

EXCISE

EXTERNAL POLICY

AD VALOREM EXCISE DUTY

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1 SUMMARY OF MAIN POINTS

- a) The **policy** applies to manufacturers and owners of goods liable to Ad valorem Excise duty manufactured for him/her partly or wholly from materials owned by such owner.
- b) This **policy** does not cover:
 - i) Customs and Excise payments as this is dealt with in document BP-02;
 - ii) Declaration **and Return** submission via e-Filing as this is dealt with in document SE-AM-19-M01;
 - iii) Prescribed payment terms/periods as this is dealt with in document SE-AM-21;
 - iv) The Completion of the DA 75 Ad Valorem Excise Duty Account as this is dealt with in **document SE-AV-05-M01**;
 - v) Accounting for duty/levy as this is dealt with in document SE-CL-06;
 - vi) Submission of Accounts>Returns as this is dealt with in document SE-CL-12;
 - vii) Licensing as these are dealt with in document SE-FS-02;
 - viii) Bonds as these are dealt with in document SE-FS-05;
 - ix) **Introduction to Excise Duties, Levies and Air Passenger Tax** as this is dealt with in document SE-FS-09-G01;
 - x) Refunds as these are dealt with in document SE-FS-19; and
 - xi) **Tariff Determination as this is dealt with in document SE-FS-25.**

2 POLICY

2.1 Liability for duty

- a) Ad valorem Excise duty is a fiscal measure **imposed** on certain locally manufactured goods and a corresponding Ad valorem Excise duty (at the same rate) is imposed on imported goods of the same class or kind.
- b) **The goods on which Ad valorem Excise duty is imposed are listed in Section B of Part 2 of Schedule 1 (Sch1P2B).** Thus, a local manufacturer of perfumes for example, would pay the **Sch1P2B** rate of Ad valorem Excise duty whilst an importer of perfumes would pay the Schedule 1 Part 1 rate (if applicable) as well as the **Sch1P2B** rate of Ad valorem Excise duty. Examples of such goods include:
 - i) Air conditioning machines;
 - ii) TV sets and **other electronic** equipment;
 - iii) Motorcycles and motor vehicles;
 - iv) Firearms;
 - v) Cellular telephones; and
 - vi) Perfumes and skin care products.
- c) Every manufacturer of Excisable goods specified in **Sch1P2B** and every owner of Excisable goods specified in **Sch1P2B** manufactured for him/her partly or wholly from materials owned by such owner **must** licence his/her premises as a special Customs and Excise warehouse (VS).
- d) **Notwithstanding anything contrary in the Act, the Commissioner for the South African Revenue Service (SARS) may, subject to such conditions as he/she may impose in each case, in circumstances as he may deem expedient, license the premises of any dealer.**
- e) **Section 36A read with additional Rules for Section 36A contains the special provisions in respect of the manufacture of goods specified in Sch1P2B. This includes the licensing provisions as well as the obligations in terms of the account submission and duty payments.**

2.2 Keeping of records

- a) Exempted clients must keep suitable production and disposal records which must be made available for inspection on demand by an **Auditor Excise (AE)**.
- b) Section 101 read with Rule 101.01 requires that licensees keep within South Africa (**SA**), the books, accounts/returns and documents relating to their transactions as the **SARS** may require.

- c) Generally this includes all **commercial** records and documents relating to **the manufacture, ownership of and/or dealing in goods subject to Ad valorem Excise duty**. Typically, these commercial documents would relate to the following:
- vii) **Removal of goods from the licensed premises;**
 - viii) Sales;
 - ix) Imports;
 - x) Exports;
 - xi) Stock;
 - xii) Handling;
 - xiii) Production; and
 - xiv) Purchases.
- d) In addition to these records, **AE's** may examine the **following documents/reports to verify the disclosures relating to the Ad valorem Excise duty payments (or not) of any person as it relates, i. e.:**
- i) Management accounts/returns and reports;
 - ii) Internal and external auditors reports;
 - iii) **Financial statements;** and
 - iv) Any record maintained for a business purpose.
- e) The clients records must be:
- i) Accurate and kept up to date;
 - ii) Completed in ink;
 - iii) Readily available to **the SARS;**
 - iv) Kept for at least (five) 5 years from the date of manufacturing, sale **and/or removal;** and
 - v) Be available for inspection at all reasonable times.
- f) The Ad valorem Excise duty account/return (a summary of how the duty due was ascertained) must be made available to the **AE's together with the applicable schedules.**

2.3 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, as provided for in the Act:
- i) Monetary penalties;
 - ii) Criminal prosecution; and/or
 - iii) Suspension or cancellation of registration and/or license.

2.4 Appeal against decisions

- a) In cases where clients are not satisfied with any decision taken in terms of the 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 224 of the **said** Act for the understatement penalty. In this regard, please consult the SARS website or nearest SARS Branch Office.

2.5 Assessment of Ad valorem Excise duty

2.5.1 Value for duty purposes – Section 69

- a) Ad valorem Excise duty due on all goods, except for the motor industry, is calculated on the invoice price paid or payable for the goods when such goods are sold for home consumption in the ordinary course of trade, in the condition and the normal trade packing ready for sale in the retail trade, to any buyers not deemed to be related as specified in Section 66(2)(a) **under fully competitive condition, plus the cost of packing and packages and all other expenses incidental to placing the goods on any vehicle for delivery to the purchaser** (excluding VAT and the relevant Ad valorem Excise duty), taking into account that industries that qualify for deductions in terms of Rule 69.01 may deduct such from the invoice price.
- b) Ad valorem Excise duty on motor vehicles is assessed on the 'Recommended Retail Price' (RRP) to the end user (excluding VAT and the relevant Ad valorem Excise duty).
- c) **The RRP excludes the environmental levies in terms of Rules 54FB.01 and 54FC.01 respectively, when declaring the Ad valorem Excise duty. Refer to the calculation of duty in paragraph 2.5.11(c)(vi) i.e. 'Motor vehicles manufactured locally'.**
- d) The invoice price/value for duty purposes must be rounded **up** to the nearest rand; i.e. fifty cents (R0-50) and more must be regarded as R1-00, but the actual Ad valorem Excise duty amount must be rounded **off** to the nearest cent.

2.5.2 Related entities in terms of Section 66(2)(a)

- a) Two (2) persons shall be deemed to be related if:
 - i) They are officers or directors of each other's businesses;
 - ii) They are legally recognised partners in business;
 - iii) The one (1) is employed by the other;
 - iv) Either one (1) directly or indirectly owns, controls or holds 5% or more of the equity share capital of the other;
 - v) One (1) of them directly or indirectly controls the other;
 - vi) Both of them are directly or indirectly controlled by a third person;
 - vii) Together they directly or indirectly control a third person; or
 - viii) They are members of the same natural family.

2.5.3 Value to be used when entities are related

- a) In terms of Section 69(1)(d)(ii), the value for duty purposes to be used when the buyer and seller are related, as specified in Section 66(2)(a), shall be the price of the goods when sold by comparable traders in similar quantity levels to unrelated buyers at or about the same time as the sale was made to such related buyers.

2.5.4 Price paid or payable

- a) The "price paid or payable" means the total payment made or to be made, either directly or indirectly, by the buyer to or for the benefit of the seller for the goods, but does not include dividends or other payments passing from the buyer to the seller which do not directly relate to the goods.

2.5.5 Value Added Tax

- a) VAT will not form part of the nett invoice price for the purpose of calculating the Ad valorem Excise duty.
- b) In terms of Section 7(3) of the VAT Act, VAT is payable on Ad valorem Excise duty.

2.5.6 Invoice price

- a) The Ad valorem Excise duty charged on the goods will not form part of the nett invoice price when calculating the Ad valorem Excise duty due.

2.5.7 Deductions from the invoice price

- a) The invoice price may be reduced, by qualifying entities, by a deduction prescribed by the Commissioner in Rule 69.01(a) in respect of any goods specified in any such item of **Sch1P2B**.

2.5.8 Discounts

- a) Discounts may be deducted from the invoice price for all goods, except goods on which a deduction in terms of Rule 69.01(a)(i) was already allowed, provided that such discount, remission or credit are equally available to any potential participant in the normal course of trade in such goods.

2.5.9 Rate of duty

- a) The rates of duty on all the goods that attract Ad valorem Excise duty can be found in **Sch1P2B**.
- b) The Ad valorem Excise duty rate is based on the value of the goods (invoice price).

2.5.10 Duty on stolen goods

- a) There is no provision in the Act whereby the Ad valorem Excise duty may be waived on goods, liable to such duty, stolen.

2.5.11 Calculation of duty

- a) Once the invoice price has been determined and all allowable deductions and discounts have been effected, the value **thereof will be deemed as the value** for Ad valorem **Excise duty** purposes.
- b) The licensee must now calculate the Ad valorem Excise duty due by applying the rates of duty, as prescribed in **Sch1P2B**, to such values.

- c) Examples of calculations as per Section 69 **are as follows**:

- i) **No deduction applicable – VAT and duty inclusive in invoice price (rate of duty at 5%);**

A	B	C	D	E	F
All inclusive (VAT and Excise duty) Invoice price	VAT Included @ 14%	VAT Exclusive Invoice Price	VAT and duty Exclusive Invoice Price	Value for Ad valorem Excise duty	Ad valorem Excise duty @ 5 %
	(Col A × 14/114)	(Col A – Col B)	Col C × 100/105	(Col C × 100/105)	(Col E × 5%)
R1 000.00	R 122.81	R 877.19	R 835.42	R 835	R 41.75

- ii) **20% deduction applicable – VAT and duty inclusive in invoice price (rate of duty at 7%);**

A	B	C	D	E	F
All Inclusive (VAT and Excise duty) Invoice price	VAT Included @ 14%	VAT Exclusive Invoice Price	VAT and duty Exclusive Invoice Price	Value for Ad valorem Excise duty	Ad valorem Excise duty @ 7 %
	(Col A × 14/114)	(Col A – Col B)	Col C × 100/105.6 (100 – 20 = 80% × 7% = 5.6)	[Col D × (100 – 20)]%	(Col E × 7%)
R1 000.00	R 122.81	R 877.19	R 830.67	R 665	R 46.55

iii) 30% deduction applicable – VAT and duty inclusive in invoice price (**rate of duty at 7%**);

A	B	C	D	E	F
All Inclusive (VAT and Excise duty) Invoice price	VAT Included @ 14%	VAT Exclusive Invoice Price	VAT and duty Exclusive Invoice Price	Value for Ad valorem Excise duty	Ad valorem Excise duty @ 7 %
	(Col A × 14/114)	(Col A – Col B)	Col C × 100/104.9(100 – 30 = 70% × 7% = 4.9)	[Col D × (100 – 30)]%	(Col E × 7%)
R1 000.00	R 122.81	R 877.19	R 836.22	R 585	R 40.95

iv) 55% deduction applicable – VAT and duty inclusive in invoice price (**rate of duty at 5%**);

A	B	C	D	E	F
All Inclusive (VAT and Excise duty) Invoice price	VAT Included @ 14%	VAT Exclusive Invoice Price	VAT and duty Exclusive Invoice Price	Value for Ad valorem Excise duty	Ad valorem Excise duty @ 5 %
	(Col A × 14/114)	(Col A – Col B)	Col C × 100/102.25(100 – 55 = 45% × 5% = 2.25)	[Col D × (100 – 55)]%	(Col E × 5%)
R1 000.00	R 122.81	R 877.19	R 857.89	R 386	R 19.30

v) 55% deduction applicable – VAT and duty inclusive in invoice price (**rate of duty at 7%**);
and

A	B	C	D	E	F
All Inclusive (VAT and Excise duty) Invoice price	VAT Included @ 14%	VAT Exclusive Invoice Price	VAT and duty Exclusive Invoice Price	Value for Ad valorem Excise duty	Ad valorem Excise duty @ 7 %
	(Col A × 14/114)	(Col A – Col B)	Col C × 100/103.15(100 – 55 = 45% × 7% = 3.15)	[Col D × (100 – 55)]%	(Col E × 7%)
R1 000.00	R 122.81	R 877.19	R 850.40	R 383	R 26.81

vi) **Motor vehicles manufactured locally.****Rate of duty**

RRP (Excluding VAT, Less 20%)

RRP – VAT = R 100 000.00

R 100 000.00 Less 20% (R 20 000.00) = R 80 000.00

 $(R\ 80\ 000.00 \times 0.00003) - 0.75$

2.400 – 0.75

1.650% Rate of duty

Excise value**0.72 x Recommended Retail Price** $1 + (0.72 \times \text{Rate } \%)$ **0.72 x R 100 000.00** $1 + (0.72 \times 1.650 \%)$ **R 72 000.00** $1 + 0.01188 = 1.01188$

= R 71 154.682

= R 71 155

Ad Valorem Excise duty

Excise Value x Rate of Duty %

R 71 155 x 1.650 %

R 1 174.06

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2.6 Sale of dutiable goods to Foreign Diplomats

- a) Sales to foreign diplomats under rebate of Ad valorem Excise duty shall only be allowed upon receipt of a properly completed certificate issued by the Department of International Relations and Co-Operation (**DIRCO**) (Refer to SE-AV-01-FR01).
- b) The certificate as received from DIRCO must be retained as part of the documentation supporting the quarterly account submission for that period. The certificate may be called for and verified.
- c) Licensees who fail to comply with the above-mentioned conditions will be liable for payment of the Ad valorem Excise duty on the goods concerned.

2.7 Ordinary Levy

- a) Ordinary levy (OL) Item 196.10 of Part 8 of Schedule 1 provides for ordinary levy to be paid in respect of the under-mentioned dutiable goods manufactured in the Southern African Customs Union (SACU) and sold ex a Customs and Excise warehouse to any of the bodies mentioned in the item.
- b) The bodies mentioned in OL item 196.10 will, therefore, now also have to pay duty but this will be brought to account as **Ordinary Levy** and not as Ad valorem Excise duty.

- c) Licensees must reflect sales to such bodies on a DA 75.32 of which the original must be retained by the licensee for verification by the AE. In certain specific circumstance or in respect of specific industries, the DA 75.32 will be called for as an electronic upload accompanying the Ad valorem Excise duty account submission. Licensees will be advised when such accompanying document needs to be submitted.
- d) Copies of all the invoices in respect of which ordinary levy is payable must be retained by the licensee as supporting evidence for verification by the AE.

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 19(9), 36A, 38A, 47B, 66(2)(a), 69 and 101 Customs and Excise Rules: 21.04, 36A, 38A, 54FB.01, 54FC.01, 69.01, 101.01, 119A.R101A(10)(b) and 119A.R101A(10)(f) Customs and Excise Schedules: 1 Parts 1, 2B, 3D and 8 Vat Act No. 89 of 1991: Section 7(3) Tax Administration Act No. 28 of 2011: Sections 215 to 220 and 224
Other Legislation:	Diamond Export Levy (Administration) Act No. 14 of 2007
International Instruments:	None

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
BP-02	Customs and Excise Payments – External Policy
FIN-AM-03	Excise eAccount on eFiling – External User Manual
SC-CC-24	Administrative Appeal – External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy
SC-CF-04	Completion of Declarations – Internal and External Manual
SC-CR-A-03	Customs Valuation on Imports – External Policy
SE-AM-19-M01	Declaration and Returns Submission via eFiling – External Manual
SE-AM-21	Prescribed Payment Terms/Periods – External Policy
SE-AV-05-M01	DA 75 – External Manual
SE-CL-02	Acquittal of Excisable and Levy goods – External Standard
SE-CL-06	Accounting for Duty/Levy – External Standard
SE-CL-12	Submission of Accounts>Returns – External Policy
SE-FS-02	Licensing – External Standard
SE-FS-05	Bonds – External Policy
SE-FS-09-G01	Introduction to Excise Duties, Levies and Air Passenger Tax – External Guide
SE-FS-19	Refunds - External Directive
SE-FS-25	Tariff Determination – External Standard

3.3 Quality Records

Number	Title
DA 75.32	Schedule in respect of ordinary levy on Excisable goods supplied to any body, authority, institution or person specified in item 196.10 (ordinary levy) of Part 8 of Schedule 1
EXD 01	Excise Duty and Levy return
SE-AV-01-FR01	Certificate in terms of Rebate Item 631.00.

4 DEFINITIONS AND ACRONYMS

Account	In relation to the document required to be submitted in respect of the payment of duty in terms of any provision of the Act and any other Rule, must be regarded as a return.
Ad Valorem	A Latin term meaning: "on the value".
Ad Valorem duty	Any duty leviable under Part 2B of Schedule 1 on any goods imported into or manufactured in SA.

APT	Air Passenger Tax.
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.
Duty Free Shops	<p>a) These shops or stores are retail outlets that are exempt from the payment of certain local or national taxes and duties on the following requirements i.e.:</p> <ul style="list-style-type: none"> i) That the goods sold will be sold to travellers who will take them out of the country; or i) Only persons who are accredited by the Department of International Relations and Co-operation (DIRCO) that are in possession of a valid Diplomatic or Consular identity card may enter and purchase goods that are duty free.
eFiling	A free, online process for the submission of returns and declarations and other related services. This free service allows taxpayers, tax practitioners and business to register free of charge and submit returns and declarations, make payment and perform a number of interactions with SARS in a secure online environment.
Environmental levy	<p>a) A levy imposed in terms of Part 3 of Schedule 1 and the Notes thereto, which includes levies on:</p> <ul style="list-style-type: none"> i) Plastic bags; ii) Filament lamps; iii) Electricity; iv) Carbon dioxide; and v) Tyres.
Excisable goods	Any goods specified in Schedule 1 Part 2 imported into or manufactured in SA.
Excise duty	Any duty leviable under Part 2 of Schedule 1 on any goods imported into or manufactured in SA.
Licensees	Any person licensed under any provision of the Act.
Licensing	A formal permission from a government or any constituted authority to perform a specified business or profession that also contains rules and regulations on how such business or profession must be conducted. The purpose of licensing is to restrict unauthorised entry into a specified business or profession and also serves as a regulatory activity that gives guidance on acceptable behaviour and practice. It must be seen as a privilege to conduct these types of functions.
Manufacturing	<p>a) In the discretion of the Commissioner, any process –</p> <ul style="list-style-type: none"> i) In the manufacture or assembly of any Excisable goods, Environmental levy goods, fuel levy goods or Road Accident Fund (RAF) levy goods; ii) In the conversion of any goods into Excisable goods, Environmental levy goods, fuel levy goods or RAF levy goods; iii) Whereby the dutiable quantity or value of any imported goods specified in Section B of Part 2 of Schedule 1, Excisable goods, Environmental levy goods, fuel levy goods or RAF levy goods is increased in any manner; iv) In the recovery of Excisable goods, Environmental levy goods, fuel levy goods or RAF levy goods from Excisable goods or any other goods; v) In the packing or measuring off of any imported goods specified in Section B of Part 2 of Schedule 1, Excisable goods, Environmental levy goods or RAF levy goods; or vi) In the generation of electricity liable to environmental levy; or <p>b) Any process as may be prescribed in any Part of Schedule 1 wherein such duty or levy is specified; or</p> <p>c) Any other process in respect of goods contemplated in paragraph (a) that the Commissioner may prescribe by rule.</p>
Owner	Includes any person lawfully acting on behalf of the owner.
Policy	Used to convey the policy mandated by legislation and the sequential steps to be followed.

Return	<p>a) Contemplated in the e-Filing service of the regulations includes –</p> <ul style="list-style-type: none"> i) An account for payment of Excise duty, fuel levy, Road Accident Fund (RAF) levy or Environmental levy submitted by a licensee of a Customs and Excise warehouse as specified in the rules for the sections imposing such duty or levies; ii) A tax account for payment of air passenger tax as specified in the Rules for section 47B; iii) A return submitted for payment of diamond export levy as specified in the rules made under the Diamond Export Levy (Administration) Act, 2007 (Act No. 14 of 2007); iv) Any document for payment of Excise duty on locally produced goods stored in a special Customs and Excise storage warehouse (SOS) licensed for the operation of a duty and tax free shop or the supply of stores and spares and equipment to foreign-going ships and aircraft as respectively contemplated in Rules 21.04 and the Rules for Section 38A; and v) Any supporting document of an account or return and any declaration to be made.
Road Accident Fund (RAF)	A state insurer established by statute. It provides insurance cover to all drivers of motor vehicles in SA in respect of liability incurred or damage caused as a result of a traffic collision. Liability incurred in relation to property damage (such as damage to vehicles, buildings, vehicle contents) is excluded from cover. The Road Accident Fund (RAF) operates a system whereby the claimant is assigned a percentage of responsibility for the accident, and the RAF pays the claimant a percentage of a full settlement based on a percentage that was not deemed to be their responsibility. Insurance premiums are collected by the RAF through a levy on motor vehicle fuel.
SACU	The South African Customs Union, consisting of: <ul style="list-style-type: none"> a) The Republic of South Africa; b) The Republic of Botswana; c) The Republic of Lesotho; d) The Republic of Namibia; and e) The Kingdom of Swaziland.
Schedule 1 Part 2B	Ad valorem Excise duties on locally manufactured goods or on imported goods of the same class or kind.
Schedule 1 Part 8	Ordinary levy
Tax practitioner	Any agent provided for in the Act for any person referred to in the definition of a Taxpayer in paragraphs (i) to (iii) below.
Taxpayer	<p>a) Includes:</p> <ul style="list-style-type: none"> i) The licensee of a customs and excise warehouse; ii) A registered aircraft operator or an aircraft operator who is liable to register; iii) Except for the purpose of Rule 119A.R101A(10)(b), a person who must effect payments by using e-Filing as contemplated in Rule 119A.R101A(10)(f); or iv) A registered person who is required to submit a return in terms of the Diamond Export Levy (Administration) Act. No. 14 of 2007.
Value-Added Tax	Value-Added Tax is commonly known as VAT. VAT is an indirect tax on the consumption of goods and services in the economy. Revenue is raised for government by requiring certain businesses to register and to charge VAT on the taxable supply of goods and services. These businesses become vendors that act as the agent for government in collecting the VAT. VAT is charged at each stage of the production and distribution process and it is proportional to the price charged for the goods and services.

5 DOCUMENT MANAGEMENT

Policy Owner	Executive: Excise Audit Enforcement
Detail of change from previous revision	Various parts in the document have been updated/amended: Policy Owner has been changed from Compliance Centre Operations to Excise Audit Enforcement; and The Template number changed from ECS-TM-03 to GC-TM-03.
Template number and revision	GC-TM-03 - Rev 9