



# Health Promotion Levy

## Sugary Beverages Levy (SBL) - Customs



# HPL Customs

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# Purpose

- ❖ The over arching purpose of the session is to inform you as our Customs clients / stakeholders on the:
  - Enabling legislation
  - Import requirements
  - Refund/Drawback requirements, and
  - Administrative procedures
  
- ❖ **Excluded from this session:**
  - The rationale of the HPL.
  - Individual products that are subject to the levy and the levy rate, inclusive of the threshold

# Background

- ❖ Non-communicable diseases (NCDs) are the leading causes of mortality globally, resulting in more deaths than all other causes combined, and the world's low and middle-income populations are the most affected.
- ❖ These diseases cause enormous human loss, impose heavy costs on public health systems and reduce overall productivity by the premature death and / or disability of people during their productive years. Obesity globally is an epidemic and major risk for the growing burden of NCDs that include heart diseases, diabetes; stroke and some cancers. Current global figures estimate a contribution of up to 5% of deaths whilst high blood pressure is 13%.
- ❖ In South Africa, obesity has grown in the last 30 years and the country is now considered the most obese in sub-Saharan Africa. Over half of the country's adults are now overweight with 42 % of women and 13 % of men being obese
- ❖ The SBL will be the first of a category of Health Promotion Levies (HPL) to be collected and administered separately from Customs and Excise revenues.
- ❖ It will support the Department of Health (DOH) strategic deliverables to prevent and control NCDs and assist in the prevention and control of obesity by 2020.
- ❖ The envisaged HPL will be imposed on the imported identified products.

# Background – cont.

- ❖ The National Treasury wants the Health Promotion Levy to be a separate standalone that will not form part of the SACU revenue sharing pool.
- ❖ The envisaged Sugar Levy will be imposed on both imported and locally manufactured identified products.
- ❖ National Treasury has had the following engagements with different stakeholders in addition to over 144 written comments received when the draft policy paper was published for comment:

## 2016

- 21 April: Beverage Association of South Africa (BEVSA)
- 30 May: South African Fruit Juice Association (SAFJA)
- 13 June: Bloomberg Philanthropies
- 14 July: Consumer Goods Council of SA
- 02 August: NDoH and DAFF
- 04 August: Bloomberg Philanthropies
- 04 August: South African Fruit Juice Association (SAFJA)
- 19 August: South African Sugar Association (SASA)
- 25 August: SARS/NDoH
- 25 August: Open Panel Discussion arranged by Classic FM
- 19 September: Open Panel Discussion arranged by Business Day
- 05 October: Participated in a Health e- News Workshop with Journalists
- 31 October: Coca Cola South Africa
- 11 November: Public Stakeholder Workshop
- 16 November: Advocacy Incubator Group
- 08 December: BevSA/Coca Cola

## 2017

- 31 January: Standing Committee on Finance Public Hearing
- 06 February: Ethicore, representing Pioneer Foods
- 10 February: BevSA/Coca Cola
- 14 February: Standing Committee on Finance Public Hearing
- 17 February: Nedlac Presentation and Discussion
- 02 March: PricelessSA and The Global Food Research Program, UNC
- 9 March: Open Panel Discussion arranged by Mail & Guardian
- 10 March: OECD and WHO
- 17 March: Open Panel Discussion arranged by the EU Delegation to SA
- April- June: Nedlac Meetings
- 30 March: Food and Allied Workers Union (FAWU)
- 31 May: Standing Committee on Finance Public Hearings
- 6 June: Standing Committee on Finance Public Hearings

- ❖ The 2017 Rates Act, 2017 Taxation Laws Amendment Bill (TLAB) and 2017 Tax Administration Laws Amendment Bill (TALAB), Final Response Documents and Explanatory Memoranda can be found on the National Treasury ([www.treasury.gov.za](http://www.treasury.gov.za)) and SARS ([www.sars.gov.za](http://www.sars.gov.za)) websites

# HPL Legal Framework

- ❖ Chapter VB to the Customs and Excise Act No.91 of 1964, as amended;
  - SBL amendments and consequential Schedule amendments to the Customs and Excise Act, were subject to Parliament's public consultation processes before being promulgated in Rates and Monetary Amounts and Amendment of Revenue Laws Act, 2017.
  - Draft SBL rules were published on 26 October 2017 and draft forms on 10 November 2017 for comment until 30 November 2017. Further amendments of the Schedules to the Customs and Excise Act proved necessary as the HPL design became more certain, these revised draft SBL rules and forms were published again on 22 January 2018 for comment until 6 February 2018. These are also in the process of being promulgated.
  - These extensive public consultations on SBL policy and legislation were completed and the legislation finalised for purposes of implementing the SBL on 1 April 2018. Nonetheless, further comments and inputs may be submitted in writing after SBL implementation
  - The levy is assessed, declared and paid on a duty at source (DAS) principle

# HPL Legal Cont.

## Taxes and Levies to encourage Healthier Choices

- ❖ Measures to assist in bringing an expected change in public behaviour:
  - **Globally fiscal measures such as taxes and levies** are increasingly recognised as effective tools to help tackle the obesity epidemic at a population level.
  - **Taxes / levies can play a key role** in correcting for market failures and act as a price signal that could influence purchasing decisions of consumers.
  - Whilst the Republic forms an integral part of the Southern African Customs Union, inclusive of the BLNS – Countries, Government **has decided that the HPL will not form part of the SACU revenue pool.**

# HPL General Requirements

## HPL Implementation Process

- ❖ South African Revenue Service (SARS), has been mandated to implement the HPL on the 1<sup>st</sup> of April 2018
  - To effect the HPL implementation, SARS had to deliver a series of strategic objectives, i.e.:
    - ✓ To identify **a suitable division**, within its administration, which has to administer the levy collection and further downstream activities. The Customs and Excise division was decided upon.
    - ✓ To create the required **enabling legislation** in the Customs and Excise Act and its Rules.
    - ✓ To create effective and efficient, but user friendly, **administrative processes along with supporting automated systems** as tools for the administration of the levy.

# Levy

## ❖ Who is liable for the payment of the levy?

- All Importers on the identified imported products, the levy as indicated is payable as DAS
  - ✓ Home Consumption (Duty Paid)
  - ✓ Warehouse on removal for home consumption (XDP)
  
- All local manufacturers (Excise clients) of sugary beverages (in the Republic) classifiable under the Health Promotion levy items depending on the sugar content volume per calendar year.

## ❖ How must the SBL be paid?

- SBL returns can be submitted and paid through:
  - ✓ [eFiling](#) or
  - ✓ [Customs & Excise branches](#).

# Levy and Refunds

## How will Duty at Source (DAS) work for Imports

### ❖ Imports

- Once SBL goods are imported, the duty becomes liable at the time of importation, or upon time of clearance from the licenced import storage warehouse, for home consumption.
- Goods used in further manufacturing(e.g. the canning industry) will pay duty once imported, however this can be claimed back as a refund once it has been proved that the goods have been so used in manufacture. (Refund Item 561.03)
- Refund Items
  - ✓ 560.01 Enabling provision for HPL [movements out of Southern African Customs Union (SACU)] – subject to 521, 522.03, 04, 05; 560.01 (imported goods used in the manufacturing 521.00, and subsequently exported; or imported and goods are exported for trade purposes in the same condition, 522.03)
  - ✓ 561.01(abandonment or destruction – 532.00) and
  - ✓ 561.02 (BLNS goods)

# Levy and Refunds cont.

## How will Duty at Source (DAS) work for Imports

- ❖ If imported under Schedule 4 these goods are rebated as per Note 3 to Schedule 4, e.g.
  - Temporary imports
  - Vis major
  - Processing
- ❖ Exports – SBL goods may be exported i.t.o 560.01 and to 561.02 (BLNS) in accordance with the conditions (Current Customs refund process)
- ❖ The sugar content in grams per 100ml which must be obtained from the test report which is certified by a testing laboratory accredited by the South African National Accreditation System (SANAS) or the International Laboratory Accreditation Cooperation (ILAC).
- ❖ Note: If either one of the mentioned testing reports is not readily available, the sugar content of the sugary beverages must be calculated on the deemed sugar content that is assumed to constitute 20 grams per 100ml.

# HPL Policies and Procedures

## ❖ **Declarations: Tariff Management**

- The sugary beverages that are subject to the levy are listed in the newly created Section A of Part 7 of Schedule No.1 to the Customs and Excise Act, 1964
  - ✓ The Health promotion levy item 191.07 read with tariff subheading 22.02 specifically excludes 100% fruit or vegetable juices.
  - ✓ The Schedule only shows the items or products that are taxed and products that are not taxable are generally not shown or are excluded from the Schedule.
- Schedule 1 Part 1 (Ordinary Customs Duty) updated
- Note 3 to Schedule No. 4 (General rebates of Health Promotion Levy)
- Creation of Part 6 in Schedule No.5 (Refunds and drawbacks of Health Promotion Levy on Imported Goods)
- Tariff headings applicable updated

## ❖ If uncertain about the classification of your product, then a tariff determination needs to be requested (DA314)

- ✓ These need to be highlighted as urgent SBL applications for priority
- ✓ This can be applied for before implementation on 01 April 2018

## ❖ **Declarations: Declarations Processing - Exports**

- New export Customs Procedure Codes (CPC's) for drawbacks / refunds (H66-12 / H69-11/ H69-13) and the inclusion of the Rebate Code on the declaration is required.

# HPL Policies and Procedures

## ❖ Applicable Tariff Headings

- Chapter 18 – 1806 – Chocolate and other food preparations containing cocoa with sub-heading **1806.10.05** – Preparations for making beverages.
- Chapter 19 - 1901 – Malt Extract: food preparations of flour.....sub-heading **1901.90.15** – Preparations for making beverages (**excl.** those of tariff sub-heading 1901.90.20)
- Chapter 21 – 2106 – Food preparations not elsewhere specified – sub headings:
  - ✓ **2106.90.20** – Syrups and other concentrates or preparations for making beverages, not having a basis of fruit juice (**excl.** those of tariff sub-heading 210690.69)
  - ✓ **2106.90.22** - Syrups and other concentrates or preparations for making beverages, not having a basis of fruit juice (**excl.** those of tariff sub-heading 210690.69)
  - ✓ **2106.90.69** – Drinking straws, containing flavouring preparations
- Chapter 22:
  - ✓ 2202.10 – Waters including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages (excl. fruit or vegetable juices of heading 2009) – **2202.10.10** – In sealed containers holding 2.5li or less (**excl.** those in collapsible plastic tubes)
  - ✓ 2202.91 – Non-alcoholic beer – **2202.91.20** – In sealed containers holding 2.5li or less (**excl.** those in collapsible plastic tubes and those with a basis of milk)
  - ✓ 2202.99 – Other – **2202.99.20** - In sealed containers holding 2.5li or less (**excl.** those in collapsible plastic tubes and those with a basis of milk), and **2202.99.90** - Other

# HPL Policies and Procedures cont.

## Refunds and exports

### ❖ Schedule 5

#### ➤ Items

##### ➤ Amended DA 66

- ✓ Page 3 has been amended for the completion of the allocation codes by the applicant. These allocation codes are used to ensure that the payment is made against the correct duty tax type e.g. 17A.
- ✓ The duty tax types are prescribe in the Clearance declarations Manual. A list of allocation codes will be available and listed in the Customs Refunds and Drawback External Policy.

##### ➤ Amended DA 64 – Page 1

- ✓ The form has been amended to insert duty tax type code and allocation code for other payments. The duty tax type e.g. 17A must be inserted as well as the amount claimed.

##### ➤ Amended DA 64 - Page 2

- ✓ Page 2 of DA 64 must not be completed for refund item 561.03 although the declaration at the bottom of page 2 must always be completed and signed.

##### ➤ Amended DA 63

- ✓ The Other Payments column has been extended to create 2 fields for the insertion of Duty tax types.
- ✓ The reference to the export declaration number – MRN (Movement reference number) must be inserted on the DA 63.

# HPL Policies and Procedures cont.

## Amended policies

- ❖ Imports – 1 April 2018
  1. Manual for the Completion of Declarations - SC-CF-04 for internal and external use;
  2. Clearance declarations - SC-CF-54 (SC-CF-55 external);
  
- ❖ Refund and drawback claims – 20 April 2018 onward
  1. SC-DT-C-04 (SC-DT-C-13 external) Customs Refunds and Drawbacks;
  2. SC-DT-C-06 Completion manual DA 66;
  3. SC-DT-C-08 Completion manual DA 64;
  4. SC-DT-C-09 Completion manual DA 63

[www.sars.gov.za](http://www.sars.gov.za) > Customs and Excise > Excise > Sugary Beverages Levy

### Need help?

If you have any questions, you may:

Send your questions to [SugarLevy@sars.gov.za](mailto:SugarLevy@sars.gov.za) or

Phone our Contact Centre on 0800 00 7277 or

Visit your nearest [Customs & Excise branch](#).

# Record Keeping

## ❖ The importer / manufacturer must keep records of:

- Raw materials received, used in the production process, and/or removed
- Yield from raw materials
- Production
- Stock on hand
- Instances where a vis major (e.g., natural disasters) necessitates a rebate of levy:
  - ✓ Police affidavits and - reports, insurance claim documentation, relevant photographs of the incident, etc.
  - ✓ Removal for sales in the Republic
- Returns of levy paid stock for destruction or reprocessing, etc.
  - ✓ Credit notes, delivery notes, etc.
- Exports to BLNS or beyond SACU.
  - ✓ The customs export documentation, inclusive of SAD 500, Transport documentation, etc.

❖ The importer and manufacturer may keep electronic records if it can be readily converted into paper copies and made available to SARS when required/requested.

**The retention period is five (5) years**

# Non Compliance

## ❖ Penalties:

- Failure to adhere to the provisions of the Act, as set out in this document, is considered a transgression and therefore regarded an offence.
- Offences may render the licensee liable to, as provided for in the Act:
  - ✓ Criminal prosecution; and/or
  - ✓ Suspension or cancellation of registration and/or license
  - ✓ Monetary penalties.
- Internal Administrative Appeal process allowed if disputes. The policy in this regard, as well as the process to be followed, is contained in document SC-CC-24.

# Non Compliance - cont.

- ❖ Internal Administrative Appeal process allowed if disputes, DA 51. The policy in this regard, as well as the process to be followed, is contained in document SC-CC-24
  
- ❖ Alternative Dispute Resolution (ADR)
  - If the appeal process has been exhausted and the client is still not satisfied with the outcome thereof, he/she may revert to the alternative dispute resolution (ADR) process, DA 52. The policy in this regard, as well as the process to be followed is contained in document SC-CC-26.
  
- ❖ Penalties are subject to either full - or - partly forfeiture or full refund thereof.
  
- ❖ Interest:
  - Interest is payable on all outstanding amounts which where due to be paid by the licensee.
  
  - Note must be taken of the interest calculation of “a day represents a whole month.”
  
  - Interest is not refundable.

*Thank you*  
*Re a leboha*  
*Re a leboga*  
*Ndza Khensa*  
*Dankie*  
*Ndi a livhuwa*  
*Nginyabonga*  
*Enkosi*  
*Nginyathokoza*