

DRAFT RULES FOR ADVANCE RULINGS UNDER CHAPTER IXA
(For publication for public comment)

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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SOUTH AFRICAN REVENUE SERVICE

No. R.

2026

CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES

Under Chapter IXA and section 120 of the Customs and Excise Act, 1964 (Act 91 of 1964), the rules published in Government Notice R.1874 of 8 December 1995, are herewith amended to the extent set out in the Schedule hereto **with effect from**

To be determined.

NGOBANI JOHNSTONE MAKHUBU

COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

Insertion of rules

1. The following heading and rules are hereby inserted before rule 75.00:

“CHAPTER IXA

ADVANCE RULINGS

The rules numbered 74B followed by further digits relate to advance rulings contemplated in Chapter IXA of the Act

Definitions

74B.01 For purposes of the rules numbered 74B any word or expression to which a meaning has been assigned in the Act has the meaning so assigned, and unless the context otherwise indicates—

“applicant” means a person referred to in section 74C(1) that intends to submit or has submitted an application for an advance ruling, but excludes a person submitting such application on behalf of another person;

“application” means an application referred to in rule 74B.03(a);

“branch front end capturing” or “BFE capturing”, in relation to an application for advance ruling, means the electronic capturing by an officer at any SARS office, of information provided by the applicant as may be required for such application on the internal SARS electronic system used for purposes of processing of such applications;

“goods concerned”, in relation to an application, means the goods which form the subject of the application; and

“these rules” means the rules numbered 74B.

Delegation of power

74B.02 (a) The powers which may be exercised by the Commissioner in

terms of Chapter IXA of the Act and the general administration of advance rulings are for purposes of section 120(1)(mD)(vii) delegated to the person responsible for managing the tariff, valuation and origin divisions respectively, at Head Office.

(b) Any additional detail in relation to a delegation referred to in paragraph (a) must be set out in writing.

Applications for advance rulings

74B.03 (a) An application contemplated in section 74C must be submitted electronically—

(i) through eFiling; or

(ii) by BFE capturing at any SARS office.

(b) An application must reflect the information, and be supported by the documents or items, set out in rules 74B.05 to 74B.08, depending on the circumstances.

(c) Any additional information, documentation or item that may be relevant and necessary for the consideration of the application must be submitted on request by the Commissioner, within 21 working days from the date of the request.

(d) The timeframe referred to in paragraph (c) may be extended on reasonable grounds by no more than ten working days.

(e) If the requested information, documentation or item is not submitted within the relevant timeframe, the application will be rejected.

Fee for advance rulings

74B.04 (a) For purposes of section 74C(4), the fee in respect of an application for an advance ruling comprises of –

(i) an application fee of R2500;

(ii) a cost recovery fee of –

(aa) R650 per hour in relation to all non-urgent applications; and

(bb) R1000 per hour in relation to applications where the

- applicant indicated that the ruling is urgently required as contemplated in rule 74B.05(a)(x); and
- (iii) any direct costs incurred in connection with the application, including, as may be applicable –
- (aa) laboratory testing, sample analysis or any technical examination;
- (bb) external expert fees;
- (cc) sampling and transport costs; or
- (dd) any other direct cost that may be relevant and necessary for the consideration of the application.
- (b) An applicant must pay a fee referred to in paragraph (a) in accordance with instructions issued by the Commissioner after submission of an application.
- (c) An applicant is entitled to be–
- (i) provided with an estimate of the total cost recovery fee after submission of an application;
- (ii) notified if the estimate will likely be exceeded and provided with a revised estimate, which the applicant must accept or reject; and
- (iii) notified of any direct costs referred to in paragraph (a)(iii), which the applicant must approve before SARS incurs such costs.
- (d) Consideration of an application will be terminated in circumstances where an applicant does not –
- (i) accept a revised estimate referred to in paragraph (c)(ii);
- or
- (ii) approve the incurring of any direct costs after being notified as contemplated in paragraph (c)(iii).
- (e) Where consideration of an application is terminated as set out in paragraph (d), the applicant will –
- (i) forfeit the application fee referred to in paragraph (a)(i);
- and
- (ii) be liable for any cost recovery fee referred to in paragraph (a)(ii) reasonably incurred up to the date of termination.

Particulars to be included in all applications and general supporting documents

74B.05 (a) The following general information must be included in an application:

- (i) The full name and customs and excise client number of the applicant;
- (ii) the applicant's accredited client status and level of accreditation;
- (iii) if the application is submitted by a clearing agent or registered agent on behalf of the applicant, the name and customs and excise client number of the clearing agent or registered agent;
- (iv) if the application is submitted by another duly authorised representative, the name of the representative, and—
 - (aa) if the representative is a natural person—
 - (A) the person's SARS tax reference number or, if that person does not have a SARS tax reference number, his or her identification document or passport document number; and
 - (B) his or her contact details and any physical and postal addresses in the Republic; or
 - (bb) if the representative is a juristic entity—
 - (A) its SARS tax reference number or, if it does not have a SARS tax reference number, its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of the Republic or another country and, if another country, the name of that country; and
 - (B) its contact details and any physical and postal addresses in the Republic;
- (v) the name and contact details of the preferred contact person;

- (vi) an indication of any information submitted by the applicant that should be treated as confidential, including the grounds for confidential treatment;
 - (vii) whether the applicant has previously applied for an advance ruling in relation to goods identical or similar to the goods concerned, and if so, details of the application;
 - (viii) whether, to the knowledge of the applicant, an advance ruling has been issued or applied for in respect of goods similar to the goods concerned, and if so, details of the ruling;
 - (ix) whether the goods concerned are the subject of any internal verification process, dispute resolution or judicial proceedings;
 - (x) whether the advance ruling is urgently required, and if so, the reasons why; and
 - (xi) a declaration that all the information provided in the application is to the best of the applicant's knowledge true, accurate and complete.
- (b) An application must be accompanied by the following general documents:
- (i) If the applicant is a juristic entity—
 - (aa) a certified copy of the document authorising the person who submitted the application on behalf of the entity, to act on behalf of the entity; and
 - (bb) a certified copy of the identification document or passport document of an authorised person referred to in item (aa); and
 - (ii) a certified copy of the document authorising a person contemplated in paragraph (a)(iii) to act as the representative of the applicant.

Additional particulars to be included in applications for advance tariff rulings and specific supporting documents

74B.06 An application for an advance tariff ruling must, in addition to –

- (a) the particulars referred to in rule 74B.05(a), reflect the following

specific particulars:

- (i) The trade name of the goods;
 - (ii) a detailed description of the goods concerned in sufficient detail to identify the goods;
 - (iii) the manufacturer or supplier of the goods;
 - (iv) the use or purpose of the goods, where relevant for tariff classification;
 - (v) specifications of the goods that may be required to distinguish tariff headings or subheadings, including where applicable, power rating, voltage, capacity, dimensions, pressure, concentration, measure of weight per unit, form factor, model of operation, or other measurable features;
 - (vi) the material or substance that the goods consist of, including principal constituents by weight or proportion, where relevant for tariff classification;
 - (vii) whether the goods are composite goods, mixtures, or sets, and if so, a description of each component or material and its role;
 - (viii) whether the goods are complete, incomplete or unfinished, or presented unassembled or disassembled, and whether they have the essential character of the complete article;
 - (ix) how the goods present at importation, namely whether they are assembled or unassembled, mixed or in sets, packaged or put up for retail sale, or with or without accessories; and
 - (x) the tariff classification for such goods proposed by the applicant, as well as the legal authority for the classification, including the Harmonised System heading, Section and Chapter Notes and the General Interpretative Rule or Rules considered by the applicant and the reason why it was considered; and
- (b) the general documents referred to in rule 74B.05(b), be supported by –
- (i) any samples of the goods concerned, if requested;

- (ii) photographs, diagrams or plans illustrating the construction or components of the goods;
- (iii) manufacturer catalogues or brochures describing the goods;
- (iv) technical specifications or safety data sheets;
- (v) instruction or operating manuals, or installation guides in relation to the goods;
- (vi) laboratory analysis results in relation to such goods, if any;
- (vii) other documents available on the composition of such goods and their component materials which may assist in describing the manufacturing process or the processing undergone by the materials; and
- (viii) any other document or item as the Commissioner may require, that may be relevant and necessary for consideration of the application.

Additional particulars to be included in applications for advance valuation rulings and specific supporting documents

74B.07 An application for an advance valuation ruling must, in addition to –

- (a) the particulars referred to in rule 74B.05(a), reflect the following specific particulars:
 - (i) The tariff classification or a detailed description of the goods concerned;
 - (ii) the valuation criterion on which the ruling is sought;
 - (iii) the relevant facts relating to the particular valuation criterion in respect of such goods, including –
 - (aa) details of the parties involved in the transaction;
 - (bb) a description of the nature of the transaction or transactions, including whether such goods are –
 - (A) purchased outright, including the terms of sale;
 - or
 - (B) acquired on another basis such as lease or hire purchase, including the terms of acquisition;
 - (cc) whether there is any relationship between the parties with reference to section 66(2)(a), and if it is claimed

that a relationship has no influence on the price, details explaining that –

(A) the price is acceptable as an open market price;

or

(B) the price approximates the price of identical or similar goods sold to importers in the Republic who are unrelated to suppliers;

(dd) whether a selling agent is involved in the transaction, including –

(A) whether any commission is included in the supplier's selling price; and

(B) if commission is not included in the selling price, how and to whom commission is payable;

(ee) whether any royalties or licence fees are payable, including the amount payable, expressed as a percentage of the free on board (FOB) value of the goods concerned;

(ff) whether the supplier has imposed any restrictions regarding the disposal, use or resale of the goods concerned which substantially influence the price, and if so, details of the restrictions, including the extent of the influence on the price;

(gg) whether the transaction or the price is subject to a condition or consideration for which a value cannot be determined, and if so, details of such condition or consideration;

(hh) whether any part of the proceeds of any subsequent resale, disposal or use of such goods accrue directly to the supplier, and if so, details of the arrangement with the supplier; and

(ii) details of the supply of any of the following goods or services free of charge or at a reduced cost to the supplier for use in the production of the goods concerned:

- (A) Materials, components, parts and similar items incorporated into the goods concerned;
- (B) tools, dies, moulds or similar items used in the production of such goods;
- (C) materials consumed in the production of such goods, but not incorporated therein; or
- (D) engineering, development, art or design work and plans and sketches undertaken outside the Republic and necessary for the production of such goods; and
- (iii) any other information as the Commissioner may require, that may be relevant and necessary for consideration of the application; and
- (b) the documents referred to in rule 74B.05(b), be supported by any document substantiating any particulars provided in terms of paragraph (a).

Additional particulars to be included in applications for advance origin rulings and specific supporting documents

74B.08 An application for an advance origin ruling must, in addition to –

- (a) the particulars referred to in rule 74B.05(a), reflect the following specific particulars:
 - (i) The tariff classification of the goods concerned;
 - (ii) a description of the composition of such goods and the methods of examination used to determine the composition;
 - (iii) an indication of whether the ruling is required for preferential or non-preferential purposes, and if so, the relevant trade agreement;
 - (iv) the country of origin proposed by the applicant, the legal authority for the relevant country, including the applicable rules of origin under the relevant trade agreement; and
 - (v) any criteria, based on the trade agreement or rules of origin applicable, for determining the origin of such goods, including

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- (aa) the raw materials used and their origin, tariff classification, and nature and extent of processing required to confer originating status;
- (bb) the percentage of each raw material used;
- (cc) whether a change in tariff heading is applicable;
- (dd) the value of each material and the ex-works price of the finished product; and
- (ee) a description of any operation or process performed in respect of the goods, including any manufacturing steps, also indicating whether any substantial transformation takes place that changes the nature of the goods concerned; and
- (b) the documents referred to in rule 74B.05(b), be supported by –
 - (i) a supplier's declaration (DA 49A.01) declaring the origin of locally sourced raw materials;
 - (ii) any samples of the goods concerned, if practicable;
 - (iii) photographs, diagrams or plans illustrating the construction or components of the goods;
 - (iv) manufacturer catalogues or brochures describing the goods;
 - (v) technical specifications or safety data sheets in relation to the goods;
 - (vi) instruction - or operating manuals, or installation guides in relation to the goods;
 - (vii) laboratory analysis results in relation to the goods, if any;
 - (viii) other documents available on the composition of such goods and their component materials which may assist in describing the manufacturing process or the processing undergone by the materials; and
 - (ix) any other document or item as the Commissioner may require, that may be relevant and necessary for consideration of the application.

Requirements in relation to record-keeping by recipients of advance rulings

74B.09 A recipient of an advance ruling must, for a period of five years calculated from the end of the calendar year in which such records were created, keep record of –

- (a) the original application;
- (b) any supporting documentation or items submitted to the Commissioner;
- (c) the advance ruling received;
- (d) any samples taken of the relevant goods; and
- (e) any documentation received from the Commissioner in relation to the ruling.

Requirements for publication of advance rulings

- 74B.10** (a) (i) Information in relation to an advance tariff ruling or advance origin ruling issued in terms of section 74E may be published on the SARS website if such information is likely to assist persons in making self-determinations when clearing goods of the same class or kind.
- (ii) A publication in terms of subparagraph (i) may not reveal any information that the Commissioner considers to be confidential after taking into account the grounds for confidentiality provided in terms of rule 74B.05(a)(vi).
- (b) Information published in terms of this rule may be updated by the Commissioner by amending, deleting or replacing such information as may become necessary in terms of Chapter IXA.

Advising Commissioner of change in circumstances

74B.11 A notification contemplated in section 74I must within ten working days of the change in circumstances occurring, be submitted electronically –

- (a) through eFiling; or
- (b) by BFE capturing at any SARS office.

Applications for amendment of advance ruling

74B.12 If a recipient wishes to amend an advance ruling as contemplated in section 74J, the recipient must –

- (a) submit an application previously submitted in terms of rule 74B indicating –

- (i) the particular details that have changed; and
 - (ii) whether, upon amendment of the advance ruling, the recipient chooses to rely, in relation to any specific goods, on the unamended version of an advance ruling for purposes of section 74J(3); and
- (b) submit any supporting documents providing evidence of an existing contract concluded on the basis of the advance ruling before its amendment, if the applicant wishes to rely on the unamended version of the advance ruling.

Withdrawal of advance rulings

74B.13 If an advance ruling is withdrawn in terms of section 74K(1), the recipient is entitled to be notified of –

- (a) the withdrawal of the advance ruling as well as the effective date of the withdrawal, taking account of section 74K(2)(a);
- (b) the reason for the withdrawal, indicating –
 - (i) the specific instance of fraud, misrepresentation, incorrect information or omission as contemplated in section 74K(1)(a) and why the inclusion of the correct or complete information in the application would have resulted in a different ruling; or
 - (ii) the relevant provision of the international trade agreement concluded by the Republic with which the ruling is in conflict; and
- (c) the correct amount of duty payable as determined by the Commissioner in terms of section 74K(2)(b).”.