

EXCISE

EXTERNAL STANDARD

**ENVIRONMENTAL LEVY ON PLASTIC
BAGS MANUFACTURED IN SOUTH
AFRICA**

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1 SUMMARY OF MAIN POINTS

- a) This **standard** applies to **manufacturers** in the Plastic Bag Industry.
- b) This **standard** does not cover:
 - i) Customs and Excise payments as this is dealt with in document BP-02;
 - ii) Declaration and Return submission via eFiling as this is dealt with in document SE-AM-19;
 - iii) **Prescribed payment terms/periods as these are dealt with in document SE-AM-21;**
 - iv) **Submission of accounts/returns as this is dealt with in document SE-CL-12;**
 - v) The completion of the 'DA 161A Environmental Levy Account for Plastic Bag Levy' **as this** is dealt with in document SE-**EL-07-CM01**;
 - vi) Licensing and Registration requirements as these are dealt with in document SE-FS-02;
 - vii) Bonds as this is dealt with in document SE-FS-05;
 - viii) Guide to Excise duties and levies as this is dealt with in document SE-FS-09; and
 - ix) Refunds as these are dealt with in document SE-FS-19.

2 STANDARD

2.1 Liability for levy

- a) An environmental levy is payable on certain locally manufactured plastic bags of which the manufacturing takes place in a licensed manufacturing warehouse (VM).
- b) The environmental levy is assessed and collected on the principles of "Duty at Source" (DAS).
- c) **Manufacturing of plastic bags:**
 - i) **Prohibited** - Carrier and flat bags, except those mentioned in paragraph (iii) below, of less than 24 microns may be manufactured locally but only for removal to BLNS countries and/or export to other foreign countries.
 - ii) **Restricted** - The manufacture of carrier bags and flat bags for consumption in South Africa is restricted to bags with a thickness of more than 24 microns and which comply with the South African Bureau of Standards (SABS) printing requirements (Schedule 1 Part 3A – Subheadings 3923.21.05, 3923.21.15, 3923.29.05 and 3923.29.15) are restricted.
 - iii) **Allowed** -
 - A) The under-mentioned plastic bags have no restrictions with regards to micron specifications when manufactured locally:
 - I) Bread Bags;
 - II) Refuse bags;
 - III) Bin liners;
 - IV) Household plastic bags;
 - V) Primary packaging (e.g. barrier bags which is defined as a thin or flimsy bag, used to separate incompatible products at the final point of sale, for health, hygiene or transport purposes); and
 - VI) Plastic bags for export.
 - B) The only plastic bags subject to the levy that are allowed on the local market are those which are manufactured to the specific legislative requirements of material, thickness, printing, use and design as described in Schedule 1 Part 3A – Subheadings 3923.21.05, 3923.21.15, 3923.29.05 and 3923.29.15.

2.2 Keeping of records

- a) In terms of Rule 54F.06(a)(1) every licensee must keep proper books, accounts and documents and any data created by means of a computer, of all transactions relating to the activity in respect of which the license is issued, for a period of five (5) years, orders, raw material purchase records, payments made for raw material, payments received for sales, deposits made on sales, client base, etc.

- b) Production documents, sales invoices [all removals from a VM or Special Storage Warehouse (SOS) to the local market/to BLNS countries], dispatch delivery notes, credit notes [issued by the VM for levy paid plastic bags removed and returned for re-processing, re-cycling or destruction (applicable to local and BLNS returns)] and declaration with procedure codes E 45 - 47 and E 47-46 must be kept by the client for five (5) years from the date of transaction on the document. Credit notes will only be allowed if each consignment is accompanied by a valid delivery note/stock return note from the purchaser.
- c) Records must show how the manufacturing process has been performed from the issue of the raw material to the finished end product ready for sale for home consumption, export or removal or other disposal. The records should amongst others show the following:
- i) The quantity of bags, subject to the levy, manufactured;
 - ii) The sales invoices or dispatch delivery notes;
 - iii) The date that the sale/removal, disposal or other use occurred;
 - iv) To whom the manufactured bags was sold or disposed of;
 - v) The amount of bags sold or removed;
 - vi) Details of any set-off per credit notes;
 - vii) Details of any re-cycled, re-processed or returned stock;
 - viii) Stock records of manufactured products taken into stock on a daily basis;
 - ix) Declaration - records of any movements to BLNS countries;
 - x) Removal declaration on product removed in bond to other VMs; and
 - xi) Excise processed copies of DA 161A levy accounts previously submitted.
- d) Plastic bags subject to the levy can be lost through theft, *vis major* occurrences or any other reason. In this instance the following records must be kept:
- i) The date the loss occurred or the date the loss was detected; and
 - ii) Where the loss occurred and the circumstances surrounding the incident.

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 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.

2.4 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.

2.5 Assessment of the Environmental levy

a) Measure of leviable quantity:

- i) The EXD 01 requires the licensee (manufacturer) to declare all stock, production and removals that took place in the accounting period.
- ii) Determining all movements subject to the levy and sales of plastic bags subject to the levy to the local market and BLNS countries, as reflected on the dispatch delivery notes or commercial invoices.
- iii) Calculating the relevant levy by multiplying the quantity of bags sold by the relevant rate of levy on plastic bags (Environmental levy Item 147.01).
- iv) The levy is based on the **quantity** (per bag) of the goods.
- v) The administration of the levy on plastic bags (subject to the levy) is inclusive of certain rebates and refunds, set-offs and in-bond provisions which are contained in the Schedule 6.

b) Rate of levy:

- i) The rate of levy to be used for the purpose of calculating the Environmental levy on certain plastic bags is the relevant rate of levy in terms of Schedule 1 Part 3A.
- ii) This could be at time of declaration (removal) from the warehouse.

c) Removal of goods:

- i) A licensee who removes carrier and/or flat bags from a Customs and Excise warehouse for any purpose contemplated in Section 20(4) (including for removal to a BLNS country), must complete an invoice or dispatch delivery note.
- ii) The invoice or dispatch delivery note must be serially or transactional numbered and dated as required by Rule 54F.05.

d) Duty paid movements (Removals (sales) to the local market (including the Southern African Customs Union (SACU)):

- i) The relevant levy on movements of carrier and flat bags from a VM directly to the local market (other than movements for export) must be paid to SARS within the prescribed payment period per the quarterly EXD 01.

e) Removals to agents:

- i) VMs may have marketing/selling agents to whom plastic bags subject to the levy are forwarded where it will be stored until such time as the VM receives an order. This means, that the plastic bags are only sold after some period [sometimes up to six (6) months].
- ii) It should be noted however, the levy must be declared and brought to account on the quarterly EXD 01 which follows directly after such removal of such stock from the VM.
- iii) The delivery of the bags (by the VM) to the agent takes place on a DELIVERY NOTE which for accounting purposes has the same status as a COMMERCIAL INVOICE on which the levy must be paid, e.g.:

Delivery Note	30 June 2004	10 000 Plastic bags	Levy payable end of September 2004
Invoice (Actually sold)	20 November 2004	Delivery Note	Delivery Note

- iv) The invoice(s) which has been completed by the agent after the stock received on the delivery note has been finally sold must refer to the delivery note, proving that the levy has been paid.
- v) The quantity of bags reflected on the dispatch delivery note as per the above, must, as is the case with the quantity reflected on the commercial invoice, be regarded as sales/removals which must be declared on the EXD 01 for the specific accounting quarter.

f) **Movements to BLNS Countries (Local manufactured):**

- i) All movements of plastic bags subject to the levy from South Africa to the BLNS countries will be on a duty paid basis.
- ii) The licensee must produce a duly completed declaration and invoice to the Controller/Branch Manager at the port of exit from South Africa.
- iii) Depending on the mode of transport the licensee must also keep copies of the following documents:
 - A) A copy of the road manifest in respect of goods carried by road;
 - B) A copy of the bill of lading in respect of goods carried by ship;
 - C) A copy of the air waybill in respect of goods carried by air; and
 - D) A copy of the consignment note in respect of goods carried by rail.
- iv) The following clearing documents are required when plastic bags (subject to the levy) are removed to a BLNS country -
 - A) Customs Declaration (CD); and
 - B) Invoice(s) or dispatch delivery note(s).

g) **Non Duty paid transactions:**

- i) Plastic bags (subject to the levy) can be removed without payment of levy from a VM to a SOS licensed for export or duty free shop.
- ii) The VM must submit a duly completed declaration with procedure code E 45-47.

2.6 Tax invoice requirements

- a) A valid tax invoice on which plastic bags, classifiable under item 147.01 of Part 3A of Schedule 1, has been removed from a VM must contain the following information:
 - i) The words "tax invoice";
 - ii) The name, address and Value Added Tax (VAT) number of the manufacturer;
 - iii) The name and address of the purchaser;
 - iv) A serial number of the invoice;
 - v) The date of the transaction;
 - vi) The description of the goods;
 - vii) The quantity removed;
 - viii) The value of the goods removed;
 - ix) The amount of levy; and
 - x) The amount of VAT.
- b) Invoice numbers must run in consecutive order. In cases of doubt or suspicion concerning the validity of tax invoices, they must be verified with the manufacturer or supplier.
- c) Care should be taken of the fact that invoices are authentic and meet the requirements as above (i.e. the invoice must be able to be traced back to the supplier/manufacturer).
- d) If the audit or inspection is conducted at the VM the content of the invoice or dispatch delivery notes must comply with the requirements as described in Rule 54F.05.
- e) Calculation of VAT on invoices
 - i) In terms of Section 7(3)(a) of the VAT Act on goods manufactured in South Africa subject to environmental levy have been supplied at a price which does not include such Environmental levy and VAT has become payable in respect of the supply, VAT shall be levied and paid on the value of the supply including environmental levy.

ii) Example:

DESCRIPTION	
10 000 X CARRIER PLASTIC BAGS	R 5 000.00
Levy due @ relevant rate/per bag	R 600.00
SUB-TOTAL	R 5 600.00
VAT@ 14%	<u>R 784.00</u>
PRICE INCLUSIVE OF VAT @ 14%	<u>R 6 384.00</u>

iii) The figures reflected in the example will differ according to the relevant rates of levy and VAT applicable.

2.7 Returns

a) **Duty paid returns** - Returns of plastic bags (subject to the levy) will be dealt with in terms of Rule 54F.13 as follows:

- i) Returns of certain plastic bags to a VM will be allowed for re-cycling, only if each consignment is accompanied by a valid delivery note/stock return note from the purchaser returning the product and otherwise comply with the provisions of Rebate Item 681.02.
- The licensee must issue a credit note for the goods so returned for re-cycling. A copy of such credit note must be kept as proof of such transaction.
 - Such plastic bags subject to the levy must be dealt with as provided for in Rebate Item 681.02.
 - After actual re-cycling of the plastic bags, a set-off of levy will be allowed on the Environmental levy account in terms of Rebate Item 681.02.
 - The applicable rate of levy for determining the amount of such set off will be the lower of the previous twelve (12) months' rate of levy, including the current rate of levy at the time of set-off, unless the licensee can prove the actual rate of levy originally paid.

b) **Movements from BLNS Countries**

- For all returns of locally manufactured plastic bags (subject to the levy) from these countries, payment of the levy will be made at the place of entry into South Africa.
- Documents used for movements from BLNS countries to South Africa:
 - CD(s);
 - Invoice(s);
 - Note from the BLNS client to indicate that the consignment is being returned to the supplier, etc.; and
 - Export document from the BLNS countries.

2.8 Rebates, drawbacks and refunds

a) Provision has been made for rebates, drawbacks and refunds. - Part 4 of Schedule 6 under Section 75(15) provide for rebates and refunds on plastic bags (subject to the levy) locally manufactured in South Africa. For example:

- As the BLNS countries have not introduced the Environmental levy on plastic bags, provisions has been made for a set-off of the levy on goods removed to those countries.
- A set-off is also provided for in respect of plastic bags subject to the levy which are returned to the manufacturer for recycling or for other reasons and goods which are exported by persons other than the manufacturer.

b) **Losses**

- Vis Major losses or losses the Commissioner deems exceptional may be allowed in terms of Rebate Item 680.02 depending on the circumstances.

- ii) Each individual application in writing for such rebate of levy has to be approved by the Commissioner for SARS.
- iii) The Branch Office must be informed by the licensee or manufacturer of such occurrence without delay to assess the situation and approve of the loss.

2.9 Acquittals

- a) Acquittal is the process whereby a trader ends a specific liability towards SARS; by complying with a prescribed procedure, entering a prescribed document, paying the relevant duty, etc.
- b) The documents which will be acceptable for acquittal purposes are prescribed in SE-CL-02 – Acquittal of in Bond/Inter-Warehouse and Export Declarations for locally manufactured Excisable and Levy goods.

3 RELATED INFORMATION

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: 20(4), 27, 39, 54A, 54B, 58, 87, 88 and 119A Customs and Excise Rules: 19, 54F.01, 54F.03, 54F.05, 54F.06(a)(1) 54F.10, 54F.11, 54F.13 and 119A.R101A(10)(d) Customs and Excise Tariff: Schedule 1 Part 3A and Schedule 6 Value-Added Tax Act No. 89 of 1991: Section 7(3)(a) Tax Administration Act No. 28 of 2011: Sections 215 to 220 and 224
Other Legislation:	Constitution of the Republic of South Africa, 1996: Section 24 Value-Added Tax Act No. 89 of 1991: Section 7(3)(a) Tax Administration Act No. 28 of 2011: Sections 215 to 220 and 224 Standards Act No. 29 of 1993: Section 22(1)(a)(i) and 8
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
SE-AM-19	Declaration and Return Submission via eFiling – User Manual
SE-AM-21	Prescribed Payment Terms/Periods – External Standard
SE-CL-02	Acquittal of in Bond/Inter-Warehouse and Export Declarations for locally manufactured Excisable and Levy goods – External Standard
SE-CL-12	Submission of Accounts>Returns – External Standard
SE-EL-07-CM01	DA 161A Environmental Levy Account for Plastic Bag levy – Completion Manual
SE-FS-02	Licensing - 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
DA 161A	Environmental levy account for Plastic Bags
EXD 01	Excise Duty and Levy return

4 DEFINITIONS AND ACRONYMS

BLNS	a) The Republic of Botswana; b) The Kingdom of Lesotho; c) The Republic of Namibia; and d) The Kingdom of Swaziland
Carrier bag	Bags constructed with handles and with or without gussets.
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 officer acting under the control or direction of any officer so designated by the Commissioner.
DAS	Duty At Source – Assessment of duty and levies at the time when fuel and other excisable products except wine is removed from the manufacturing warehouse.
Directive	Used to convey policies, responsibilities and procedures.
E 45-47	Clearance for Removal in Bond of Excise goods from one Excise Warehouse to another Excise Warehouse in South Africa or BLNS, where the goods were previously subject to a change of ownership.
E 47-46	Clearance for Change of ownership of goods, which were previously removed in bond from one excise warehouse to another.
Environmental Levy on Plastic Bags	The environmental levy imposed in terms of item 147 to Part 3A of Schedule 1 and the Notes thereto.
Flat bag	Bags constructed without handles and with or without gussets.
Licensees	Any person licensed under any provision of the Act.
Manufacture	This includes: a) Any process in the manufacture or assembly of Excisable goods or the conversion of any goods into Excisable goods, whereby the dutiable quantity or value of Excisable goods is increased in any manner; b) The recovery of Excisable goods from Excisable goods or any other goods; and c) The packing or measuring off of any Excisable goods.
Refuse Bag	Bag which is designed for the general purpose of carrying waste.
Schedule 1 Part 3A	Environmental levy on Plastic Bags.
Schedule 6	Rebates and Refunds of Excise Duties, Fuel Levy and Environmental Levy.
Standard	Used to convey the standards mandated by legislation and the sequential steps to be followed
Vis Major	A natural and unavoidable catastrophe that interrupts the expected course of events, normally caused by forces of nature.

5 DOCUMENT MANAGEMENT

Standard Owner	Executive: Compliance Centre Operations
Detail of change from previous revision	Prescribed payment terms/periods and Submission of accounts/returns are being dealt with in separate documents; and The 'Directive' has been changed to a 'Standard'.
Template number and revision	ECS-TM-03 - Rev 8