Will carbon tax legislation become effective in 2016?

By Kirsten Hunt

22 Oct 2015

Carbon tax is due to be implemented on 1 January 2016. It is going to be a challenge (to say the least) for organisations to put in place the required systems and processes if the current deadline is adhered to. It is therefore crucial that Treasury urgently provides an update on the status of this tax to ensure a legitimate legislative process.

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Before companies can do any planning whatsoever, draft legislation must be circulated for public comment. Once public comment is considered, Treasury will apply their minds to the commentary and then make appropriate amendments. Final legislation will then be prepared for sign off by Parliament. All of this, according to Minister of Finance Nhlanhla Nene, must happen before the legislation can be brought into effect on 1 January 2016, as per the budget speech earlier this year.

Principle behind carbon tax

The basic principle behind the carbon tax is that there is a cost associated with emitting carbon, which is not being included in the price of goods which are high carbon emitters. Carbon tax seeks to correct this inherent error in the pricing of carbon intense products by including the cost of the carbon emissions in the price of the goods that are being produced.

However, at this stage, there are few alternatives to the high carbon emitters, which is evident particularly in the power sector. Eskom relies on coal for approximately 80% of its power output and there are very few real alternatives given to consumers other than to support carbon intense industries in South Africa. Thus the introduction of an additional tax without providing other options effectively results in the cost being carried by the consumer who has no alternatives.

Unsurprisingly, industry is pushing back against any form of carbon tax. For example Australia repealed their carbon tax. This means industry is armed with a convincing argument against its implementation.

Negatively impacting the industry

South African industry has two main views how this tax will negatively impact industry. The first view is that the cost will be on-charged on the service or item being sold to the market by industry, which could result in foreign products becoming more competitive. This also results in the tax burden ultimately sitting with the individual consumers who are already under severe pressure from the numerous other elements of the economy.

The other view, which is less likely, is that the industries will have to absorb these costs driving down margins. With the global and local economies in the state that they are in, this would create another significant knock to industries already under strain. The worst case would be that this results in further job losses and again impact individuals in a negative manner.

No specific fund

A further concern around the legislation is whether the amount collected under a carbon tax will be used to assist in the transition of South Africa to become a low carbon emitter, especially given the fact that it will be added to the total tax collected for the fiscus and not specifically channelled into a specific fund designed to strengthen environmental protection and the reduction of carbon emissions.

Industry is waiting with bated breath for the report by the Davis Tax Committee with its recommendations, as well as the next formulation of the taxation framework. A further delay in the effective date is almost inevitable because most players will not be able to adequately anticipate the changes to processes which the tax will necessitate. Treasury may yet push out the release of carbon tax, but introducing a law that cannot be complied with is unlawful and would be challenged.

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