

SOUTH AFRICAN REVENUE SERVICE

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**CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES (DAR/91)**

Under sections 64E 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.

**GEORGE NGAKANE VIRGIL MAGASHULA
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

SCHEDULE

By the insertion after “Pro Forma Agreement” in rule 64E.09(3) of the following rules:

“64E.10 First Level accredited client status

- (a) From 1 August 2011–
 - (i) accredited client status conferred by the Commissioner on any applicant prior to that date shall be deemed to be Level 1 accredited client status as contemplated in section 64E(4);
 - (ii) no application for Level 1 accredited client may be made and any application received on or after that date will be returned to the applicant who may, if qualified to apply, apply for Level 2 on form DA 186.

- (b) Level 1 accredited client status lapses if–
 - (i) Level 2 status is granted on application; or
 - (ii) if any Act so provides.
- (c) Rules 64E.00 to 64E.09(3) apply to–
 - (i) Level 1 accredited clients; and
 - (ii) Level 2 accredited clients where any other rule so provides.
- (d) Level 2 accredited client status may be conferred by the Commissioner on any applicant who meets the criteria for that level as prescribed in these rules.

64E.11 Application of other provisions

The provisions of, and the rules for, sections 59A, 60, 61, 64B and 64D, including any definitions in these rules and any other provisions relating to registration or licensing shall, where applicable, apply with the necessary changes to the activities of a Level 2 accredited client.

64E.12 Persons who may apply for Level 2 accreditation and application for accredited client status

- (a) Only an importer or exporter registered in terms of the Act, including any importer or exporter deemed to be a Level 1 accredited client in terms of rule 64E.10(a), may apply for Level 2 accredited client status.
- (b) Application for Level 2 accredited client status must be made on form DA 186.

64E.13 Criteria for Level 2 accreditation

Appropriate record of compliance, computer, accounting and logistical system, sufficient knowledge and sufficient financial resources

To be eligible for Level 2 accreditation–

Appropriate record of compliance

- (a) the applicant, the person having the management of the applicant and the employee of the applicant responsible for customs matters shall–
 - (i) not have been convicted of an offence involving fraud or dishonesty;
 - (ii) not have been convicted of any offence in terms of the Act;
 - (iii) not have incurred an administrative penalty over a period of three years immediately preceding the application in respect of any offence in terms of sections 80 to 84 and 86 of the Act;
 - (iv) not have been convicted of any offence in terms of–
 - (A) section 59 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991); or
 - (B) section 104 of the Income Tax Act, 1962 (Act No. 58 of 1962).

Computer, Accounting and logistical system

- (b) the applicant must–
 - (i) communicate electronically and register as a user in accordance with the provisions of section 101A;
 - (ii) maintain a full audit trail of all customs activities;
 - (iii) have a record of verifiable procedures for backup, recovery, fallback, archiving and retrieval of business records;
 - (iv) have an effective accounting, recordkeeping and operational system consistent with generally accepted accounting principles.

Sufficient knowledge

- (c) the person employed by the applicant who will be responsible for the customs matters in (a) must before being employed in that capacity first pass a test administered by the Commissioner to prove that he has sufficient knowledge of customs and excise laws and procedures to implement and maintain an efficient and effective accredited client compliance system in accordance with such laws and procedures as contemplated in the rules for section 59A or 60.

Sufficient financial resources

- (d) the applicant shall produce evidence of sufficient financial resources in which respect every applicant shall–
 - (i) provide the audited financial statements of the business for the past three financial years or such lesser period as the Commissioner may allow;
 - (ii) where no such statements are available, provide sufficient evidence to prove the viability of the business which may include proof of available financial resources of whatever nature.

64E.14 Benefits applicable to Level 2 accredited client status

Benefits will be conferred by the Commissioner on Level 2 accredited clients generally on a particular category of clients or specifically allowed for a particular client as circumstances may require and may include–

- (a) appointment of a Customs Relationship Manager tasked with facilitating the relationship between the client and customs;
- (b) reduction of the amount of any security required for compliance with a customs procedure;
- (c) fewer routine documentary and physical inspections;
- (d) prioritising a request for tariff and valuation determinations;

- (e) prioritising access to non-intrusive inspection techniques when goods are stopped or detained for inspection.

64E.15 Prior permission of the Commissioner required when the computer system of client changes

For the purposes of these rules, an accredited client must, notwithstanding the terms and conditions of the user agreement which may be entered into by and between client and the Commissioner under section 101A, obtain the prior permission of the Commissioner, whenever, any change in the computer system operated by client occurs which will result in the—

- (a) client utilising a different computer system;
- (b) client changing from using its own computer system to using that of a third party;
- (c) client changing from using a third party computer system to using its own computer system; or
- (d) client contracting the services of an intermediary or a duly authorised agent to conduct customs and excise related business with the Commissioner within the terms and conditions of any agreement and the provisions of the Act and the rules.

64E.16

Rules 64E.03(2) and 64E.04(2) shall apply respectively to any application for Level 2 accreditation and when accredited client status is granted.

64E.17 Delegation

Subject to section 3(2), for the purposes of administering the provisions of section 64E and these rules—

- (a) any power that may be exercised by the Commissioner, except the power to make rules, in accordance with the provisions of the Act including these rules may be delegated to an officer; and
- (b) any duty that shall be performed by the Commissioner in accordance with the provisions of the Act including these rules is assigned–
 - (i) in the case of investigations contemplated in rule 64E.03(2), to the officer responsible for Customs Audit;
 - (ii) in the case of approval or refusal of an application for accreditation, de-accreditation, cancellation or suspension of accreditation to the Accreditation Review Committee;
 - (iii) to the Customs Relationship Manager for the performance of functions contemplated in rule 64E.14

64E.18 Establishment and functions of an Accreditation Review Committee

An Accreditation Review Committee must have a chairperson, appointed by the Commissioner, who must nominate members of the committee from officers who have the necessary knowledge and skills to consider and review decisions relating to the approval or refusal of an application for accreditation, de-accreditation, cancellation or suspension of accreditation.

64E.19 Period of validity of accredited client status

Accredited client status:

- (a) takes effect from the date the Commissioner confers the status on an applicant; and
- (b) remains in force, subject to any action that may be taken as contemplated in rule 64E.20, for a period of three years from that date.

64E.20 Cancellation or suspension of accredited client status

The provisions of section 64E(3) and the provisions of section 60(2) apply *mutatis mutandis* to the refusal, cancellation or suspension of accredited client status.”