

Comments on the Draft Taxation Laws Amendment Bill 2025 (National Treasury and South African Revenue Services)



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Dear Sirs

Just Share comments on the Draft Taxation Laws Amendment Bill 2025

Introduction

1. Just Share appreciates the opportunity to provide comment on the Draft Taxation Laws Amendment Bill (TLAB), published for comment on 16 August 2025. Our comments focus on amendments to the Carbon Tax Act, 2019.
2. We appreciate Treasury's acknowledgment, in an email to Just Share dated 3 September, that "enhanced transparency will improve accountability and transparency in policymaking"; and its commitment to making TLAB submissions available on request, unless submitters indicate an objection to this within 5 days of submitting comments; and providing details of meetings where requested.
3. We commend Treasury for this commitment. Transparency will enhance accountability and the legitimacy of the climate policy process, which is clearly in the public interest.
4. In our comments on the Carbon Tax Discussion Paper: Phase 2 of the carbon tax (discussion paper) in December 2024, we raised a number of concerns with the proposals for phase 2 which did not go far enough to serve the purposes of a carbon tax, namely: (1) to incentivise change within high-emitting sectors, (2) to give effect to the "polluter pays" principle, which corrects for the externalisation of the costs of carbon so that it is the emitter that bears the cost, rather than society and (3) to collect revenue which can serve as a predictable, transparent and substantial resource for addressing the negative impacts of climate change on people living and working in South Africa.



5. In our comments, we argued that:

- 5.1. The headline and effective carbon rates proposed in the discussion paper were far from being sufficient to incentivise greenhouse gas (GHG) emission reductions commensurate with the best available climate science.
- 5.2. The discussion paper did not provide adequately robust explanations for the various allowance reduction pathways (including decisions to extend various allowances).
- 5.3. The discussion paper did not engage sufficiently with the growing momentum around and implications presented by carbon border adjustment mechanisms (CBAMs).

Retreat from proposals in the discussion paper

- 6. Despite these shortcomings, the discussion paper did allow for some progress towards an effective carbon tax design. However, the proposals made in the 2025 budget speech on 12 March 2025, and updated on 21 May 2025, fall short even of the limited progress suggested by the discussion paper.
- 7. This reversal of Treasury's position, we understand, is in large part due to the push-back received from the fossil fuel industry in its response to the proposals in the discussion paper. Even though the industry has known about the carbon tax since at least 2010 and has had ample time to prepare, and during which it received numerous concessions and extensions, its response implies that anything other than a business-as-usual scenario is unacceptable and "moving too fast".
- 8. Just Share has previously warned against succumbing to the vested interests, particularly of the fossil fuel industry and its representatives, to the detriment of South Africa's long-term environmental and economic sustainability. In our comments on the discussion paper, we warned that industry would lobby to undermine phase 2 of the carbon tax. This is precisely what appears to have happened.
- 9. For example, Sasol CEO Simon Baloyi stated at the company's August 2024 annual results presentation that Sasol is "busy engaging" with Treasury. Providing further evidence of Sasol's confidence in its ability to influence regulatory outcomes in its own favour, Baloyi also said: "if I look at how our teams - working with all stakeholders, including the Minister - managed to deal with the 12A,¹ I'm confident that we should be able to get the successful conclusion on that one. But it requires time and we will continue with the engagement".² It also became clear, from 10 April 2025 responses we received from Treasury to record requests made in terms of PAIA, that, between December 2024 and January 2025 – after the release of the discussion paper – Sasol had three private meetings with Treasury, each

¹ Referencing Sasol's successful application for leniency from minimum emission standards for sulphur dioxide from its 17 coal-fired boilers at its Secunda Operations.

² At 51 mins, 02 seconds – 52 minutes, 30 seconds.



attended by between five and seven senior Sasol executives.³ When the 2025 March Budget Review was released, the most important proposals for increasing the effectiveness of the carbon tax in phase 2 had been abandoned.

10. Earlier this year, Just Share published a report setting out in detail how anti-climate corporate lobbying has derailed an effective climate policy response in South Africa. This is already reflected in the multiple delays in the implementation of the carbon tax, and in the fact that the rate of the tax falls well below what experts recommend is required to achieve reduction of GHG emissions at a level that will limit the most severe impacts of the climate crisis.
11. Now, although phase 2 was supposed to ramp up its effect to “provide a strong price signal to both producers and consumers to change their behaviour over the medium to long term” - i.e. to finally give effect to the “polluter pays” principle,⁴ it mostly continues to permit polluters to conduct business-as-usual.
12. The climate science is clear: the time to decarbonise is now. To stand a chance of meeting the goals of the Paris Agreement, global emissions must halve by 2030.⁵
13. The carbon tax is a crucial tool in the reduction of GHG emissions, and its design and implementation are of substantial public interest and import. Pricing carbon correctly – to reflect the actual costs of emissions to society – would be transformative in limiting the worst impacts of the climate crisis. Taxing carbon emissions (at a rate related to GHG emission reductions commensurate with the best available climate science) is a powerful tool to change behaviour by altering economic incentives.
14. The fact that the legislated carbon tax increases will not incentivise Paris-aligned climate action is supported by various expert views, including 2021 research by the National Business Initiative.⁶ The current carbon tax remains far too low to create the necessary incentivisation to encourage a just transition to a low-carbon economy and to ensure that the “polluter pays”.

³ https://justshare.org.za/wp-content/uploads/2025/04/National-Treasury-PAIA-response_10-April-2025.pdf

⁴ [Media Statements: Carbon Tax Discussion Paper](#), 13 December 2010.

⁵ IPCC (2023), AR6 Synthesis Report: Climate Change, <https://www.ipcc.ch/report/sixth-assessment-report-cycle/>

⁶ See annexure 1 of <https://justshare.org.za/wp-content/uploads/2022/11/221114-Comments-on-proposed-amendments-to-the-Carbon-Tax-Act-2019-Select-Committee-on-Finance.pdf> and https://www.youtube.com/watch?v=WGziNg_LAtc



Provisions of the TLAB

15. Basic tax-free allowance

- 15.1. In a major concession to industry, the draft TLAB makes no provisions for reducing the basic tax-free allowance. The discussion paper proposed a gradual reduction of the basic tax-free allowance from 60% in 2025 to 40% in 2030. This, we argued, was an unacceptably slow pace given the purpose of the basic allowance, the long delays in the carbon tax process, and the urgency with which we must act to reduce emissions.
- 15.2. The rationale for a basic tax-free allowance was to give industry time to transition their operations and prepare for a carbon tax. It was intended to be a transitional measure for the initial phase of the carbon tax and, as Treasury points out in the discussion paper, *as a transitional measure*, the basic allowance potentially allows for a stronger effective tax rate for phase 2.
- 15.3. However, even this modest proposal has been abandoned, with the basic allowance of 60% now to be retained until (at least) 31 December 2030. This massively undermines the rationale and the effectiveness of the carbon tax and the idea of a phased implementation.
- 15.4. When read with the rest of the proposals, this extended basic allowance is unjustifiable. As argued elsewhere, the **price of the tax even without all the allowances is still too low to be effective in meeting the Paris goals**. The very reason for a basic allowance then, namely to allow for a stronger effective tax rate for phase 2, is nullified.
- 15.5. Crucially, this is just a free allowance given to all industry for all emissions and thus does not serve to incentivise any behaviour change, unlike some of the other allowances which could potentially be so justified.
- 15.6. If Treasury is set on allowing industry even more time to transition, **it is imperative that the basic tax-free allowance be significantly reduced every year and completely phased out by 31 December 2030**, when science requires global emissions to have almost halved to have a chance of limiting global temperature rise to as close to 1.5°C as possible.

16. Carbon budget and carbon tax - higher tax rate

- 16.1. Industry aggressively lobbied to have all penalties removed for exceeding allocated carbon budgets under the Climate Change Act, 2024. Although the Department of Forestry, Fisheries and the Environment has proposed to ameliorate this to a certain extent through provisions proposed in the draft Carbon Budget Regulations, even if these provisions are incorporated into a promulgated version of the Carbon Budget Regulations, the higher tax rate under the carbon tax remains the only mechanism for



ensuring compliance with carbon budgets – together operating as South Africa’s primary mitigation mechanisms.

- 16.2. As such, the **proposed rate of R640/tCO₂e for exceeding the carbon budget is significantly below the optimal tax rate, even for the standard carbon tax.** It is vastly insufficient to act as a deterrent in the same way that a criminal penalty and/or meaningful administrative fine would. If the tax on excess emissions above carbon budgets is not set at a rate high enough to be an adequate disincentive to emissions, emitters will simply “budget” for the payment of the taxes. Emissions will continue to increase, or, at best, not reduce at anything close to the scale and rate required.
- 16.3. The rate of R640/tCO₂e was first cited in the Budget Review 2022 where its origin and calculation were not explained. However, even if it were *then* high enough to ensure Paris-aligned emission reductions (and it is not, as demonstrated by the various studies referenced by Treasury in the discussion paper), this figure is now significantly out of date, will be even more out of date by the time it is required to be paid. The TLAB should therefore at the very least include a statement of intention to increase this rate to align with global carbon pricing, and a clear formula for escalation of the rate, as with the headline tax rate. **At a minimum the higher tax rate must be linked with inflation, to avoid it reducing in real value over time.**
- 16.4. Just Share supports the annual payment of the higher tax rate as provided in the explanatory memorandum for the draft TLAB – although the precise mechanism for how this will work is not clear.
- 16.5. We also support that no allowance contemplated in respect of the carbon tax will apply to emissions above the carbon budget. However, we propose adding “deductions” to section 60 of the TLAB, which proposes the amendment of section 14 of the Carbon Tax Act by the amendment of a new section 14A. It will therefore read “14A. Where emissions are above the carbon budget as approved by the Department of Forestry, Fisheries and the Environment, no **deductions or** allowances contemplated in **Part I and/or** Part II in respect of a tax period will apply.”
17. Process and fugitive emissions allowance
- 17.1. The draft TLAB makes no provision for reducing the allowance for process and fugitive emissions. Just Share does not support this.
- 17.2. For the years 2026-2030, a distinction needs to be made between process and fugitive emissions. Process emissions are potentially “hard to abate”, though even here, technological developments are rapid and regular reviews are needed as to what remains truly “hard to abate” per industry. Allowances should only be permitted where these emissions relate to development-critical processes for which there is no alternative.



- 17.3. Fugitive emissions are generally closely associated with high-emitting industries. Their monitoring and accurate pricing is an essential consideration in the transition. Such emissions represent a failure to make adequate attempts to detect and repair leaks, and to ensure other remediation. It is not appropriate to provide an allowance for fugitive emissions – emitters must account for all emissions along the supply chain.
- 17.4. In the 2018 Carbon Tax Bill and the related Explanatory Memorandum, provision was made for a process emissions allowance as well as for fugitive emissions from coal mining, but this was thereafter extended to the current overly generous allowance to all fugitive emissions. Our view is that fugitive emissions should not qualify for this allowance after 2026, and that the process allowance should be discontinued after 2030.
18. Offset allowance increase
- 18.1. Treasury has followed through in the draft TLAB with its proposal to increase the carbon offsets allowance by 5%. This increase in the offset allowance replaces the 5% carbon budget allowance which falls away when the carbon budgets become mandatory.
- 18.2. Just Share does not support this increase. It is not clear why the carbon budget allowance needed to be replaced with another equivalent allowance, given that the intention of the tax is to increase in effectiveness over time. There is no logical link between the voluntary carbon budgets and the offsets. Simply repurposing the voluntary carbon budget allowance as an offset allowance undermines the rationality of the design of the tax.
19. Electricity price neutrality extension and electricity levy repeal
- 19.1. The carbon tax is one of South Africa's central GHG mitigation policies, but its current design largely exempts the electricity sector, particularly Eskom, the country's largest emitter, from any liability for its emissions. During the extended phase 1 of the tax (2019–end 2025), Eskom paid no carbon tax due to the principle of “price neutrality,” which offset liabilities using the Environmental Levy (EL) and Renewable Energy Premium (REP). National Treasury argues that phase 2 (2026–end 2030) will begin influencing the sector by substituting the EL with an equivalent carbon tax charge (measured in R/tCO_{2e}), while still retaining price neutrality.
- 19.2. However, the tax's capped design means Eskom's liability will never exceed the EL equivalent. This effectively locks in a ceiling far below the actual headline carbon tax rate, even though the calculated phase 2 tax would be several times higher than the EL for coal, diesel, and gas plants. Consequently, Eskom will continue to pass capped charges onto consumers via tariffs without bearing direct costs or facing incentives to reduce emissions. Nuclear power, previously subject to the EL, will also be exempted under phase 2, further diluting the impact of the carbon tax.



- 19.3. The design of the REP essentially replicates the EL in phase 1, continuing to shield the electricity sector from impacts of the tax and thereby failing to incentivise behavioural change, delaying South Africa's transition away from coal. The penalty rate for exceeding carbon budgets (R640/t) is rendered meaningless under the capped framework, and offset allowances amount to double counting, undermining the tax's effectiveness.
- 19.4. Under this design, Eskom's reliance on coal will continue unchecked, despite more than a decade of forewarning about carbon pricing. We refer in this regard to Meridian Economics' briefing note, *Exploring the impact of Phase Two of the carbon tax in a transforming power sector.*
20. Carbon border adjustment mechanisms
- 20.1. National Treasury has previously acknowledged the issue of CBAMs, including in the discussion paper. However, it does not adequately address these as a key risk dimension: where domestic carbon tax rates are perceived as too low by key trading partners such as the EU, they will likely be 'equalised', with revenue going to the trading partner instead of to South Africa – whereas it should be recycled to assist with our country's decarbonisation.
- 20.2. Conversely, with a higher carbon tax rate, this revenue would go directly to our fiscus and may be used to further incentivise investment in our own transition. Key trading partners such as the EU have already or are very likely to impose such adjustments on South Africa given the low effective carbon tax rates proposed here, to protect their own industries, and resulting in revenue loss for South African.
- 20.3. The design of phase 2 needs to account for the fact that any CBAM concessions to economies that may potentially be negotiated are unlikely to be embedded for the long-term.
- 20.4. A key role of a carbon tax is to incentivise local investments in green technologies and innovation so that our economy can take advantage of opportunities inherent in a just transition, namely job creation and access to new product markets and value chains. The current design of phase 2 as set out in the draft TLAB does not achieve this purpose.
21. Paris alignment
- 21.1. In previous comments on the discussion paper, we compared the proposed future carbon tax rates with global carbon prices referenced by National Treasury, showing how both the headline and effective carbon rates proposed in the discussion paper were far from being sufficient to incentivise GHG emission reductions commensurate with the best available climate science. The TLAB has not amended these rates to align with global carbon prices.



- 21.2. Assuming maximum allowances, the current effective carbon tax rate is around R35.40 (US\$2.03) per tCO₂e for combustion emissions and R11.80 (US\$0.68) per tCO₂e for process and fugitive emissions.⁷ By 2030, if current proposals are finalised, these rates will have increased to R69.30 (US\$3.97) and R23.10 (US\$1.32) respectively.⁸ This is well below the current (2024) global average emissions price of \$5 per tCO₂e reported by the International Monetary Fund (IMF),⁹ and a fraction of the IMF's recommended carbon price for middle-income countries of US\$50 per tCO₂e by 2030.¹⁰
- 21.3. The 2017 High Level Commission on Carbon Prices' determination of the 2030 carbon tax amount "consistent with achieving the Paris temperature target" is US\$50-100 per tCO₂e.¹¹ The proposed effective rate for the South African carbon tax, even by 2030, would be 13-27 times lower than this determination for combustion emissions, and 40-80 times lower for process and fugitive emissions. The proposed rate is also more than 32-97 times lower than the rate the IMF deems necessary for South Africa to achieve its Nationally Determined Contribution (NDC) commitments by 2030 (US\$120 per tCO₂e).¹²
- 21.4. Finally, the draft TLAB does not adequately consider that South Africa is in the process of preparing its second NDC, which is required to be stricter and more rigorous than its previous mitigation targets.

Conclusion and need for clear statement from Treasury

22. The fundamental rationale for a carbon tax is the recognition of the failure of the market to properly internalise the cost of carbon which is borne by society instead of by emitters. The tax, then, should correct this market failure by implementing the "polluter pays" principle and incentivise behavioural change and investment in cleaner, low-carbon technologies.
23. However, the many iterations that the carbon tax has undergone since its original conception in Treasury's 2010 discussion paper (Reducing Greenhouse Gas Emissions: The Carbon Tax Option), the delays, allowances and deductions, and dilution of the

⁷ Based on a ZAR/USD exchange rate of R17.47 to the dollar on 11 September 2025. Section 5 of the Carbon Tax Act provides that the current tax rate is R236 per tCO₂e. The maximum allowances currently applicable are 85% for combustion emissions and 95% for process and fugitive emissions.

⁸ Section 5 of the Carbon Tax Act provides that the 2030 tax rate will be R462. In the latest proposals from National Treasury in the 2025 budget review, it appears that the maximum allowances applicable in 2030 will remain 85% for combustion emissions and 95% for process and fugitive emissions.

⁹ P 1, Simon Black, Ian Parry, and Karlygash Zhunussova, Sleepwalking to the Cliff Edge? A Wake-up Call for Global Climate Action, IMF Staff Climate Note 2024/006, 2004.

¹⁰ P 15, Ian Parry, Simon Black, and Karlygash Zhunussova, Carbon Taxes or Emissions Trading Systems? Instrument Choice and Design, IMF Staff Climate Note 2022/006; P 2, PP 10-12; PP 31-32, Jean Chateau, Florence Jaumotte, and Gregor Schwerhoff, Economic and Environmental Benefits from International Cooperation on Climate Policies, Departmental Paper DP/2022/007, 2022.

¹¹ P 3, P 33, P 50, Carbon Pricing Leadership Coalition, Report of the High-Level Commission on Carbon Prices, 2017.

¹² Haonan Qu, Suphachol Suphachalasai, Sneha Thube, and Sébastien Walker, South Africa Carbon Pricing and Climate Mitigation Policy, IMF Selected Issues Paper (SIP/2023/040), 2023.



headline tax rate, have made it imperative that Treasury sends a clear message reminding emitters about what the purpose of the carbon tax is.

24. More than 15 years on from Treasury's 2010 discussion paper, fossil fuel companies continue to operate business-as-usual in South Africa, their emissions continue to rise, and many of them have plans and strategies to increase their production of fossil fuels in the coming years. This is a clear indication that the carbon tax, for all its good intentions, is not designed or being implemented in a way that achieves its core purpose. In that case it is an expensive and administratively burdensome exercise which does not achieve its fundamental rationale.
25. Thank you for the opportunity to provide input into this crucial aspect of South Africa's climate change strategy. Just Share would like to participate in any parliamentary discussions that take place in relation to the TLAB.

Yours faithfully

JUST SHARE

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