

Tax
Doing business in
a carbon-constrained
economy

Climate change is no longer just a myth, and organisations are facing the reality of doing business in a carbon-constrained economy. The proposed introduction of the Carbon Pollution Reduction Scheme (CPRS) in 2010, and new reporting requirements for emissions-intensive activities from this year mean organisations are already dealing with Government measures to tackle climate change.

The Federal Government released the Carbon Pollution Reduction Scheme Exposure Draft on 10 March 2009, which outlines the proposed Division 420 and the suggested legislative amendments the Government intends to enact to operate the scheme. It is the Government's intention that the draft legislation will be introduced and heard in Parliament in May 2009, with the Government achieving passage of the Bill through Parliament in June 2009.

Key features of the discrete legislative provisions include:

- adoption of the rolling balance method that applies to personal property. The purpose of this method is to ensure permits are brought to account for income tax purposes in the year they are surrendered or sold. It should be noted that the personal property will attract goods and services tax (GST) under current GST law. Non-resident entities should monitor their responsibilities in respect of Australian GST as they may be liable for GST
- the international transfer pricing provisions will be amended to clarify the relationship with the proposed Division 420 non-arm's length transaction section and existing transfer pricing provisions, on the basis the market will now be 100% internationally linked
- a new capital gains event K1 will be enacted, providing specific rules for registered emissions once they become registered on the National Registry. On entry to the National Registry, an international emissions unit will be subject to Division 420 and will be recorded at its market value. It is treated as if it was sold for market value to someone, and repurchased for the same amount just before it enters the National Registry. This ensures that any gain or loss accrued before the unit is registered is brought to account.

All of the features above need to be worked into an organisation's strategy to achieve a cohesive transition into the scheme.

Looking beyond the new regulatory framework, climate change will affect the bottom line of organisations in many ways. The costs of inputs may go up as suppliers adopt new green technologies or pay the costs of meeting their obligations under emissions trading schemes here or overseas.

Consumers are likely to lean towards environmentally friendly products and services. Organisations could face higher costs as they implement low emissions technologies into their production processes. Anticipating these changes and developing a strategic plan to ensure minimal disruption to business will be critical to organisations successfully adapting to climate change.

As part of a strategic plan, organisations may decide to restructure their business. This may include restructuring current business operations, acquiring new businesses, treasury desk operations, expansion of activities offshore, major capital works expenditure or a review of staff employment policies.

Many of these strategic initiatives will involve a tax cost, so organisations that incorporate taxation considerations into their strategic planning process will be in a better position to improve their long-term financial outcomes.

Deloitte's tax advice could improve the economic returns from your climate change strategy. In a world where many organisations are changing the way they operate to deal with the challenges of climate change, this could be the competitive advantage your organisation needs.

Deloitte Tax can help you succeed in the carbon-constrained world

We can help you understand, evaluate and find tax opportunities in a carbon-constrained world, including the impact that:

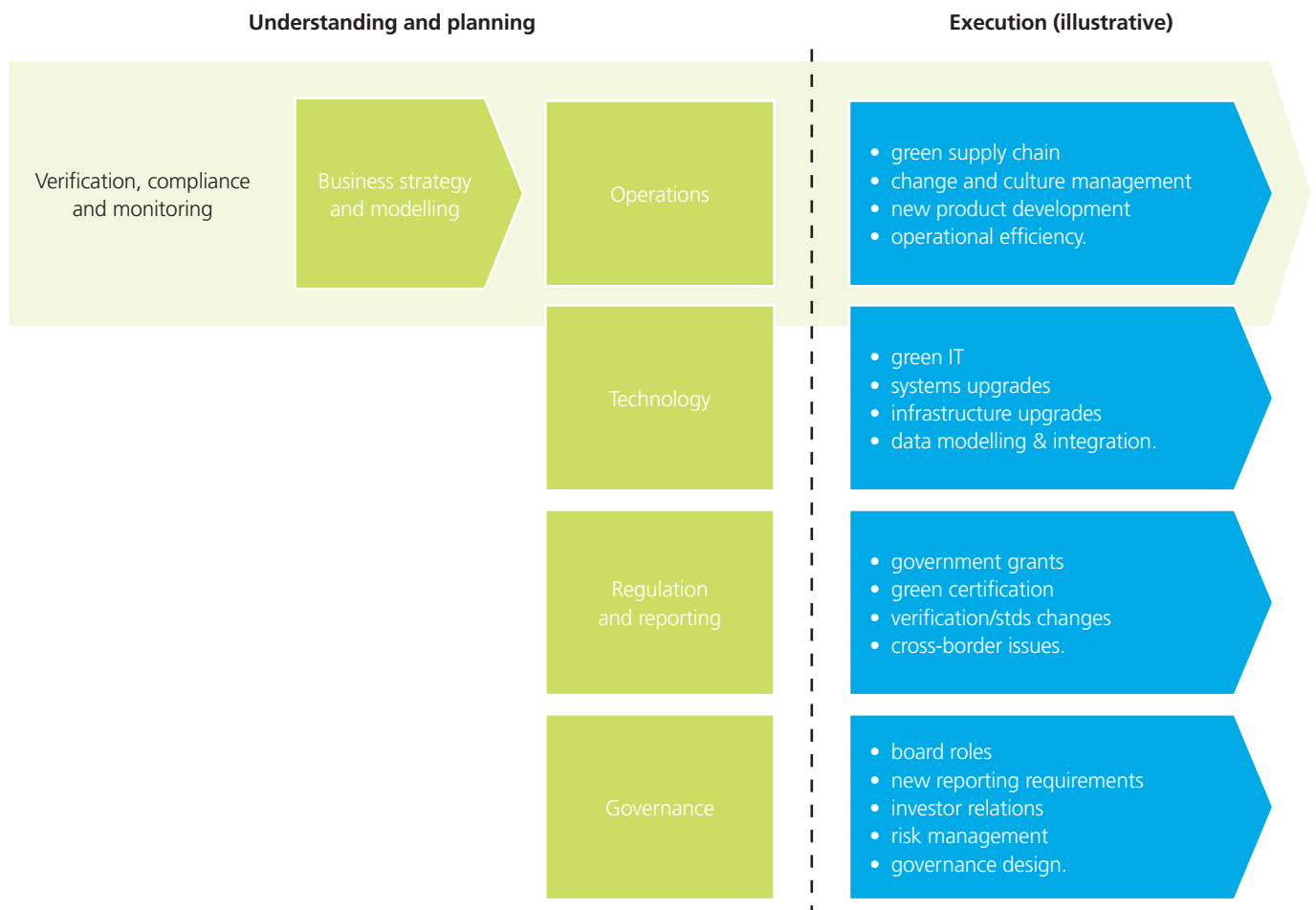
- tax laws introduced as part of the CPRS and other climate change initiatives
- climate change incentives and allowances – tax rebates, grants, research and development incentives, tax of forestry carbon sinks, etc
- indirect taxes including GST, stamp duty and customs
- employment taxes, in areas such as incentives, training and expatriates have on your organisation's:
 - domestic activities including new business processes, inventory and supply change management, acquisition and divestment of businesses, factories, office buildings and mines
 - international activities like acquisitions of investments, overseas abatement activities, restructuring international manufacturing and regional headquarters, transfer pricing considerations
 - capital management – funding structures, climate change permits and derivative trading operations both domestically and internationally, etc.

A framework for your business

You need a whole-of-business approach to climate change and sustainability. The CPRS will affect all aspects of your organisation, from strategy to your people and culture.

A simple, practical framework will be critical to driving a coordinated approach, and to allow your business to navigate the tax laws and the CPRS rules and decide how to act and adjust your business.

Important taxation considerations that you need to think about in your approach to climate change and sustainability are highlighted below.



Understanding and planning				Execution	
Business strategy and modelling >>		Operations and technology >>			Regulation, legislation, governance and reporting
How does our strategic planning process incorporate tax compliance and structuring considerations?	How do we integrate tax opportunities into business planning?	How could the introduction of CPRS and its taxation implications affect our competitive market position for existing products and services?	How will the CPRS taxation laws and the cost of permits influence business operating costs?	How can the tax laws help with employee incentive structures designed to align business and staff objectives when it comes to CPRS business changes?	What are the tax and CPRS regulatory and reporting requirements for our organisation?
What would be the impact on our business of non-compliance with CPRS?	How will costs incurred in implementing the CPRS strategy, including capital costs of modifying business operations, be treated for tax?	Can international tax laws as they apply to climate change (including CPRS) influence how we market and sell services and products to our customers?	How will taxation laws influence our treasury operations in regards to the trading in permits and their associated derivative products (forward sales, futures, options, carbon loans, etc)?	What are the taxation implications for our organisation if we want to implement systems that let our employees offset their carbon footprint via permits or other forms of carbon abatement?	What is the tax treatment for costs (including capital and equipment costs) incurred in designing and implementing our CPRS information collating and reporting compliance systems?
How important are tax issues in structuring and operating a treasury desk for the acquisition and trade of permits?	How do the taxation laws as they apply to CPRS affect our business cash flow and costs? What should be done to minimise any adverse outcome?	How could the introduction of CPRS and its taxation implications be used in our development of new products and services?	Can we reduce operating costs by using international tax and climate change laws?	What are the taxation implications if we second non-resident staff from our overseas offices to help us to implement our CPRS business strategy?	How do the taxation laws apply to the acquiring, trading and surrendering of permits?
For which grants and incentives can we qualify and how can we benefit from the R&D tax laws?	How can we maximise the value to our business by using international tax and climate change laws?	What are the taxation issues that need to be considered should we acquire new businesses as a result of CPRS being introduced?	Can our business operating costs and equipment modifications qualify for government grants or incentives including the R&D concession?	What are the employment taxation implications for our organisation should we restructure our operations and sell business units?	How do international tax and climate change laws apply to the international trading of permits?
What are the tax implications of restructuring the organisation's business units, processes, etc as the result of adaptation to CPRS?	How can we apply tax incentives (including R&D) to minimise the cost of implementing the CPRS strategy?	What are the taxation issues that need to be considered if we divest uncompetitive businesses as a result of CPRS being introduced?	What are the tax laws and issues that should be considered when entering into future contracts with suppliers, customers, contractors and employees?	What are the employment taxation issues of establishing business operations in an overseas country, including seconding Australian employees to work for the overseas business operations?	What are the CPRS and tax implications of not meeting as required our CPRS regulatory requirements?

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