

# Agriculture, Aquaculture & Fishing

ALERT | 27 November 2024



## In this issue

### SOUTH AFRICA

Carbon Tax Phase Two:  
Impact on the agricultural  
sector



For more insight into our  
expertise and services

## Carbon Tax Phase Two: Impact on the agricultural sector

On 13 November 2024, National Treasury released the Discussion Paper on Phase Two of the South African Carbon Tax (Discussion Paper). In a media statement published alongside the Discussion Paper, National Treasury invited stakeholders to submit their written comments and proposals on the paper by 13 December 2024.

This alert unpacks the current status of the carbon tax and its anticipated impact on the agricultural sector in the near future.

### The Carbon Tax Act and a phased approach

Carbon tax is a material component of South Africa's climate change mitigation response strategy, as committed to in its Nationally Determined Contribution under the Paris Agreement. Following the commencement of the Carbon Tax Act 15 of 2019, South Africa's carbon tax was introduced in June 2019 under a phased approach.

In Phase 1, the marginal carbon tax rate was set at R120 per tonne of carbon dioxide equivalent and was subject to various tax-free allowances, which provided for a discounted tax rate of 60–95% for affected sectors. The rationale for these allowances was to soften the economic impact of the carbon tax by allowing affected industries time to adjust to the new regime by optimising processes and investing in cleaner and more efficient production technologies.

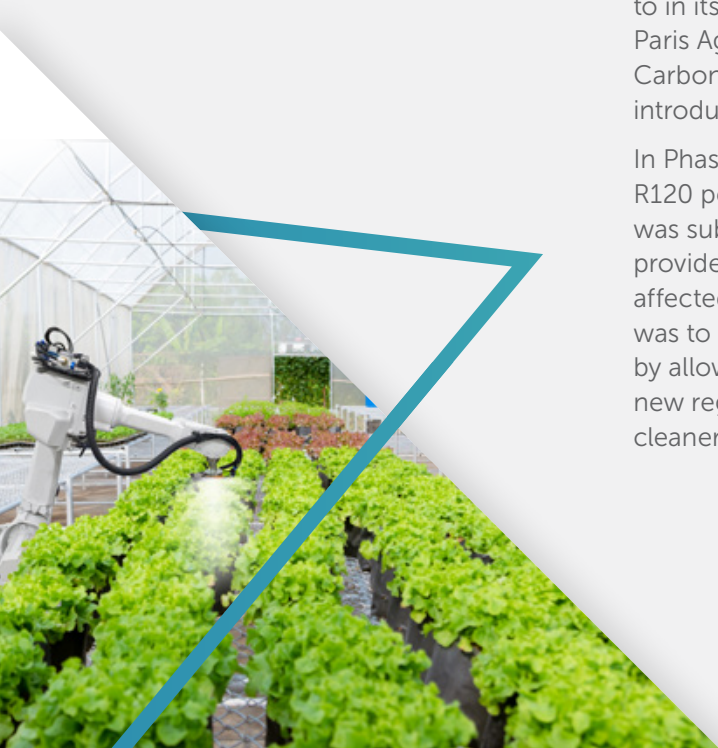
Notwithstanding this, certain sectors, including agriculture, forestry and other land use (AFOLU), have enjoyed a full exemption from carbon tax thus far. The rationale for this exemption is the practical difficulty in AFOLU application due to, among other things, challenges in quantifying greenhouse gas emissions from the sector stemming from the absence of appropriate methodologies, technological constraints on the implementation of appropriate abatement measures, and administrative capacity.

While Phase 2 was initially expected to commence on 1 January 2023, its implementation was subsequently postponed to 1 January 2026.

### Discussion Paper and the agriculture sector

The Discussion Paper sets out the proposed carbon tax rate and associated tax-free allowances to be phased in between 2025 and 2035. As set out in the Discussion Paper and the Taxation Laws Amendment Act 17 of 2023, the effective carbon tax rate is set to increase annually until 2035. This will be achieved by an increase in the marginal tax rate until 2030 (reaching a maximum of R462 per tonne of carbon dioxide equivalent from 2030 to 2035) and a staggered reduction in the maximum allowance percentages until 2035 (from 95% in 2026 to 72,5% in 2035).

As confirmed in Chapter 7 of the Discussion Paper, the blanket exclusion of the AFOLU sector from carbon tax obligations will continue under Phase 2, on the basis of the aforementioned challenges in application.



## Carbon Tax Phase Two: Impact on the agricultural sector

CONTINUED

However, stakeholders in the agricultural sector are advised to take whatever steps are available to them to insulate their businesses from the current and prospective impact of carbon tax. In addition to the potential for the AFOLU sector to lose its exempt status beyond 2035, there are indirect effects of the carbon tax at present which cannot be avoided, such as the knock-on increases in fuel prices and energy costs. These impacts will need to be quantified and managed accordingly.

**Alecia Pienaar and James Ross**

The  
**LEGAL  
500**

EMEA  
**2024**

**TOP TIER**



## OUR TEAM

For more information about our Agriculture, Aquaculture & Fishing sector and services in South Africa and Kenya, please contact:



### André de Lange

Sector Head:  
Agriculture, Aquaculture & Fishing  
Director: Corporate & Commercial  
T +27 (0)21 405 6165  
E andre.delange@cdhlegal.com



### Sammy Ndolo

Managing Partner | Kenya  
T +254 731 086 649  
+254 204 409 918  
+254 710 560 114  
E sammy.ndolo@cdhlegal.com



### Tessa Brewis

Director:  
Corporate & Commercial  
T +27 (0)21 481 6324  
E tessa.brewis@cdhlegal.com



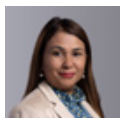
### Alex de Wet

Director:  
Real Estate Law  
T +27 (0)11 562 1771  
E alex.dewet@cdhlegal.com



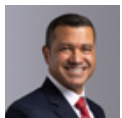
### Petr Erasmus

Director:  
Tax & Exchange Control  
T +27 (0)11 562 1450  
E petr.erasmus@cdhlegal.com



### Simóne Franks

Director:  
Real Estate Law  
T +27 (0)21 481 6464  
E simone.franks@cdhlegal.com



### Allan Hannie

Director:  
Corporate & Commercial  
T +27 (0)21 405 6010  
E allan.hannie@cdhlegal.com



### Andries Le Grange

Director:  
Competition Law  
T +27 (0)11 562 1092  
E andries.legrange@cdhlegal.com



### Sentebale Makara

Director:  
Dispute Resolution  
T +27 (0)11 562 1181  
E sentebale.makara@cdhlegal.com



### Richard Marcus

Director:  
Dispute Resolution  
T +27 (0)21 481 6396  
E richard.marcus@cdhlegal.com



### Martha Mbugua

Partner | Kenya  
T +254 731 086 649  
+254 204 409 918  
+254 710 560 114  
E martha.mbugua@cdhlegal.com



### Burton Meyer

Director:  
Dispute Resolution  
T +27 (0)11 562 1056  
E burton.meyer@cdhlegal.com



### Lydia Owuor

Partner | Kenya  
T +254 731 086 649  
+254 204 409 918  
+254 710 560 114  
E lydia.owuor@cdhlegal.com



### Lucinde Rhodie

Director:  
Dispute Resolution  
T +27 (0)21 405 6080  
E lucinde.rhodie@cdhlegal.com



### Belinda Scriba

Director:  
Dispute Resolution  
T +27 (0)21 405 6139  
E belinda.scriba@cdhlegal.com



### Tayyibah Suliman

Sector Head:  
Technology & Communications  
Director: Corporate & Commercial  
T +27 (0)11 562 1667  
E tayyibah.suliman@cdhlegal.com



### Alistair Young

Director:  
Corporate & Commercial  
T +27 (0)11 562 1258  
E alistair.young@cdhlegal.com



### Alecia Pienaar

Counsel:  
Environmental Law  
M +27 (0)82 863 6279  
E alecia.pienaar@cdhlegal.com



### Liëtte van Schalkwyk

Senior Associate:  
Dispute Resolution  
T +27 (0)11 562 1686  
E liette.vanschalkwyk@cdhlegal.com



### Luyolo Mfithi

Associate Designate:  
Corporate & Commercial  
T +27 (0)21 481 6334  
E luyolo.mfithi@cdhlegal.com

**BBBEE STATUS:** LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

**PLEASE NOTE**

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

**JOHANNESBURG**

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa.

Dx 154 Randburg and Dx 42 Johannesburg.

T +27 (0)11 562 1000 F +27 (0)11 562 1111 E [jhb@cdhlegal.com](mailto:jhb@cdhlegal.com)

**CAPE TOWN**

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.

T +27 (0)21 481 6300 F +27 (0)21 481 6388 E [ctn@cdhlegal.com](mailto:ctn@cdhlegal.com)

**NAIROBI**

Merchant Square, 3<sup>rd</sup> floor, Block D, Riverside Drive, Nairobi, Kenya. P.O. Box 22602-00505, Nairobi, Kenya.

T +254 731 086 649 | +254 204 409 918 | +254 710 560 114

E [cdhkenya@cdhlegal.com](mailto:cdhkenya@cdhlegal.com)

**STELLENBOSCH**

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.

T +27 (0)21 481 6400 E [cdh Stellenbosch@cdhlegal.com](mailto:cdh Stellenbosch@cdhlegal.com)

©2024 14183/NOV

