

**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.**

**2023-09-15**

**CUSTOMS AND EXCISE ACT, 1964**

**AMENDMENT OF RULES**

Under sections 59A, 60, 64F, 75, 101A and 120 of the Customs and Excise Act, 1964 (Act No. 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 15 September 2023**.

**EDWARD CHRISTIAN KIESWETTER**

**COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

**SCHEDULE**

**Amendment of rule 59A.06A**

1. Rule 59A.06A is hereby amended by the substitution for subparagraph (vi) of paragraph (b) of the following subparagraph:

“(vi) in the case of a disclosure referred to in subparagraph (v)(aa), whether the other party to the customs and excise relationship is authorised by the registered person to—

- (aa) use the customs and excise client number of the registered person on documents submitted by that party to the Commissioner on behalf of the registered person;
- (bb) submit refund or drawback applications on behalf of the registered person; **[or]**
- (cc) apply for a duty deferment benefit on behalf of the registered person, or operate on a deferment account of the registered person, if that person is a deferment benefit holder[.]; or
- (dd) receive payment for a drawback or refund contemplated in Schedule No. 5 on behalf of the registered person.

### **Amendment of rule 60.06A**

2. Rule 60.06A is hereby amended by the substitution for paragraph (vi) of paragraph (b) of the following subparagraph:

- “(vi) in the case of a disclosure referred to in subparagraph (v)(aa), whether the other party to the customs and excise relationship is authorised by the licensee to—
- (aa) use the customs and excise client number of the licensee on documents submitted by that party to the Commissioner on behalf of the licensee;
  - (bb) submit refund or drawback applications on behalf of the licensee **[: or]**
  - (cc) apply for a duty deferment benefit on behalf of the licensee, or operate on a deferment account of the licensee, if that person is a deferment benefit holder[.]; or
  - (dd) receive payment for a drawback or refund contemplated in Schedule No. 5 on behalf of the licensee.

### **Amendment of rule 64F.07**

3. Rule 64F.07 is hereby amended –

- (a) by the substitution in paragraph (b) for the words preceding subparagraph (i) of the following words:

“(b) Any such application must be made on the electronic equivalent of form DA 66 submitted as required in rule 75.26.03, read with rule 75.26.04,

and **[must be]** the following supporting documents must at the time of application be submitted: [supported by –]; and

- (b) by the addition in paragraph (b) of the word “and” at the end of subparagraph (ii).

### **Insertion of rules**

4. The following rules are hereby inserted after rule 75.25:

**“75.26 The rules numbered 75.26 followed by further digits relate to the submission of applications for drawbacks and refunds contemplated in Schedule No. 5, and for refunds contemplated in Schedule No. 6 to the Act through eFiling or through the electronic data interchange system (EDI)”**

### **Definitions**

75.26.01 For the purposes of these rules, any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned and unless otherwise specified or the context otherwise indicates –

**“Customs and Excise Office”** means a Customs and Excise Office as indicated on the SARS website, where applications contemplated in these rules may be submitted;

**“electronic data interchange”** or **“EDI”** means the electronic transfer from computer to computer of information using an agreed standard to structure the information;

**“eFiling”** means a SARS software application available on the SARS website which enables SARS and registered electronic users to generate and deliver electronic filing transactions, and any grammatical derivative has a corresponding meaning;

**“form DA 63”, “form DA 64” or “form DA 66”** respectively, means the electronic equivalent of the relevant prescribed form to

be used for purposes of eFiling or EDI, unless expressly stated otherwise; and

“these rules” means the rules contemplated in rule 75.26.

**Persons submitting applications in terms of these rules to be registered electronic users**

75.26.02 A person submitting an application in accordance with rule 75.26.03(a) must be registered, depending on the mode of electronic submission selected, as an electronic user for—  
(a) eFiling as contemplated in rule 59A.01A(b)(iB); or  
(b) electronic data interchange (EDI) as contemplated in rule 101A.02(3).

**Applications for drawbacks and refunds in Schedule No. 5 and refunds in Schedule No. 6 that must be submitted electronically**

75.26.03 (a) An application for a drawback or refund relating to the items in Schedules No. 5 and 6 referred to in this rule must, subject to rule 75.26.04, be made electronically by submitting the relevant electronic form and supporting documents through either eFiling or EDI.

(b) Form DA 66 together with form DA 64 must be submitted in accordance with paragraph (a) in respect of applications for drawbacks or refunds, as the case may be, relating to the items in Schedule No. 5, subject to paragraph (c).

(c) (i) Form DA 66, together with form DA 63 reflecting the information as certified by the Controller in the paper format of form DA 63, must be submitted in accordance with paragraph (a) in respect of applications for drawbacks or refunds, as the case

may be, relating to the following items in Schedule No. 5:

(aa) 522.03; and

(bb) 522.05 and 522.06.

(ii) Form DA 63, as certified by the Controller in paper format, must at the time of application be submitted as a supporting document to the application referred to in subparagraph (i).

(d) Form DA 66 must be submitted in accordance with paragraph (a) in respect of applications for refunds relating to the following items in Schedule No. 6:

(i) 671.09 and 671.11;

(ii) 623.25;

(iii) 691.02 and 691.03;

(iv) 691.05 and 691.06; and

(v) 681.04, 681.05 and 681.06.

### **Submission of applications dealt with in these rules in the event of systems failure**

75.26.04 When, in the event of a systems failure, an electronic user referred to in rule 76.26.02 cannot submit an application for a drawback or refund dealt with in these rules electronically as required in terms of rule 75.26.03, such application may be made at a Customs and Excise Office by manual submission of the of the relevant prescribed form in paper format, printed from the SARS website, as well as any supporting documents as may be required for the relevant application.

### **Communication through eFiling for purposes of applying for drawbacks and refunds**

75.26.05 (a) The rules for electronic communication published in terms of section 255 of the Tax Administration Act by Government Notice No. 644 dated 25 August 2014, apply for purposes of electronic communication through eFiling as contemplated in these rules, subject to paragraph (b).

(b) The rules for electronic communication referred to in paragraph (a) apply with any necessary changes as the context may require, and in such application any reference in those rules to –

(i) a tax Act must be read as including a reference to the Customs and Excise Act or the rules thereunder;

(ii) an electronic filing system must be read as including a reference to eFiling for purposes of submission of applications for drawbacks and refunds and related messages in terms of these rules;

(iii) an electronic filing transaction must be read as including a reference to submission of an application for a drawback or refund in terms of these rules;

(iv) an electronic communicator or registered electronic user must be read as including a reference to an importer, exporter or any other person entitled to claim a drawback or refund, registered in terms of section 59A as an electronic user for eFiling;

(v) a registered tax practitioner must be read as including a reference to a person registered in terms of section 59A as an electronic user for eFiling and who is authorised to submit applications for drawbacks and refunds dealt with in these rules electronically as a clearing agent, registered agent or other representative on behalf of another; and

(vi) a taxpayer must be read as including a reference to a registered importer, exporter or any other person entitled to claim a drawback or refund.

(c) In the event of any inconsistency between a provision of the rules under section 75 and the rules for electronic communication referred to in paragraph (a), the provision of the former prevails.

**Communication through the electronic data interchange system (EDI) for purposes of applying for drawbacks and refunds**

75.26.06 The rules under section 101A apply for purposes of electronic communication through EDI as contemplated in these rules.

**Transitional arrangements**

75.26.07 (a) An application for a drawback or refund dealt with in these rules submitted manually in paper format prior to the effective date of these rules, must be considered in accordance with the process for manual submissions, subject to paragraph (b).

(b) Where it is determined during consideration of an application contemplated in paragraph (a) that a new application must be submitted, such application must be submitted either through eFiling or EDI, in accordance with rule 75.26.03.”.

**Amendment of rule 101A(2)**

5. Rule 101A.01A(2) is hereby amended by-

- (a) the substitution for the heading of the following heading:  
“Mandatory electronic communication of reports, **[and]** declarations and certain applications”;
- (b) the deletion in paragraph (a) of the word “and” at the end of subparagraph (i);
- (c) the substitution in paragraph (a) for the full stop at the end of subparagraph (v) of the expression “; and”;
- (d) the addition in paragraph (a) after subparagraph (v) of the following subparagraph:

- “(vi) if submission through EDI is selected in terms of rule 75.26.03, applications for drawbacks and refunds in Schedule No. 5 and refunds in Schedule No. 6 contemplated in that rule by a person entitled to submit such application terms of the provisions of this Act.”;
- (e) the substitution for paragraph (b) of the following paragraph:
- “(b) Every person contemplated in paragraphs (a)(i) to ~~[(v)]vi~~ that is required to submit a report ~~[or]~~, declaration or application electronically to the Commissioner must register as a user in accordance with the provisions of rule 101A and comply with the rules made thereunder.”; and
- (c) the addition after paragraph (d) of the following paragraph:
- “(d) These rules are applicable to any application for drawbacks and refunds contemplated in rule 75.26 submitted through the electronic data interchange system (EDI), on or after the effective date of the rules numbered 75.26.”.

### **Amendment to the Schedule to the Rules**

6. (a) Item 202.00 of the Schedule to the rules is hereby amended by the substitution of the following forms:
- “DA 63      Application for refund – Export for trade purposes of imported duty paid goods (Refund item 522.03)
- DA 64      Application for drawback/refund
- DA 66      General Application for drawback/refund”.
- (b) Item 202.01 is hereby amended –
- (i) by the substitution for the words in subitem 02 preceding paragraph (a) of the following words:
- “02. in respect of forms **[DA 63, DA 64,]** SAD 504, SAD 506, SAD 514, SAD 551, SAD 554, SAD 601, SAD 604, SAD 611 and SAD 614, must –”; and
- (ii) by the deletion of subitem 03.