

DRAFT RULES ADVANCE FOREIGN EXCHANGE PAYMENTS

14 October 2021

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

SOUTH AFRICAN REVENUE SERVICE

No.

R.

2021

CUSTOMS AND EXCISE ACT, 1964

AMENDMENT OF RULES

Under sections 59A 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 3 December 2021**.

EDWARD CHRISTIAN KIESWETTER

COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

Amendment of rule 59A.03.

1. Rule 59A.03(1) is hereby amended by the addition in paragraph (b) of the following subparagraph after subparagraph (iii):

“(iv) Despite the provisions of subparagraph (iii), a person intending to apply to an authorised dealer to effect an advance payment contemplated in rule 120.13.02 may not use registration code 70707070, and must, before notifying the Commissioner of such intention in terms of rule 120.13.03, apply for registration as an importer in terms of the rules under section 59A.”.

Insertion of rules

2. The following rules are hereby inserted after rule 120.12:

“120.13 For the purposes of section 120(1)(mC) the rules numbered 120.13 followed by further digits relate to advance foreign exchange payments in relation to goods that are to be imported

Definitions

120.13.01 For purposes of the rules under section 120(1)(mC), unless the context otherwise indicates –

“advance payment notice” or **“APN”** means a notice of intention to apply for advance foreign exchange payment contemplated in rule 120.13.03(a);

“advance payment notice reference number” or **“APN reference number”** means a unique reference number assigned by SARS in terms of rule 120.13.04;

“advance payment” means an advance foreign exchange payment contemplated in rule 120.13.02;

“authorised dealer” means an authorised dealer in foreign exchange referred to in section 120(1)(mC); and

“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.

Application of rules

120.13.02 The rules numbered 120.13 apply for purposes of any advance foreign exchange payment which exceeds R50 000,00 in respect of import categories 101 (01 – 10) as set out in the Guidelines of the Reserve Bank of South Africa under the heading “(A) BALANCE OF PAYMENTS CATEGORIES APPLICABLE TO BOPCUS, NON RESIDENT RAND AND BOPDIR – INWARD PAYMENTS”.

Procedures for notifying Commissioner of intention to submit application for advance payment to authorised dealer

120.13.03 (a) An importer intending to apply to an authorised dealer to effect an advance payment must, subject to rule 59A.03(1)(b)(iv), before submitting such application to the authorised dealer notify the Commissioner of that intention by submitting an advance payment notice via eFiling.

(b) An APN referred to in paragraph (a) must reflect the following information:

(i) The customs and excise code of the importer;

(ii) the following additional details in respect of the importer:

(aa) Name;

(bb) address; and

(cc) name, telephone number and e-mail address of contact person;

(iii) the following details in respect of the person who will be making payment on behalf of the importer:

(aa) Name; and

- (bb) in the case of a juristic entity, the registration number or the number of its founding document;
 - (iv) the South African Reserve Bank code of the authorised dealer who will make the advance payment;
 - (v) the following details in respect of the advance payment:
 - (aa) Type of foreign currency;
 - (bb) amount in foreign currency; and
 - (cc) estimated amount in South African Rand;
 - (vi) the reason for intending to make the advance payment;
 - (vii) the country from which the relevant goods will be exported to the Republic;
 - (viii) the name of the supplier of the relevant goods;
 - (ix) the first APN reference number assigned by SARS in relation to the goods, in the case where the financing is split between a number of authorised dealers;
 - (x) the number of consignments in which the relevant goods will be imported, which must be indicated by a “1” if the actual number is not known;
 - (xi) the following details in relation to the document used to prove the intended transaction and to be presented to the authorised dealer in support of the application to effect advance payment:
 - (aa) Type of document;
 - (bb) date of document; and
 - (cc) reference number or unique identification number reflected on the document;
 - (xii) the Balance of Payment (BOP) reporting category code contemplated in rule 120.13.02, also indicating the relevant subcategory; and
 - (xiii) any other information required on the electronic notification.
- (c) An APN must, subject to paragraph (d), be amended or cancelled in circumstances described, and the manner provided for, in the

Guide for Advance Payment Notifications as published on the SARS website.

- (d) An APN may not be amended or cancelled after payment had been effected by the authorised dealer indicated on the notification.
- (e) An APN automatically lapses if no payment is made by the authorised dealer indicated on the notification within 30 days of the date thereof.

Issuing of APN reference number

- 120.13.04** (a) An importer who submitted an APN as contemplated in rule 120.13.03 is entitled to be notified of –
- (i) the outcome of any data validation process conducted by SARS in respect of the APN; and
 - (ii) the APN reference number assigned in respect of a validated APN notification.
- (b) An APN reference number referred to in paragraph (a)(ii) must be referenced on that importer's application to effect an advance payment submitted to an authorised dealer.
- (c) The authorised dealer indicated on the APN is entitled to be notified by SARS of the APN reference number assigned in respect of a validated APN.

Requirements for authorised dealers in relation to advance payments

- 120.13.05** (a) An authorised dealer may not grant an application to effect an advance import payment if such application does not reflect an APN reference number.
- (b) An authorised dealer intending to effect an advance payment

must, by making use of the APN reference number received in terms of rule 120.13.04(c), verify information supplied by an applicant for advance payment.

Communication through eFiling for purposes of advance payments

120.13.06 (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, excluding rule 5 thereof, apply for purposes of electronic communication contemplated in the rules under section 120(1)(mC), 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 an APN and related messages in terms of the rules under section 120(1)(mC);

(iii) an electronic filing transaction must be read as including a reference to submission of an APN in terms of the rules under section 120(1)(mC);

(iv) an electronic communicator or registered electronic user must be read as including a reference to an importer registered in terms of section 59A as an electronic user;

(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 and who submits APNs 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.

(c) In the event of any inconsistency between a provision of the rules under section 120(1)(mC) and the rules for electronic communication referred to in paragraph (a), the provision of the former prevails.”

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