

EXCISE

EXTERNAL STANDARD

AIR PASSENGER TAX

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1 SUMMARY OF MAIN POINTS

- a) The **standard** identifies the persons who are liable for the payment of Air Passenger Tax (APT) and who are exempted there from.
- b) This **standard** does not cover:
 - i) **Customs and Excise payments dealt with in BP-02;**
 - ii) **Declaration and Returns submission via eFiling (Payment only) dealt with in SE-AM-19;**
 - iii) **Prescribed Payment terms dealt with in SE-AM-21;**
 - iv) **Submission of accounts/returns dealt with in SE-CL-12;**
 - v) **Guide to Excise duties and levies dealt with in SE-FS-09; and**
 - vi) **Refunds dealt with in SE-FS-19.**

2 STANDARD

2.1 Rate of APT

- a) Air passenger tax is charged in accordance with Section 47B on the carriage of any chargeable passenger departing on a flight.
- b) The chargeable passenger is liable for the tax which must be collected by the operator or his/her agent.
- c) Section 47B provides that the tax must be charged at the **determined** rate on the carriage of each chargeable passenger departing South Africa.
- d) Complimentary or free tickets issued do not fall within the exemptions from APT. Therefore, where complimentary or free tickets are issued the applicable rate must apply.
- e) In the case of chartered flights where no tickets are issued each passenger on the chartered flight shall be liable for APT at the applicable rate. It is the responsibility of the operator or agent to collect and pay the tax.

2.2 Exemptions from payment of APT

- a) Children below the age of two (2) years who are not allocated a separate seat before boarding the aircraft are not liable for APT.
- b) If a seat is purchased for a child below the age of two (2) years then APT is chargeable.
- c) A passenger is not a chargeable passenger if not carried for reward in pursuance of any requirement imposed under any law and/or for the purposes only of inspecting matters relating to the aircraft or the flight crew.
- d) A passenger whether or not carried for reward is not a chargeable passenger if he/she is carrying out a duty in terms of an international agreement, convention or obligation, subject to the approval of the Commissioner and such conditions as he/she may impose in each case.
- e) Any passenger, who is in transit through South Africa and departs from the transit area of the airport on a flight without entering South Africa by passing through immigration, is not a chargeable passenger.
- f) Employee of Operator/Airport:
 - i) Some categories of airline/airport employees are not regarded as passengers for APT purposes when they are engaged in duties on a flight. As such, APT is not charged on their carriage. These are:
 - A) Flight crew;
 - B) Cabin attendants;
 - C) Employees escorting a passenger or goods;
 - D) Employees undertaking repair, maintenance, safety or security work;

- E) Employees ensuring the hygienic preparation and handling of food and drink;
 - F) Airport aircraft handling, airport passenger handling and cargo handling; and
 - G) Airline business support services including passenger services, sales, marketing, finance, administration, information technology and human resources functions.
- ii) These employees are also exempt if they carry out the above duties within 72 hours of the flight ending;
 - iii) The exemption also applies to employees who begin a return journey within 72 hours after performing any of the above duties provided that they are returning to base, that is the place where they are normally stationed or from where they normally operate; **and**
 - iv) When the above employees are travelling as passengers, **i.e.** they are not working, they are liable for APT.

2.3 Keeping of records

- a) Every client must keep for record purposes for a period of five (5) years:
 - i) Books, accounts and documents in respect of all transactions relating to the Rules for the purpose of any acquittal procedure; and
 - ii) Any data related to such documents created by means of a computer.
- b) The five (5) year period is calculated from the end of the calendar year in which the document was created, lodged or required. (Sections 101 and 101A)
- c) Every client must produce such books, accounts and documents on demand.

2.4 Penalties

- a) Failure to adhere to the provisions of the Act, as set out in this document, is considered an offence.
- b) Offences may render the client liable to the following, as provided for in the Act:
 - i) Monetary penalties;
 - ii) Criminal prosecution; and/or
 - iii) Suspension or cancellation of registration, license or accreditation.

2.5 Appeal against decisions

- a) In cases where clients are not satisfied with any decision taken in terms of the Customs and Excise Act they have a right of appeal to the relevant appeal committee. The policy in this regard, as well as the process to be followed, is contained in document SC-CC-24.
- b) Should clients be unhappy with a decision of any appeal committee their recourse will be to lodge an application for Alternative Dispute Resolution (ADR) with the relevant appeal committee. The committee will add its comments thereto and forward the application to the ADR Unit for attention. The policy in this regard, as well as the process to be followed is contained in document SC-CC-26.
- c) **Should clients wish to appeal any decisions in terms of Value Added Tax (VAT) penalties, they are directed to the provisions of Sections 215 to 220 of the Tax Administration Act No. 28 of 2011 for the percentage based penalty and Section 224 of the Tax Administration Act No. 28 of 2011 for the understatement penalty. In this regard, please consult the SARS website or nearest SARS Branch Office.**

2.6 Registration of 'operators' and 'agents' of operators

2.6.1 Liability to register

- a) Every operator must complete an APT 102 and agents to complete an APT 101.
- b) An operator not liable for the payment of APT must make application on the APT 102 for a non-liability certificate.
- c) The operator of a chargeable aircraft used for the carriage of any chargeable passenger on an international flight from a South African airport must be liable to be registered for APT within seven (7) days of the time of becoming so liable. The operator may however register before a chargeable flight commences.
- d) In the instance of a person operating a once-off chargeable flight carrying chargeable passengers he/she must still register and account for APT due on that flight. The normal application procedure must be followed. Once the APT has been accounted for the person may apply for the cancellation of the registration, if he/she is certain that no further chargeable flights will occur.

2.6.2 Operators who have no business establishment or other fixed establishment and is not a resident in South Africa

- a) An operator who has no business establishment, other fixed establishment or residency in South Africa and who intends to carry or is likely to carry chargeable passengers from a South African airport on chargeable aircraft must appoint an agent whose place of business is in the South Africa as his/her South African representative.
- b) Such an operator or his/her appointed agent must submit a completed APT 101 together with the letter of appointment from the operator. Furthermore, the Commissioner may also require a copy of the agreement between the operator and the agent.
- c) The duly appointed agent of the operator will be registered and will act on behalf of the operator for the purposes of the Act. Further, the provisions of Sections 44A (joint and several liability for duty), 98 (liability of agent for obligations imposed on principal) and 99 (liability of agent for obligations imposed on principal) apply mutatis mutandis to an operator and his/her agent.
- d) All correspondence and documentation for the operator will be sent to the agent's postal address.
- e) The agent is responsible for completing the APT 201 monthly return for the operator and to make any payments on behalf of the operator.
- f) An operator can only have one (1) agent acting on his/her behalf at any given stage. However, an agent can act on behalf of any number of operators.

2.6.3 Operators who have a business establishment or other fixed establishment and is a resident in the South Africa

- a) An operator who has a business establishment or other fixed establishment and is a resident in South Africa cannot appoint an agent to act on his/her behalf. In this instance the operator will be responsible for the application as well as completing the APT 201 monthly return and payments.
- b) An operator may not establish an agent and operator relationship with him/herself.
- c) Such an operator may act as an agent for other operators who do not have a business establishment or other fixed establishment and is not a resident in South Africa.

2.6.4 Application procedure

- a) Applications APT 101 (for agents) and APT 102 (for operators) are available at **Oliver Reginald Tambo** International Airport (O.R. Tambo). Online application(s) can be completed at www.sars.gov.za, **SARS Home**, Types of Tax, Air Passenger Tax and the application (**APT 102**) to be submitted via e-mail to airtax@sars.gov.za. Alternatively the application forms can be printed from the website, completed and faxed to 086 541 8303.
- b) If an agent applies for registration on behalf of more than one (1) operator (i.e. an operator who has no business establishment or other fixed establishment and is not a resident in South Africa) separate APT 102 must be completed for each operator.
- c) If information required is missing or incomplete the application must be returned to the applicant for completion.
- d) If the registration is approved, the operator will be issued with a numbered certificate of registration, (APT 103).
- e) The certificate number must be quoted in all correspondence with or any document required to be completed by SARS.
- f) **If** application is made for a certificate of non-liability an APT 103a numbered certificate of non-liability will be issued.
- g) Where an agent applies for registration on behalf of more than one (1) operator (i.e. an operator who has no business establishment or other fixed establishment and is not a resident in the South Africa), separate APT 103 and/or APT 103a certificates will be issued for each operator.
- h) If the liability changes from liable to non-liable or vice versa the date of change in liability must be completed on the APT 102. Depending on the liability either an APT 103, certificate of registration or an APT 103a certificate of non-liability will be issued.

2.6.5 Change of registered particulars

- a) The Commissioner must be notified of any changes to the registered particulars within seven (7) days of the particulars changing.
- b) Agents must complete an APT 101 and operators must complete an APT 102 informing the Commissioner of any changes to the registered particulars.
- c) Only the particulars that have changed must be completed by the client in the applicable **boxes**. A new APT 103 or APT 103a (as the case may be) will be issued.

2.6.6 Change of flight details or aircraft

- a) If, due to bad weather or mechanical failure the flight details change, the liability of the passenger and the responsibility of the operator or agent to collect and pay the tax remains as it would have been for the originally planned flight.
- b) If passengers are transferred to another aircraft, the tax shall be collected and paid by the operator or the agent of such operator of the aircraft to which the passengers are transferred.

2.7 Cancellation of registration initiated by an operator

- a) When operator applies for cancellation of registration he / she must:
 - i) In writing state fully the reasons for cancellation or complete an APT 102 requesting cancellation;
 - ii) Produce proof that the operation of chargeable aircraft has ceased or that any chargeable aircraft will not be used for the carriage of chargeable passengers as the case may be; and
 - iii) Pay any tax due or certify that no chargeable passengers were carried between the period of the last return and payment of any tax due and the application for cancellation.

- b) If outstanding returns, payments and/or refunds are identified SARS will pend/de-activation on the APT system and issue the client with an APT 106A.
- c) An APT 106 will be issued to the client once it has been determined that the client may be cancelled.
- d) When an agent applies for cancellation of registration he/she must in writing apply for cancellation or complete an APT 101 requesting cancellation.
- e) The agent must fulfil all the obligations imposed on him/her in terms of the Act or the Rules prior to the date from which he/she ceases to be an agent.
- f) An APT 106 will be issued to the agent once it has been determined that the agent may be cancelled.
- g) In the case where the agent ceases to act on behalf of an operator the operator shall within seven (7) days thereof appoint another agent and submit an APT 101 in respect of such agent.

2.8 Bonds

- a) A person applying for registration in terms of Section 47B for the purposes of APT will not be requested to furnish security at the time of application for registration.
- b) However, a bond may be requested if an agent or operator fails to submit returns on or before the due date or falls in arrears with the payment of APT when due.
- c) The provisions as outlined in the Bonds Policy (SE-FS-05) must be adhered to.

2.9 Statement of account

- a) An APT 301 is sent to each client every month.
- b) This statement indicates any movement on the account such as amounts received or amounts outstanding.
- c) An APT 301 also serves as a letter of demand when amounts are outstanding.

2.10 Passenger manifest

- a) The Controller/Branch Manager at O.R. Tambo may allow any operator to keep or deliver passenger manifests at such time and at such place and on such conditions as the Controller/Branch Manager may determine.
- b) The passenger manifest must reflect separately the number of chargeable and non-chargeable passengers and in addition the category of non-chargeable passengers.

2.11 Penal provision

- a) It is an offence to:
 - i) Knowingly be a party to the fraudulent evasion of tax or to attempt to commit such evasion or to assist any other person in taking steps with a view to such fraudulent evasion; or
 - ii) In connection with tax, make a statement he/she knows to be false or to recklessly make a statement that is false, or, with intent to deceive, to produce or make use of a book, account, return or other document that is false.

3 RELATED INFORMATION

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: Sections 1, 44A, 47B, 48(6), 98, 99(1), 101, 101A and 105 Customs and Excise Rules: 47B Tax Administration Act No. 28 of 2011: Sections 215 to 220 and 224
Other Legislation:	Promotion of Administrative Justice Act No. 3 of 2000: Section 3 Aviation Act No. 74 of 1962: Section 22
International Instruments:	None

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
BP-02	Customs and Excise Payments - External Policy
SC-CC-24	Administrative Appeal – External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy
SE-AM-19	Declaration and Returns Submission via eFiling – External Guide
SE-AM-21	Prescribed Payment Terms/Periods – External Standard
SE-CL-12	Submission of Accounts>Returns – External Standard
SE-FS-05	Bonds – External Policy
SE-FS-05-S01	Bonds – External SOP
SE-FS-09	Excise Duties and Levies – External Guide
SE-FS-19	Refunds - External Directive

3.3 Quality Records

NUMBER	TITLE
APT 101	Agents application for registration/cancellation or changing of registered particulars
APT 102	Operator's application for registration/cancellation or changing of registered particulars
APT 103	Notice of Registration
APT 103(a)	Certificate for Non-Liability
APT 106	Notice of Final Cancellation
APT 106A	Notice of Pending Cancellation
APT 201	Return for Air Passengers Tax
APT 301	Statement of Account

4 DEFINITIONS AND ACRONYMS

Agent	An agent contemplated in Section 47B(5)(c).
Airline	Any airport transport enterprise offering or operating an international air service.
Airport	A Customs and Excise airport specified in item 200.04 of the Schedule to the rules.
Carriage	Carriage by air.
Chargeable aircraft	A chargeable aircraft is an aircraft designed or adapted to carry any person in addition to the flight crew. A charter operator falls into the category of a chargeable aircraft.
Chargeable Passenger	A chargeable passenger is every passenger with the exception of the exemptions mentioned in 2.2, on a chargeable aircraft departing from an airport in South Africa to a destination in a territory outside South Africa.
Controller/Branch Manager	The officer designated by the Commissioner to be the Controller/Branch Manager of Customs and Excise in respect of that area or matter and includes an officer acting under the control or direction of any officer so designated by the Commissioner.
Directive	Used to convey policies, responsibilities and procedures.

Flight	In relation to any chargeable passenger, means the carriage of such passenger from an airport in South Africa on a chargeable aircraft to any destination in a territory outside South Africa.
Operator	In relation to a chargeable aircraft, means the person having the management of the aircraft for the time being and includes any airline or any person who owns or hires such aircraft or in whose name the aircraft is registered in terms of the regulations made under the Aviation Act No. 74 of 1962.
Passenger	In relation to any chargeable aircraft, means – <ul style="list-style-type: none"> a) Where the operator is an air transport undertaking, any person carried on the aircraft other than – <ul style="list-style-type: none"> i) A member of the flight crew; ii) A cabin attendant; or iii) A person not carried for reward who is an employee of the operator and who satisfies such other requirements as may be prescribed by rule; and b) In any other case, any person carried for reward.
Reward	In relation to the carriage of any person, includes any form of consideration received or to be received wholly or partly in connection with the carriage, irrespective of the person by whom or to whom the consideration has been given or is to be given.
Standard	Used to convey the standards mandated by legislation and the sequential steps to be followed.

5 DOCUMENT MANAGEMENT

Standard Owner	Executive: Compliance Centre Operations
Detail of change from previous revision	Customs and Excise payments, Declaration and Return submission via eFiling (Payment only), Prescribed payment terms, Submission of accounts/returns, Guide to Excise duties and levies and Refunds are dealt with in separate documents; Clarifying font colour; Template update; and The 'Directive' has been changed to a 'Standard'
Template number and revision	ECS-TM-03 - Rev 8