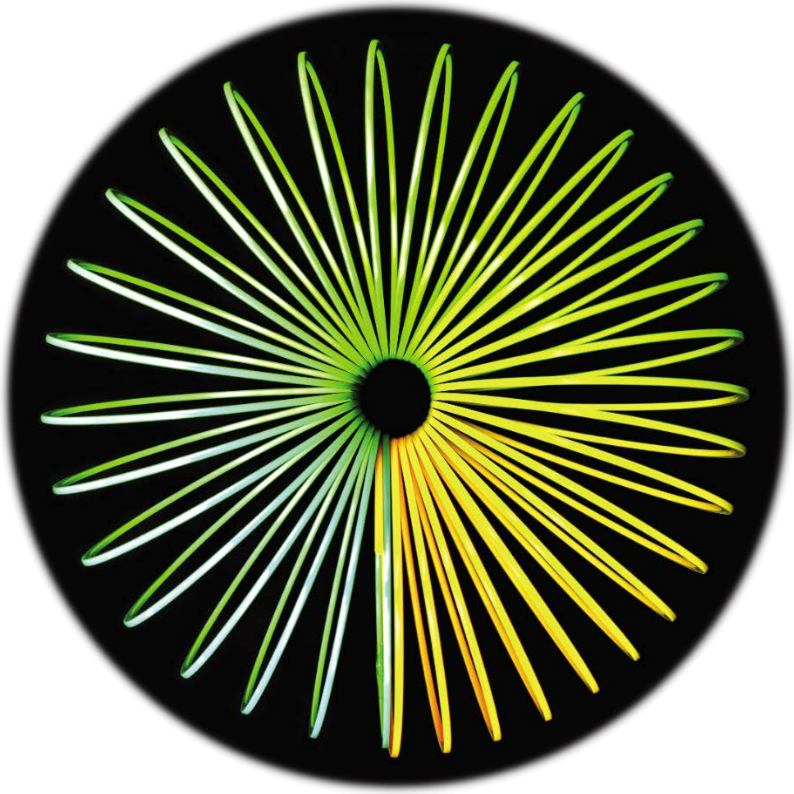

Canadian indirect tax news

Alberta carbon levy

December 28, 2016 (16-5)

Alberta has developed a new Climate Leadership Plan based on the recommendations put forward by the Climate Change Advisory Panel. The Plan has four main components:

1. Ending coal emissions and developing more renewable energy;
2. Implementing a new carbon price on greenhouse gas emissions (GHG);
3. Legislating a cap on oil sands emissions; and
4. Implementing a new methane emission reduction plan for the oil and gas sector.

As will be discussed below, this initiative – particularly the carbon levy – will have an impact on businesses in a number of ways.

Contacts:

Janice Roper
National Indirect Tax Leader
Tel: 604-640-3353

Robert Demers
Quebec
Tel: 514-393-5156

Michael Matthews
Eastern Region
Tel: 613-751-5310

Danny Cisterna
Toronto
Tel: 416-601-6362

Carbon pricing

To reduce GHG in Alberta, the government will impose a price on carbon through two different mechanisms:

1. Large final emitters' carbon emissions will continue to be subject to the Specified Gas Emitters Regulation (SGER) framework until the end of 2017. Under the SGER program, facilities emitting 100,000 tonnes or more of GHG are required to reduce their site-specific emissions intensity by 15% annually. In 2017, this reduction rate will increase to 20%. Facilities can comply by making improvements to reduce emissions, using emission performance credits generated at facilities that achieve more than the required reductions, purchasing Alberta-based carbon offset credits and contributing to Alberta's Climate Change and Emissions Management Fund. At the end of 2017, Alberta will transition to product and sector-based performance standards. More information regarding the performance standards will be made public after industry consultation.

2. A carbon levy on purchases and imports of fossil fuels that produce GHG will be introduced, effective January 1, 2017. The carbon levy will apply in conjunction with the SGER and the sector-based performance standards frameworks. The carbon levy legislation was released in June 2016 and the regulation was released in November 2016.

Carbon levy rates

The carbon levy rate will be $20 per tonne of carbon dioxide-equivalent emissions for 2017 and will increase to $30 per tonne on January 1, 2018. The rates on major fuels will be as follows:

Fuel	**Rate** (January 1, 2017 to December 31, 2017, inclusive)	**Rate** (after December 31, 2017)
Gasoline	$0.0449/L	$0.0673/L
Diesel	$0.0535/L	$0.0803/L
Natural gas	$1.011/GJ	$1.517/GJ
Propane	$0.0308/L	$0.0462/L
Coal coke	$63.59/tonne	$95.39/tonne

How will the levy work?

For refined fuels, such as diesel and gasoline, the administration of the carbon levy is generally similar to the administration of the fuel tax under the Alberta Fuel Tax Act. Entities that are currently registered for Alberta fuel tax are generally required to register for the carbon levy purposes and remit the carbon levy on refined fuels to the province together with the remittance of the fuel taxes.

Doug Myrden
Toronto
Tel: 416-601-6197

Jason Riche
Toronto
Tel: 416-607-1244

Andrew Azmudeh
Prairie Region
Tel: 587-293-3258

Janice Roper
British Columbia
Tel: 604-640-3353

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For natural gas, the levy is collected and remitted by entities in the distribution system. For heating fuels, entities higher up in the distribution chain are responsible for collection and remittance, which will reduce the administration and compliance costs. For other fuels, such as natural gas liquids and coal, entities that produce and sell or import and sell will be required to collect and remit the levy as a direct remitter.

Direct remitters
Generally, the carbon levy legislation is designed so that so-called direct remitters will be required to remit the carbon levy payable to the Minister.

Examples of direct remitters include:

- A person that manufactures, refines or acquires in, or imports into Alberta not less than a total of 500 million litres of clear fuel annually;
- A person that flares or vents fuel;
- A person that is a railway operator; and
- A natural gas distributor.

Entities that meet the definition of a direct remitter are required to register.

What exemptions are available?
Exemptions are available to certain consumers and recipients of fuel upon the presentation of an exemption certificate or licence at the time of purchase.

Generally, an exemption certificate is used by consumers of fuel who purchase fuel for their own use and either the use is exempt or the consumer themselves is exempt based on their status. A licence is generally used by recipients of fuel who purchase fuel for the purpose of resale to entities that are exempt.

Exemption Certificates
The following are some examples of exemptions that are available to consumers that present an exemption certificate or another acceptable document at the time they purchase fuel in Alberta:

- *SGER/Performance Standards* – Fuel used in the operations of a specified gas emitter is exempt, provided the emissions from the fuel are direct emissions as defined under the SGER. This is to ensure that the large emitters are not required to pay for their emissions twice under both the carbon levy and SGER/performance standards mechanisms. Where the fuel used in the operation of the SGER facility is gasoline or diesel, the fuel will need to be marked fuel to qualify for the exemption.

- *Production process* – Fuels used in a production process are exempt from the carbon levy until January 1, 2023. Where the fuel used in the production process is gasoline or diesel, the fuel should be marked fuel to qualify for the exemption.

The term "production process" is defined as:

- an activity integral to the drilling, completion, workover or abandonment of a gas or oil well; or
- an activity integral to the operation of a gas or oil well, a gas battery, a gas gathering system, a compressor station or facility, a gas processing facility, a gas fractionation plant, a straddle plant, an oil battery or an oil production site, other than an oil production site that includes one or more thermal oil wells.

Production process does not include an activity in the operation of a specified gas emitter. Similar to the exemption for fuel used by specified gas emitters, gasoline and diesel should be marked to qualify for this exemption.

Alberta has not provided guidance with respect to how broadly the word "integral" will be interpreted.

- *Flaring and Venting* – Fuel that is flared or vented in a production process is exempt until January 1, 2023.

- *Farming* – Marked fuel used by farmers for farming purposes does not attract the new carbon levy.
- *Aircraft operator* – Aviation fuels used for commercial flights between Alberta and other jurisdictions are exempt from the carbon levy.

- *Railway* – The purchase of locomotive diesel is exempt from the carbon levy. The carbon levy is payable at the time the locomotive diesel is used in Alberta.

- *First Nations*– Eligible First Nations individuals and bands are exempt from the levy when the fuel is purchased on reserve for individual or band use.

- *Exports* – Fuel purchased for export in bulk is exempt from the carbon levy.

- *Condensate, raw material or solvent* – Fuel used as a diluent, raw material or solvent in an industrial process or oil and gas production is exempt, provided it is not used to produce heat or energy, or is not flared or vented.

An entity that qualifies for an exemption but does not have an exemption certificate may be able to apply for a rebate.

Licences
Licences are generally used by entities that purchase fuel for the purpose of resale to exempt users.

Some examples of recipients that will be entitled to obtain a licence include:

- Fuel vendors or suppliers that purchase gasoline or diesel in Alberta and ordinarily export at least 80% of the gasoline or diesel purchased in Alberta;
- Vendors or suppliers who export fuel in bulk from Alberta;
- Vendors or suppliers that sell fuel to a consumer in the operation of a specified gas emitter if the emissions from the fuel are direct emissions as defined in SGER, and
- Vendors or suppliers that sell fuel to a consumer that uses the fuel in a production process before 2023.

Transitional rules for the carbon levy
The carbon levy will apply to fuels that a person purchases before January 1, 2017 but that is delivered on or after January 1, 2017, provided that the levy is applicable and there is no exemption.

The carbon levy is applicable to the fuel a person has in its possession on January 1, 2017 for sale or resale in Alberta if the carbon levy is applicable to that type of fuel, and there is no exemption. Entities must remit the levy and complete the Declaration Fuel Inventory form by the end of January 2017.

Income tax rebates and concessions available
As a result of the introduction of the carbon levy, the small business tax rate will be reduced from 3% to 2% on January 1, 2017 to assist with transitioning into this new carbon levy environment.

In addition, the government will provide a number of rebate programs and increase investment opportunities in bioenergy, new technology, public green infrastructure, and renewable energy. The government will also provide funding to small businesses, First Nations and people of the communities affected by the phase-out of the coal-fired electricity plants.

In addition to the above rebates and programs, low- and medium-income Albertans will receive a rebate for this carbon levy. The rebate will begin in January 2017 and will annually provide up to $200 for an adult, $100 for a spouse and $30 for each child under 18 in the household (to a maximum of four). In 2018, when the carbon price rises to $30 per tonne, rebate amounts will rise to $300 for an adult, $150 for a spouse and $45 for each child. Single parents will receive the spousal amount for one child, and the child amount for up to four additional children. The rebate will begin to be phased out at $47,500 of income for singles and $95,000 of net family income for couples and families.

Preparing for the carbon levy regime

If you would like to discuss the issues raised in this newsletter or if you have any questions or concerns regarding the implementation of the carbon levy in Alberta, please contact your Deloitte advisor.

Andrew Azumdeh, Partner
Simon Roy-Douville, Senior Analyst

Deloitte LLP
Bay Adelaide East
22 Adelaide Street West, Suite 200
Toronto ON M5H 0A9
Canada