<u>Greenhouse Gas Emission Reports Due, Paving the Way to a Carbon Tax Regime</u>

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The potential of a carbon tax has been looming in South Africa since 2015, and on 21 February this year, the Finance Minister in his Budget Speech finally set a date for its implementation: 1 January 2019. This article sets out the environmental legislative framework which paves the way for a carbon tax regime.

Following South Africa's ratification of the United Nations Framework Convention on Climate Change ("**UNFCCC**") Paris Agreement in November 2016, the National Greenhouse Gas ("**GHG**") Emission Reporting Regulations were promulgated into law on 3 April 2017 under the National Environmental Management: Air Quality Act. As the name suggests, these Regulations compel GHG-emitting companies (currently high emitters in the energy production, industrial and waste sectors) to report their GHG emissions to the Department of Environmental Affairs on an annual basis. The first report is due on 31 March 2018 and must include the company's total GHG emissions for the preceding 12 months. The Regulations impose significant criminal penalties where there is a failure to report, namely fines and/or imprisonment ranging from R5 million to R10 million and 5 years to 10 years, respectively.

The information obtained pursuant to the GHG Regulations will then be used for a dual purpose. Firstly, it will form the basis for South Africa's first report to the UNFCCC on our total country GHG emissions, which in turn will inform South Africa's future reduction targets. Secondly, this data will be accessible to SARS in their carbon tax assessments. The imposition of a carbon tax, as an economic disincentive to emitting GHGs, forms part of government's GHG emissions reduction plan, which is required by the Paris Agreement in terms of meeting our reduction targets.

While carbon tax legislation is not yet in effect, it is imminent. In this respect, the second draft of the Carbon Tax Bill was published for public comment between 14 December 2017 and 9 March 2018 and the Finance Minister in his 2018 Budget Speech was clear: Parliament is currently considering this Bill and a carbon tax will be implemented from 1 January 2019.

In terms of the tax liability, the Carbon Tax Bill prices one ton of carbon dioxide at R120. The Bill further provides for a myriad of tax-reduction mechanisms, such as allowances, incentives and the like, as well as a revenue-neutral first phase. By way of example, the proposed Thabametsi 1200 MW power station in Limpopo anticipates approximately 297 million tons of carbon dioxide in GHG emissions over its thirty-year life (See Savannah Environmental's Climate Change Study dated June 2017, which can be accessed at https://cer.org.za/wpcontent/uploads/2016/07/Thabametsi-Final-Summary-Report-Jun17.pdf). This works out to a carbon tax bill of approximately R35.6 billion, excluding the application of any tax-reduction measures.

In short, the GHG Regulations require GHG-emitting companies to report on their emissions, with the first report due on 31 March 2018. Critically, this information will be accessible to SARS in their assessment of carbon tax returns, which tax is imminently to be promulgated into law. With this in mind, we advise that companies use their annual GHG emission reports as a baseline to proactively manage and progressively reduce their GHG emissions, failing which they will have to foot unnecessarily high carbon tax bills in forthcoming years.