other hand that neither the landlord nor the tenant would pay or be assessed for the carbon tax. • Some stakeholders recommended that to be consistent with GHG reporting regulations of the DEA (2017), the reporting for purposes of the carbon tax must be disaggregated to facility level.	• **Noted.** Alignment between the reporting requirements under the GHG Reporting Regulations and the tax compliance requirements of the SARS will be considered. • **Noted.** The data provider in terms of the DEA Regulations.	

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4. Tax base	Reference correct IPCC/ DEA methodology	• Section 4(1) indicates tax levied on "the sum of" GHG. The "total" over the tax period seems more accurate, as the operators in the formulas following include multiplications as well as additions. The total is over a tax period of presumably one (1) year, so "annual total" might be specified. **Section 4(1): Replace „sum" with "annual total"**. • This text does not accurately reflect how greenhouse gases are determined in terms of the mandatory reporting methodology of DEA. The methodology approved by DEA encompasses more than an emission factor and, in some cases, may not use an emission factor. Suggested text: **"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 fuel combustion and industrial processes, and fugitive emissions determined in accordance with reporting methodology approved by the DEA**; • It is argued that there will be no situation where approved methodology does not exist. The activities which emit GHG on which the tax will be imposed are supposed to be identical to the list of activities on which GHG emissions are reported. It is suggested that **section 4(2) should be deleted.** Some requested clarity on how the carbon tax will be levied on natural gas if used as transport fuel.	• **Not accepted.** Tax legislation needs to explicitly define the tax base therefore section 4 has been included in the draft bill. The reference to the NGER is achieved through the inclusion of the Schedules 1 and 2 which are aligned as closely as possible with the NGER, reflects the, tier 1, default emissions factors as per the IPCC 2006 Guidelines and where applicable, tier 2 and tier 3 methodologies and associated factors. • **Noted.** To enable the inclusion of all fuels not currently in the fuel tax net to be subject to the fuel tax regime under the Customs and Excise Tax, 1964, there is a need to define these fuels as fuel levy goods to enable the imposition of excise duties. The appropriate GHG emissions factors will be determined and will be the basis on which the carbon tax will be applicable. These amendments will be included in the Customs and Excise Act	

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	IPCC / DEA guidance on distinguishing different emissions type	• There were several comments submitted related to the 2006 IPCC Guidelines including: - Complexities may arise for an emitter to distinguish between process, energy or combustion and fugitive emissions as these emissions often occur in a combined manner and one emission type often cannot take place without the other as part of the production of steel; - Clarity is required on whether the range of taxable activities under the National GHG Emissions Reporting Regulations, mine methane, other than from coal mines, is excluded as Section 4.2 of the Carbon Tax Bill indicates that any mine releasing methane could pay tax on such emissions. The implication is that they cannot sell their CDM credits as offsets; and - Suggestion that there is a need to allow for the emission factors to be updated on an annual basis to consider any emission reductions achieved in using tier 3 methodologies. • Some stakeholders queried the exclusion of the SA –specific natural gas factor from the Bill. The factor has changed from 48 000 kgCO2/TJ to the IPCC factor of 56 100 kgCO2/TJ;	• **Noted.** Fugitive emissions under Category 1B and 1C are reportable to DEA and therefore within the scope of the carbon tax. Most of these activities do not have a threshold (classified as none) and are therefore required to report on all their emissions, which would be subject to the tax. For those that have N/A, these are not required to report. • **Noted.** NT will engage DEA on the lower tier emission factor for natural gas.	
5. Rate of tax		• Suggested that the bill should clarify that only the emissions arising from the activities in the schedule are covered. Replace with: **"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"**.	• **Not accepted.** The bill is clear on the coverage of the tax which is based on Schedule 2 in the Bill and aligned with the DEA Reporting Regulations.	
6. Calculation of tax payable	Renewable energy premium	• There is no reference to the gazetted amount for the RE premium as contemplated in 6(2)(c). Insert (d) as follows: **"Amount of renewable**	• **Not accepted.** Comment misplaced.	

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		energy **premium contemplated in s6 and methodology to determine amount"**.		
	Proposed new formula to ensure	• Stakeholders suggested that rather than reduce emissions in the formula for petrol and diesel, the tax liability should be reduced for the carbon tax	• **Accepted.** NT will consider options for amending the bill to allow for an additional	
	fuels benefit from allowances	included in the fuel price. This will preserve the allowances for emissions from petrol and diesel. It is suggested that the proposed addition of diesel and petrol emissions to the fuel levies will remove this visibility from diesel and petrol emissions and therefore render the carbon tax ineffective with respect to changing the behaviours of large diesel and petrol consumers. The following proposal has been submitted: - It is proposed to change the formula to allow for access to the allowance as follows: - X = [(E-S) × (1-C) × R] – [D × T] + [P × (1-J) × R] + [F × (1-K) × R] Where D represents the emissions associated with the combustion of petrol and diesel, and T represents the agreed carbon tax tariff within the fuel levy (possibly equivalent to R);	allowance for liquid fuel related emissions.	

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	Inclusion of sequestration in emissions calculation	• The current design of the second Draft Carbon Tax Bill only provides a deduction for sequestration related to fuel emissions but in certain industries, the bulk of CO_2 emissions are associated with process emissions. It is suggested that the formula is amended to allow sequestration to be deducted from combustion, process and fugitive emissions; • The inclusion of a credit for sequestration of carbon in company owned plantation forests is supported and very innovative which could see potential real investment in carbon sequestration. It is also suggested that: - The expression "(E-D-S)" should be allowed to drop below zero, with the proviso that government is not required to pay the entity for tax owed, but that the negative value is carried forward as a tax credit for the purposes of tax calculations in the following year; - S be determined as a five-year moving average; - Consideration should be given to where the formula is less than zero that entities could sell the excess sequestrated carbon to other entities to use as offsets or could be used to reduce the entities fugitive and process emissions.	• **Not accepted.** Currently process and fugitive emissions qualify for dedicated allowances that is, process and fugitive emissions allowances of 10 per cent. This allowance caters for the challenges in mitigating these emissions. • **Noted.** The NT and DEA will finalise the rules, modalities and accounting framework for the concession and these will be published in a technical note. .	
7. Allowance for fossil fuel combustion	Section 7: Basic allowance for fuel combustion emissions	• There can be no circumstances where this allowance is not received. Replace **"may" with "must"**;	• **Accepted.**	
	Basic allowance of 70% not reflected in	• It is submitted that while the table of allowances has included the basic allowance as 70 per cent, the formula does not reflect this.	• **Not accepted.** Comment misplaced.	

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	formula			
	Treatment of waste management activity across sectors	• Some stakeholders noted the inconsistency of the tax treatment of a waste management activity in the bill that is and suggested that the provision of the 100 per cent allowance for GHG emissions from waste management activities needs to be applied consistently across all sectors and provision should be made accordingly in the Bill. • It is suggested that the following formula is used to account for waste-related allowances by the inclusion of gross and net emissions since waste emissions are reflected as a separate line item in GHG reporting template hence data can be easily verified: Taxable emissions = (Fuel+ process emissions – nCT – SE) – (BA+ PA + FA + TA + PA + CBA) % Where: • nCT = processes not subjected to the carbon tax (to be defined in terms of emissions that enjoy 100% allowance such as waste, agriculture, lands that enjoy 100% allowance); • SE = sequestered emissions: Max:<Energy related emissions; BA = basic allowance; • PA = additional allowance for qualified process emitters; • FA = fugitive emissions; • TA = trade exposure allowance; PA = performance allowance; CBA = carbon budget allowance.	**Accepted.** The NT notes the anomaly in the bill for the tax treatment of waste related activities. The bill will be amended to address this anomaly for the first phase of the carbon tax. It should also be noted that a process will be initiated by the NT and DEA to develop robust methodologies to measure emissions from the waste sector, for possible inclusion within the carbon tax net in the second phase. • **Partially accepted**. The formula for qualifying waste related activities that will qualify for a deduction is noted. Further work will be done by the NT and DEA to specify the criteria including rules, modalities and a framework for qualification considering existing waste management policies.	

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8. Allowance for industrial process emissions	Allowance for industrial process emissions	• There can be no circumstances where this allowance is not received. Replace **"may" with "must"**.	• **Accepted.**	
9. Allowance in respect of fugitive emissions	Allowance in respect of fugitive emissions	• There can be no circumstances where this allowance is not received. Replace **"may" with "must"**; • Page 26, Section 7. "energy combustion emissions." should be **"fuel combustion emissions"**, because one can't combust energy.	• **Accepted.** • **Accepted.**	
10. Trade exposure allowance	Clear definition of sector or sub- sector	• Stakeholders requested clarity on the following aspect of the allowance: - the level at which a sector or sub-sector will be defined (i.e. which digit Harmonised System code will be used when defining a sector or sub-sector) as the level at which a sector or sub-sector is defined could have a significant impact on whether a sector or sub-sector is determined to be trade exposed; and - the source of data to be used for total production by sector or sub- sector as this would enable entities to calculate whether they are trade exposed or not and the level of support for which they are eligible.	• **Noted.** Based on the initial comments submitted to the NT on the 2015 Bill, the design of the trade exposure allowance was adjusted from a company to a sector-based allowance. A study was undertaken by BUSA on a methodology to amend the allowance design based on a proposal from the NT. A collaborative initiative was undertaken on the methodology including address some of the comments that have been submitted by stakeholders. A draft regulation outlining the list of sectors / subsectors and their respective allowances will be published for public comment and finalisation shortly.	

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11. Performance allowance	Additional measures	• Recommended that the language in this section should be amended to reflect that this is the performance allowance. The only measures required are those that to achieve a certain level of performance. The reference to additional measures" is therefore confusing and does not accurately reflect the intention and should be deleted. • Suggested that it is replaced with the following: - **"A taxpayer that achieved a level of greenhouse gas emissions better than a benchmark level approved for that taxpayer in respect of a tax period must receive an allowance in respect of that tax period not exceeding five per cent of the total greenhouse gas emissions of that taxpayer during that tax period determined in accordance with the formula:"**;	• **Noted.** Consideration will be given to consider wording to clarify this section.	
	Challenging to develop benchmarks	• Stakeholders noted challenges in developing benchmarks including: - Developing a benchmark for the lime industry in South Africa may be challenging as there are currently only two large lime manufacturers in the country and three smaller producers; - Clarity is sought on how Sasol as a dominant player will develop its performance benchmark; - noted the additional sectors now included under the carbon tax make a large variety of products that cannot be covered by a single benchmark (for example pasta, bread, milk, cheese, sweets, motor vehicle manufacturing); and - the performance allowance is administratively challenging and duplicates the incentive created by the tax itself.	• **Noted.** To simplify the process going forward, government will consider the options for data collection and building on existing methodological approaches developed by Industry to develop appropriate benchmark values. The expert peer review process should inform robustness of developed benchmarks.	

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12. Carbon budget allowance	See above			
13. Offset allowance	Offset allowance	• This language implies that implementation of carbon offsets is compulsory which not the case. Replace **"must" with "may"**.	• **Accepted.**	
14. Limitation of sum of allowances	Deletion of Limitation of sum of allowances	• Suggestion that this section is "superfluous" and should be **deleted**.	• **Not accepted.** This section gives effect to the policy principle that there is a maximum level of allowances that can be claimed by the taxpayer in a particular tax period.	
	AFOLU and waste sector allowances	• Some stakeholders suggested that that the AFOLU and Waste sectors be shown as "exempt" or wording is added to s14 to indicate that these sectors showing 100% in schedule 2 are deemed to be exempt from carbon tax. The "maximum total allowances %" shown in schedule 2 is misleading as it infers that the total allowances are applicable to the total of emissions.	• **Not accepted.**	
15. Administration	See comments above.			
16. Tax period	Tax Period	• Carbon tax periods are defined to coincide with the calendar year. This is in line with the DEA reporting requirements which require reports for each calendar year to be submitted by 31 March of the following year. It is recommended that, from a practical perspective, the reporting years should all be aligned, possibly to the calendar year in line with South Africa's reporting requirements under the United Nations Framework Convention on Climate Change.	• The carbon tax period is the calendar year.	
17. Payment of the tax	See comments above.			

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18. Reporting	Submission of annual reports by the SARS Commissioner to the Minister of Finance	• The Commissioner must annually submit to the Minister a report, in the form and manner that the Minister may prescribe, within six months from the end of every tax period. It is suggested that this is a consolidated report of the total tax paid by individual taxpayers and that confidentiality should be ensured.	• **Partially accepted.** Non-taxpayer-specific information is shared regularly by SARS with NT for purposes of policy formulation. This provision could be clarified to refer only to consolidated or anonymised data in accordance with similar provisions in the Income Tax and VAT legislation.	
19. Regulations	Promulgation of Regulations	• Some stakeholders have requested that the complete regulatory framework is contained in the Bill or regulations. There is concern that since technical work is still being undertaken on the three regulations, there will not be enough time for the regulations to be published for consultation in the time allowed.	**Noted.** The Bill must be enacted first before accompanying Regulations can be promulgated. See responses to the offset, trade exposure and performance allowances for details on the envisaged process for finalizing the regulations.	
20. Amendment of laws	No comments.			
21. Short title and Commence-ment	No comments.			
Schedule 1	Reference to terrajoule vs terajoule	• Document consistently uses “terra joule” instead of **“terajoule”** as a unit of energy. This needs to be corrected throughout.	• **Accepted.**	
	Emission Factors need to be harmonized	• It should be noted that the IPCC is currently reviewing the guidelines hence national guidelines and the Bill must allow for the changes for any revised emission factors; • There is concern that the emission factors listed in Schedule 1 of the Bill do not adequately account for the calorific values of South African fuels, nor the variability of the calorific values of bagasse on a specific site and the default calorific values for bituminous coal may be different should waste coal be utilized in thermal processes. It is recommended that the sugar industry accepted	• **Noted.** Work is underway by DEA to review the NAEIS so that it is fully compatible with the reporting requirements of the Carbon Tax. DEA will consider the proposal on bagasse in line with the requirements stipulated in the 2006 IPCC guidelines and revert to the Sugar Industry with a way forward.	

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		formula for bagasse calorific value be adopted to determine the calorific value of bagasse and that bagasse is treated as an independent fuel type in Schedule 1;		
	Need to harmonise aviation MRV with CORSIA rules	• It is recommended that the rules related to the monitoring, reporting and verification of emissions should be identical to those developed for the implementation of CORSIA.	• **Accepted**. Efforts will be made to ensure alignment between the domestic and global aviation MRV systems.	
Schedule 2	Specify domestic aviation to be in tax net and not international aviation	• It is recommended that there should be a distinction between international and domestic aviation in the listed activities and reference should be made to domestic aviation.	• **Accepted.**	
	Inclusion of standby generators in tax net	• There is concern with the inclusion of installed generation capacity on standby generators which exceed the 10 MW threshold, being required to be reporting on in terms of GHG Reporting Regulations as such a provision will place an unnecessary and misplaced reporting burden on sectors. The inclusion of standby generators is problematic as such installations are moved from facility to facility as required. This is particularly onerous for the construction industry where generators are generally considered mobile and DEA must be notified; • It is suggested that: - Back-up generators powered by liquid fuel sources such as diesel or petrol, should be excluded from the mandatory reporting requirements for GHG emissions. The tax is	• **Noted.** This is a reporting requirement and is based on a clearly defined threshold. Therefore, the reporting threshold should be followed. • **Not accepted.** Standby generators using petrol and diesel: Reporting on these is required just like any other sources of emissions in the reporting regulations. This is irrespective of whether they are relevant or not for the carbon tax.	

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		already paid through the imposition of tax at the point of sale; - The 10 MW threshold is restricted to thermal generation capacity that is primary to the operation of the process and/or facility e.g. electricity and thermal generation capability arising from the usage of fossil fuel.		
Schedule 3	Registration vs licensing	• The previous version of this Bill included the recognition that Carbon tax might have to be dealt with differently than other environmental levies. Re-introduce following text: **"A „taxpayer" as defined in section 1 of the Carbon Tax Act is not required to license premises as contemplated in section 54 E of this Act but must register as may be prescribed by regulation"**.	• See response on Section 15 Administration – Use of the Customs and Excise Act.	
	No reference to fuel levy	• There is concern that the Bill makes no reference to the fuel levy in this section. The proposed amendments to the Customs and Excise Act do not appear to address the carbon tax treatment of liquid fuels consumed (as opposed to manufactured) in the country and the treatment of the tax payer in terms of the Bill. The unintentional impact is that the combustion of liquid fuels (in the current form of the Bill and Customs and Excise Act) will not be subject to carbon tax. It is suggested that the treatment of the carbon tax in relation to liquid fuels should be covered in a separate section in the Bill similar to that of electricity generation in S6(2) so that the intention and application is clear.	• **Not accepted.** The carbon tax is imposed in the Carbon Tax Bill and will be administered under the Customs and Excise Act, 1964. As the imposition of the tax occurs in the Carbon Tax Bill, the Customs and Excise Act as the administrative legal instrument cannot impose any additional tax burden. The application of the tax to liquid fuels therefore belongs in the Carbon Tax Bill alone and should not be duplicated in the administrative provisions of the Customs and Excise Act.	