

**SOUTH AFRICAN REVENUE SERVICE**

No. R.

**2020**

**GENERAL EXPLANATORY NOTE:**

[ ] Words that are between square brackets and in bold typeface, indicate deletions from the existing rules

\_\_\_\_\_ Words that are underlined with a solid line, indicate insertions in the existing rules

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**CUSTOMS AND EXCISE ACT, 1964  
AMENDMENT OF RULES (DAR ...)**

Under sections 75, 59A, 119A and 120 of the Customs and Excise Act, 1964, the rules published in Government Notice R.1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto.

**EDWARD CHRISTIAN KIESWETTER**

**COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

**SCHEDULE**

**1. By the insertion after rule 75(24) of the following heading and rules:**

**RULES IN RESPECT OF THE DIESEL REFUND SCHEME**

**Refunds granted in respect of diesel in accordance with the provisions of section 75 and in terms of item 670.04 of Schedule No.6 when such diesel is purchased and used by the diesel refund user as prescribed in Note 6 of Part 3 to Schedule No.6.**

### **Application of provisions and definitions**

75A.01(a) Rules 75A apply to refunds granted in respect of diesel in accordance with the provisions of section 75 and in terms of item 670.04 of Schedule No.6 for the purposes of the diesel refund scheme.

(b) Section 59A and the rules thereto, including the definitions in such rules, apply with any necessary changes as the context may require for the purposes of the registration of the diesel refund user.

(c) Section 119A and the rules thereto, including the definitions in such rules, apply with any necessary changes as the context may require for the purposes of the electronic processing of diesel refund applications and payments under the diesel refund scheme through relevant e-filing procedures.

(d) For the purposes of rules 75A and any form to which these rules relate, unless the context otherwise indicates, –

“**diesel**” means distillate fuel as defined in Note 6 of Part 3 to Schedule No.6.

“**diesel refund**” means a refund as contemplated in section 75(1A)(a) and includes any diesel refund amount that is debt equalised against outstanding tax liabilities of the diesel refund user in terms of section 76C.

“**diesel refund scheme**” means the mechanism whereby diesel refunds are granted in respect of diesel that is purchased and used by the diesel refund user as prescribed in Note 6 of Part 3 to Schedule No.6.

“**diesel refund user**” means the user as defined in Note 6 of Part 3 to Schedule No.6 who is registered as contemplated in section 75(1A)(b)(ii).

“**eligible purchases**” means eligible purchases of diesel by the diesel refund user as defined in Note 6 of Part 3 to Schedule No.6.

“**non-eligible purchases**” means non-eligible purchases of diesel by the diesel refund user as defined in Note 6 of Part 3 to Schedule No.6.

“**qualifying activity**” means any category of qualifying activity as contemplated in Note 6 of Part 3 to Schedule No.6 in respect of which an application for a diesel refund may be made.

### **Registration of the diesel refund user**

75A.02(a) Only a person who is registered for diesel refund purposes as contemplated in section 75(1A)(b)(ii) and in accordance with rules 75A may apply for a refund in terms of item 670.04 of Schedule No.6.

(b) Consistent with section 75(4A)(a), any person who registers for the diesel refund shall register for the purposes of section 59A and be subject to the rules thereto with any necessary changes as the context may require.

(c) Every person who intends to apply for diesel refunds on or after the date rules 75A come into operation must apply for registration as a diesel refund user with the Commissioner on form DA 185 and the appropriate annexure in terms of section 59A and the rules thereto.

(d) Every diesel refund user must advise the Commissioner in accordance with rule 21A.09 of any change in particulars provided in its application for registration.

#### **Registration profile of the diesel refund user**

75A.03(a) Every person who applies for registration in accordance with rule 75A.02 must create a diesel refund user registration profile electronically through the communicative system indicated on the SARS website for that purpose.

(b) The registration profile of the diesel refund user must list the detailed information prescribed in Note 6 of Part 3 to Schedule No.6 in respect of all eligible purchases and each qualifying activity of that diesel refund user, including the –

(i) category of qualifying activity performed;

(ii) commercial fishing permit and the holder or cessionary thereof, if applicable;

(iii) mining authorisation and the holder or cessionary thereof, if applicable;

(iv) location where the qualifying activity is performed, which is the –

(aa) premises in agriculture, mining on land and electricity generation; or

(bb) vessel, installation or locomotive as applicable in fishing, offshore mining, offshore shipping, harbour shipping or rail freight transport;

(v) assets of the diesel refund user which are powered by eligible purchases of that diesel refund user to perform the qualifying activity, together with identifying features and the fuel tank capacity thereof;

(vi) storage facilities of the diesel refund user for eligible purchases of that diesel refund user, together with the location and fuel storage capacity thereof; and

(vii) diesel refund relationships of the diesel refund user as disclosed or re-disclosed and confirmed in accordance with rule 75A.04.

(c) Every diesel refund user must update its registration profile by the means indicated in paragraph (a) within 14 days of any change in particulars provided therein.

#### **Business relationships of the diesel refund user**

75A.04(a) In accordance with rule 59A.06A, rule 59A.06B and rule 59A.06C, every diesel refund user must disclose, confirm or reject, and re-disclose as applicable its customs and excise relationships to the Commissioner.

(b) For the purposes of paragraph (a), the diesel refund relationships of the diesel refund user includes –

- (i) any agreement of the diesel refund user as a member of a partnership or an unincorporated body of persons;
  - (ii) every seller of eligible purchases to the diesel refund user;
  - (iii) every transporter of eligible purchases to the diesel refund user;
  - (iv) any agreement of the diesel refund user for the purposes of contracting or sub-contracting any qualifying activity; and
  - (v) any other customs and excise relationship of the diesel refund user for the purposes of any qualifying activity.
- (c) Every diesel refund user must –
- (i) include its disclosed or re-disclosed and confirmed diesel refund relationships in its diesel refund user registration profile in terms of rule 75A.03(b)(viii); and
  - (ii) update the disclosure of its diesel refund relationships in terms of paragraph (a) within 14 days of any change in particulars provided therein.

#### **Submission of diesel refund applications**

- 75A.05(a) For the purposes of applying for a diesel refund, every diesel refund user must submit electronically within the period prescribed in paragraph (b) –
- (i) a diesel refund return on form DSL 201; and
  - (ii) upon request from the Commissioner, any substantiating source documentation as contemplated in paragraphs (c) and (d) of section 75(4A) and prescribed in Note 6 of Part 3 to Schedule No.6.
- (b) The return and documentation specified in paragraph (a) must be submitted within 30 days after the last day of the accounting period, but not later than the penultimate working day of the month following that accounting period.
- (c) For the purposes of paragraph (b), an accounting period shall be a period of one calendar month or any part thereof.
- (d) Should the diesel refund user not have a diesel refund application for any particular accounting period, that diesel refund user may choose to not submit a diesel refund return for such accounting period.

#### **Determination of diesel refund applications**

- 75A.06(a) Every diesel refund user must determine its monthly diesel refund application according to the prescriptions of Note 6 of Part 3 to Schedule No.6 by –
- (i) limiting the diesel refund application to the eligible purchases of that diesel refund user which were purchased and used in qualifying activities in the Republic by such diesel refund user;

- (ii) excluding any non-eligible purchases by that diesel refund user from the diesel refund application; and
  - (iii) verifying the diesel refund application through the required substantiating source documentation of that diesel refund user.
- (b) Every diesel refund application is –
  - (i) restricted to the eligible purchases and qualifying activities of the diesel refund user which are supported by the information current on the registration profile of that diesel refund user during the accounting period when such diesel was purchased and used; and
  - (ii) subject to the production by the diesel refund user of the required substantiating source documentation and any other proof prescribed in Note 6 of Part 3 to Schedule No.6 at such time and in such form as the Commissioner may require.
- (c) Any diesel refund application must be submitted within two years from the date of purchase of such diesel, on the basis that –
  - (i) any such diesel purchased shall be deemed to have been used in the order of the dates of such purchases;
  - (ii) the amount of the diesel refund application shall be calculated at the refund rate applicable on the date such diesel was purchased; and
  - (iii) the date of such diesel purchase shall be the date of issue of the purchase invoice as contemplated in section 75(4A)(c) and prescribed in Note 6 of Part 3 to Schedule No.6.

### **Processing of diesel refund applications and payments**

- 75A.07(a) Any diesel refund application and resultant payment must be processed electronically through relevant e-filing procedures in terms of section 119A and the rules thereto with any necessary changes as the context may require.
- (b) Any diesel refund user that chooses to correct any historical diesel refund application must do so electronically, on the basis that -
- (i) corrections that result in a decrease in the historical diesel refund application must be effected on the diesel refund e-filing account of such diesel refund user for the historical period concerned; and
  - (ii) corrections that result in an increase in the historical diesel refund application must be effected on a future diesel refund return of such diesel refund user through the monthly diesel refund application process.

**Implementation**

- 75A.08(a) Every approved registration that is applied for before rules 75A come into operation will take effect on the date these rules come into operation.
- (b) Every diesel refund user must take stock and keep a stock report on record for a period of two years in respect of all diesel in that diesel refund user's possession when operations cease on the day before rules 75A come into operation.
- (c) For purposes of rule 75A.05(c), the accounting period will commence on the date rules 75A come into operation.

**2. By the substitution in item 202.00 of the Schedule to the rules of the following form:**

“DA 185 Application form: Registration/Licensing of Customs and Excise Clients”

**3. By the insertion in item 202.00 of the Schedule to the rules of the following forms:**

“DA 185.4A18 Registration client type 4A18 – Registered diesel refund user  
DSL 201 Diesel refund return”