

# **EXCISE**

# **EXTERNAL**

# **PENALTY GUIDELINE**

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# 1 DEPOSIT IN TERMS OF SECTION 91(1)(a)(iii)

## 1.1 Ignoring the instructions or actions of an officer – Section 4

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 4(3B)</b> Prevents an officer in the exercise of his / her powers or the performance of his / her functions	79(1)(f)	R8 000
<b>Section 4(7)</b> Refuses or fails to comply with a lawful instruction to appear before an officer	79(1)(f)	R8 000
<b>Section 4(8A)(a) and (b)</b> Refuses or fails to comply with a lawful instruction to appear before an officer for examination of goods using an X-ray scanner or any non-intrusive inspection method	80(1)(c)	25% of the value of the goods with a minimum of R20 000
<b>Section 4(10)</b> Refuses or fails to comply with an order to stop or a request to be searched by an officer	79(1)(f)	R8 000
<b>Section 4(12)</b> a) Removes, breaks or interferes with any lock, seal, etc. placed or affixed by an officer  b) Removes any goods from a place locked or sealed by an officer	80(1)(e)  80(1)(f), 83(1)	Once the value  25% of the value with a minimum of R20 000
<b>Section 4(12A)</b> Refuses without good cause to produce the required documents upon instruction by the officer	79(1)(f)	R8 000

## 1.2 Removal of goods in bond and Exportation of goods from Customs and Excise warehouse – Section 18 and 18A

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 18</b> Takes delivery of goods removed in bond or removes such goods from the control of the Controller / Branch Manager without due entry.	80(1)(c)	25% of the value with a minimum of R20 000
<b>Sections 18(4) and 18A(3) read with Rule 18.07</b> Fails to obtain proof those goods which have been removed to the final destination within the specified period.	78(1)	R8 000
<b>Section 18(8)</b> Takes delivery of goods removed in bond or removes such goods from the control of the Controller / Branch Manager without due entry for home consumption thereof	80(1)(c) and (o)	25% of the excise duty underpayment with a minimum of R3 000

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OFFENCE	PENAL PROVISIOS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 18(13)</b> Without permission diverts goods removed in bond to a destination other than the destination declared on entry for removal in bond	80(1)(c) and (o)	25% of the value with a minimum of R20 000
<b>Rule 18A.08</b> Remover of goods not licenced as defined in Section 64D for moving alcohol and tobacco beverages in a sealed container	83(a)	25% of the value with a minimum of R20 000

### 1.3 Customs and Excise warehouses – Section 19, 20 and 26

OFFENCE	PENAL PROVISIOS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 19(3)</b> a) Removes or breaks a State lock  b) Enters any warehouse that is so locked and removes any goods without the permission of the Commissioner	80(1)(e) and 83(a)  80(1)(f) and 83(a)	R7 500  Once the value of goods so removed
<b>Section 19(4) and 20(5)</b> Fails to allow the Controller / Branch Manager or any delegated officer to conduct a stock take at a Customs and Excise warehouse	79(1)(f)	25% of the value with a minimum of R8 000
<b>Section 19(9) read with Rule 19.08</b> Goods retained in a Customs and Excise warehouse for a period longer than two (2) years without permission	78(1)	R8 000 per consignment or part thereof
<b>Rule 19.05</b> Does not keep a proper / complete record of all receipts into or removals from the warehouse	78(1)	R4 000
<b>Rules 19.07</b> Fails to notify the Controller / Branch Manager of change in legal identity, name and address of business, structure of warehouse / plant or goods manufactured	78(1)	R8 000
<b>Rule 19A1.01(c)</b> Removes tobacco products from a special storage warehouse (SOS) for home consumption without the permission of the Commissioner	83(a)	25% of the value with a minimum of R20 000
<b>Rule 19A3.03(a)</b> Fails to enter (E 46-45) spirits in the VMS warehouse within the prescribed period after the date of actual removal from the VMP warehouse	83(a)	25% of the value with a minimum of R20 000
<b>Rule 19A3.03(c)</b> Removes spirits from a VMS warehouse that has not been blended and stabilised for purposes of home consumption	83(a)	25% of the value with a minimum of R20 000

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OFFENCE	PENAL PROVISIOS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Rule 19A3.04(a)</b> Removes spirits from one VMP warehouse to another VMP warehouse for purposes other than re-distillation, maturation, maceration or mixing	83(a)	25% of the value with a minimum of R20 000
<b>Rule 19A4.02(b)(ii)</b> Removes unmarked goods or goods not for use as aviation fuel for home consumption and payment of duty and levies without the permission of the Controller / Branch Manager	80(1)(c) and 83(a)	25% of the value with a minimum of R20 000
<b>Rule 19A4.04(a)</b> Fails to comply with any of the procedures relating to fuel levy goods removed from duty paid stocks from a Customs and Excise warehouse	80(1)(c) and 83(a)	R8 000
<b>Rules 19A.06(e)(i),(ii), 36A.04(b) and 54F.07(c)(i) and (ii) and 54FD.03(b)</b> Deducts more quantity of goods than allowed on forms DA 75, DA 159, DA 160, DA 161A, DA 162, DA 176, DA 177, DA 178, DA 179, DA180 and DA 260	80(1)(j) and 84(1)	25% of the value with a minimum of R20 000
<b>Rule 19A.07(a)</b> Removes beer, tobacco products, spirits or spirituous beverages to a Customs and Excise storage warehouse in a BELN country if <u>NOT</u> licensed for the supply of ships or aircraft stores or duty free shops	80(1)(c) and 83(a)	25% of the value with a minimum of R10 000
<b>Rule 19A.07(b)</b> Removes fuel levy goods to a BELN country without the goods being entered or deemed to have been entered for home consumption and payment of duty and levies (including RAF)	83(a)	25% of the value with a minimum of R20 000
<b>Rule 19A.10</b> (1) Fails to account for any spirits or fuel levy goods returned from a Customs and Excise warehouse to another Customs and Excise manufacturing warehouse for reprocessing  (2) Fails to bring to account the relevant duty / levy calculated on the percentage deduction claimed in terms of Section 75(18) on goods originally removed to a Customs and Excise warehouse and subsequently returned for reprocessing to a Customs and Excise manufacturing warehouse	83(a)  83(a)	25% of the value with a minimum of R8 000  25% of the value with a minimum of R8 000
<b>Rules 19A, 20.14, 20.17 36A.04, 37B.19, 47B.07, 54FA.06, 54F.07, 54FC.03, 54FD.04 and 54I.05</b> (1) Failure to comply with any of the provisions of the Rules regarding the submission of accounts / returns (including failure to submit or late submissions)  (2) Fails to comply with any of the provisions of the Rules regarding payments of accounts (late payments)	78(1)  78(1)	R4 500  R4 500
<b>Section 20(4)</b> Removes goods from a Customs and Excise warehouse without due entry thereof	80(1)(c) and 83(a)	25% of the value with a minimum of R3 000

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OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b><u>Section 20(4)(bis)</u></b> Diverts goods entered for removal from or delivery to a Customs and Excise warehouse to any other destination without the permission of the Controller / Branch Manager	80(1)(o)	50% of the value with a minimum of R3 000
<b><u>Rule 20.05</u></b> Deposits other goods in a Customs and Excise warehouse, which has been approved for a particular class of goods, without the permission of the Controller / Branch Manager	83(a)	R8 000
<b><u>Rule 20.06</u></b> Goods in the Customs and Excise warehouse not arranged or marked in such a manner that it is easily identifiable and accessible	78(1)	R8 000
<b><u>Rule 20.08</u></b> Open / examines goods in closed trade containers without the permission of the Controller / Branch Manager	78(1)	R3 000
<b><u>Rule 20.23</u></b> Consignee fails to notify the Controller / Branch Manager immediately of the non-receipt of any goods removed in bond, or any part thereof	83(a)	R8 000
<b><u>Section 26</u></b> Transfers ownership of goods from a Customs and Excise warehouse without the prior permission of the Controller / Branch Manager	83(a)	R8 000

#### 1.4 Special provisions in respect of the Customs and Excise manufacturing warehouses – Section 27

OFFENCE	REASON CODE PENR	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b><u>Section 27(10)</u></b> <b>Without the written permission of the Controller / Branch Manager:</b> a) Uses any premises or plant for any purpose other than that for which it is registered; b) Effects any alteration to any structure on such premises or to any such plant; c) Brings into or removes from such premises any plant; and / or d) Places any pipe contrary to the provisions of Section 27(10)(d)		78(1)	R8 000
<b><u>Section 27(14)</u></b> Licensees or employees responsible for tampering, damage, or piercing are liable for repair or renewal costs.		80(1)(e)	R20 000

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OFFENCE	REASON CODE PENR	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 27(9), 60(1), 61 and Rule 27(4)</b> Without written permission of the Controller / Branch Manager carries on business in a Customs and Excise manufacturing warehouse for which it is not licensed		80(1)(b)	50% of the value with a minimum of R20 000

### 1.5 Failure to comply with the conditions for the entry of goods – Section 12, 18A, 38, 39, 40, 41, 44, 47, 54, 54F, 54I, 113 and 119A

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 18A(4)</b> Failure to process export declaration for ex warehouse goods	80(1)(c)	25% of the value minimum of R3 000 and a maximum of R20 000
<b>Sections 38(1), 38(3), 40(1), 46(1), 47(1) and 49(1)</b> a) Failure to make due entry	80(1)(c) and 83(a)	25% of the value with a minimum of R20 000
b) Incorrect calculation of the duty, tax or levies	84(2)	25% of the value with a minimum of R8 000
c) Omission of a line on the worksheet or declaration	84(2)	25% of the value with a minimum of R40 000
d) Incorrect tariff heading / item declared on a declaration	84(2)	25% of the value with a minimum of R40 000
e) Using false or misleading invoices, literature, shipping document or any other document for entering an incorrect description, value or tariff classification on a declaration	84(2)	25% of the value with a minimum of R40 000
f) Enters goods under rebate not qualifying for such rebate	80(1)(j) and 80(3)	25% of value, minimum of R20 000
g) Omission of a specific drawback / refund or rebate item in terms of Schedule 6 on a declaration	78(1)	R8 000 per declaration
h) Less entered on the SAD declaration than declared on the account / return	84(2)	25% of the value with a minimum of R40 000
i) Fails to indicate the correct duty paid / non-duty paid content	84(2)	25% of the value with a minimum of R40 000
j) Loss of 1.5% claimed while it is not applicable	80(1)(j) and 84(2)	25% of the value with a minimum of R20 000



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OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
k) Makes false entry by inter alia claiming a working loss (Rebate Item 624.30) to which he/she is not entitled; and/or submitting false sales invoices in support of forms DA 159, DA 160, DA 161A, DA 162, DA 176, DA 177, DA 178, DA 179 and DA 260	80(1)(j) and 84(2)	25% of the value with a minimum of R20 000
l) Incorrect value declared on a declaration	84 (2)	25% of the value with minimum of R40 000
m) Failure to produce a detailed, correct and sufficient invoice	84(2)	25% of the value with a minimum of R40 000
<b>Rule 54F.05</b> Failure to issue the required invoice or dispatch delivery note as specified in Rule 54F.05	80(1)(h)	R8 000
<b>Rule 54F.12(ii)</b> Fails to pay the levies on goods manufactured in South Africa which are <u>returned from a BELN country</u>	83(a)	25% of the value with a minimum R20 000

## 1.6 Distils spirits – Section 33

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 33 read with Rules 33.01 to 33.04</b> Distils spirits in a still not complying with the requirements in respect of use, capacity or construction.	83(a)	25% of the value with a minimum of R20 000

## 1.7 Special provisions regarding spirits manufactured by agriculture distiller – Section 34

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 34(3)</b> Agricultural distiller using a still for distilling spirits from any material other than produce grown on the farm of which he / she is the owner or occupier.	83	25% of the value with a minimum of R20 000
<b>Section 34(5)</b> Uses spirits manufactured by an agricultural distiller in South Africa from any prescribed fruit for other purposes than for private use without the permission of the Commissioner (on the farm where the fruit was produced and such spirits manufactured)	83(a)	25% of the value with a minimum of R20 000

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OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Rule 34.03(a)</b> Agricultural distiller fails to submit on the prescribed form to the Controller / Branch Manager within thirty (30) days after the first day of January in each year, a return of spirits in his / her possession on the first day of January	78(1)	R8 000
<b>Rule 34.03(b)</b> Agricultural distiller fails to submit on the prescribed form to the Controller / Branch Manager within fourteen (14) days after completion of each new distillation or re-distillation of spirits by him / her, a return of the quantity and strength of the spirits so distilled or re-distilled	78(1)	R8 000
<b>Rule 34.03(c)</b> Every agricultural distiller shall submit on the prescribed forms (account) on demand by an officer, a return, declared by him to be correct, of the strength and quantity of spirits in his possession on the date of such demand	78(1)	R8 000

## 1.8 Special provisions regarding wine – Section 35

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Rule 35.06</b> A licensee of a customs and excise warehouse or special Customs and Excise warehouse (SVM) in which wine is manufactured, fails to adhere to the restrictions with regards to the removal of bulk wine	78(1)	R8 000

## 1.9 Special provisions regarding cigarettes and cigarette tobacco – Section 35A

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Rule 35A(1)</b> Uses sizes and types of containers for the packaging of cigarettes and cigarette tobacco contrary to the provisions of the Act.	83(a)	25% of the value with a minimum of R20 000
<b>Sections 35A(2)(a), 35A(2)(b) and 35A(2)(c)</b> a) Removes or allows cigarettes to be removed from a Customs and Excise warehouse for <b>home consumption without</b> the stamp impression appearing on the containers as determined by the Commissioner	83(a)	25% of the value with a minimum of R20 000
b) Removes or allows cigarettes to be removed from a Customs and Excise warehouse for <b>export with</b> the stamp impression appearing on the containers as determined by the Commissioner	83(a)	25% of the value with a minimum of R20 000
c) Removes or allows cigarettes and cigarette tobacco to be removed from a Customs and Excise warehouse for home consumption without being packed in the prescribed manner	83(a)	25% of the value with a minimum of R20 000

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OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 35A(3)</b> Removes, sells or disposes of cigarettes or cigarette tobacco from the Customs and Excise manufacturing warehouse in partly or completely manufactured condition, contrary to the provisions of the Act.	83(a)	25% of the value with a minimum of R20 000
<b>Section 35A(4)</b> Counterfeit, possession or offer for sale or make (manufacture) any facsimile of any die or stamp impression.	83(a)	None - <b>Prosecution</b>

### 1.10 Specific provisions regarding beers – Section 36

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 36(2)</b> Sells or disposes of beer of which the brand name together with the alcoholic strength by volume and the quantity which will be indicated on each container size is not registered with the Commissioner.	83(a)	25% of the value with a minimum of R20 000
<b>Section 36(3)</b> Sells or disposes of beer for home consumption in a container which does not indicate the brand name, alcoholic strength by volume and quantity of such beer and the invoice or other document relating to such sale or disposal does not indicate the registered brand name.	83(a)	25% of the value with a minimum of R20 000
<b>Rule 36.01</b> Manufacturer of beer fails to keep / maintain a brewing book.	78(1)	R8 000

### 1.11 Special provisions in respect of manufacture of goods and collection of Excise duty – Section 36A

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 36A(1) and 60(1)</b> Manufactures goods subject to Ad valorem Excise duty without being licensed with the Commissioner.	80(1)(b)	25% of the value with a minimum of R20 000
<b>Rule 36A.03(a) read with Sections 101 and 101A</b> a) Failure to re-apply for exemption (value of R50 000 or less) of licensing and payment of Ad valorem Excise duty on or before 31 December each year. b) Failure to keep suitable production and disposal records for Ad valorem Excise duty purposes and / or to make it available on demand by an officer.	78(1)  86(h)	R8 000  R40 000

## 1.12 Duties applicable to goods manufactured in Customs and Excise warehouses – Section 37

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 37(2) and (9)</b> Reconditions mixes or blends any fuel levy goods contrary to the provisions of the Act.	80(1)(o) 83(a)	25% of the value with a minimum of R20 000

## 1.13 Special provisions in respect of marked goods and certain goods that are free of duty – Section 37A

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 37A(1)(c)</b> Without being approved by the Commissioner deals with marked goods.	80(1)(o) and 83	R8 000
<b>Section 37A(2)(a)</b> Without being licensed marks unmarked goods by the addition of the marker.	83(a)	25% of the value with a minimum of R20 000
<b>Section 37A(4)(a)</b> Contravenes any of the provisions of Section 37A(4)(a) of the Act with regards to marked goods (mixing, use, sells, disposes of, be in possession of, etc.)	80(1)(o) and 83	25% of the value with a minimum of R20 000
<b>Situation 1: Uses marked goods in an engine Contamination (1.2mg of marker present)</b> Contravenes any of the provisions of Section 37A(4)(a) of the Act with regards to marked goods (mixing, use, sells, disposes of, be in possession of, etc.) by using any marked goods, whether or not mixed with any other goods in any proportion, as fuel in any engine.	79(1)(f)	25% of the duty / levies liability calculated on the volume of the fuel which tested positively (quantity of fuel x the current retail price per litre)
<b>Situation 2: Uses marked good in an engine – Contamination (3.2mg of marker present)</b> Contravenes any of the provisions of Section 37A(4)(a) of the Act with regards to marked goods (mixing, use, sells, disposes of, be in possession of, etc.) by using any marked goods, whether or not mixed with any other goods in any proportion, as fuel in any engine.	79(1)(f)	25% of the duty / levies liability calculated on the volume of the fuel which tested positively (quantity of fuel x the current retail price per litre)
<b>Situation 3: Has in possession marked goods mixed – Contamination (5mg of marker present)</b> No person shall be in possession of or sell any marked goods mixed in any proportion with distillate fuel ('diesel') or petrol.	79(1)(f)	25% of the duty / levies

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OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<p><b><u>Situation 4: Has in possession marked goods mixed – Contamination (1.2mg of marker present)</u></b> No person shall be in possession of or sell any marked goods mixed in any proportion with distillate fuel ('diesel') or petrol.</p> <p><b><u>Situation 5: Has in possession marked mixed goods – Contamination (3.6mg of marker present)</u></b> No person shall be in possession of or sell any marked goods mixed in any proportion with distillate fuel ('diesel') or petrol.</p> <p><b><u>Situation 6: Remove, marks or under marks IK – Level of marking (1.6mg of marker present)</u></b> No person shall remove or neutralise or attempt to remove or neutralise any marker in any marked goods; add any substance to any marked goods which can prevent or impede the detection of the marker; be in possession of any marked goods or sell or dispose of in any manner whether or not for any consideration or acquire any marked goods in which is present any substance which or the colour of which can prevent or impede the detection of the marker; thereby causing the concentration of marker to be less than the prescribed level</p>	<p>79(1)(f)</p> <p>79(1)(f)</p> <p>79(1)(f)</p>	<p>25% of the duty / levies</p> <p>25% of the duty / levies</p> <p>25% of the duty / levies</p>
<p><b><u>Section 37(7)(b)</u></b> Deals with mixed or contaminated goods</p>	83(a)	25% of the value with a minimum of R20 000
<p><b><u>Section 37A(4)(d)</u></b> Any person who in respect of marked goods, fails to –</p> <p>a) Keep any invoice issued or a copy thereof; b) Issue an invoice; c) Complete and keep the books, accounts and documents; and/or d) To furnish an officer at such officer's request with any of the above documents</p>	78(1)	R8 000
<p><b><u>Section 37A(5)(d)</u></b> Any person who is any way concerned with any marked goods or any vehicle or mobile apparatus or any premises where any tank or other container is situated, shall furnish an officer on demand with any particulars which he is able to provide for the purposes of the completion of the report referred to in 37A(5)(c) of the Act.</p>	78(1)	R8 000
<p><b><u>Section 37A(9)(a) and (e)</u></b> Acquires, sells or disposes of <u>unmarked goods</u> in any manner or be in possession of or have under his control or use such goods referred to in Section 37A(9)(a)(i) and (ii) of the Act contrary to the provision of the said Section and its applicable Rules.</p>	83(a)	25% of the value with a minimum of R20 000

## 1.14 Provisions relating to the manufacture, storage, disposal and use of biofuel, biodiesel or bioethanol – Section 37B

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 37B.11</b> Non-commercial manufacturer of biodiesel fails to submit a six (6) monthly manufacturing record to the Controller / Branch Manager.	78(1)	R8 000
<b>Section 37B.17</b> Commercial manufacturer of biodiesel fails to complete the required invoice or dispatch delivery note, as prescribed by the said Rule.	78(1)	R8 000

## 1.15 Payment of duty and rate of duty applicable – Section 47

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 47(9)(a)(iv)(ee) read with Rule 120.10</b> In terms of Section 47(9)(a)(iv)(ee) any alcoholic beverage that is a first importation (before release of a clearance for home consumption) or new manufacture (before removal from the Excise manufacturing warehouse) must be submitted for tariff classification through the office of the Controller / Branch Manager at the place where that beverage is imported or manufactured.	78(1)	R8 000

## 1.16 Prohibition of certain acts in respect of goods not duly entered – Section 47A

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 47A(1)</b> Remove, receive, take, deliver or deal within any excisable / levy (including Health Promotion Levy on sugary beverages) without the goods having been duly entered.	83(a)	25% of the value with a minimum of R20 000

## 1.17 Air Passenger Tax – Section 47B

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 47B.07</b> a) Failure to comply with any of the provisions of the Rules regarding the submission of accounts / returns (including failure to submit or late submissions).	78(1)	R4 500
b) Using an incorrect rate of duty to calculate the duty, air passenger tax, or levies payable.	78(1)	R4 500

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OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Rule 47B.01</b> Staff or Airline employees travelling for duty purposes that exceeds the 72 hour rule	78(1)	R4 500
<b>Rule 47B.09</b> Failure to include a completed passenger manifest with every DA 2 for outward clearance, detailing the number of chargeable passengers, as well as the category of non-chargeable passengers.	78(1)	R4 500

### 1.18 Registration – Section 47B, 59A and Rules 37B.02, 54I.03, 57FA.04

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Rule 37B.02</b> Fails to register as a <b>non-commercial</b> manufacturer of biodiesel with the Commissioner	78(1)	R8 000
<b>Section 47B4(b)(i)</b> Operates a chargeable aircraft for the carriage of any chargeable passengers without being registered with the Commissioner	78(1)	R8 000
<b>Rule 54I.03 read with Sections 59A and 60(1)</b> Fails to register as a non-commercial manufacturer of sugary beverages, liable to the Health Promotion Levy, with the Commissioner.	78(1)	R8 000
<b>Rule 57FA.04 read with Sections 59A and 60(1)</b> a) Fails to register as a producer of electricity from renewable sources with an installed capacity exceeding 3MW but not exceeding 5MW  b) Fails to register as a producer of electricity from co-generation as specified in Note 2(c) of item 148.01.01 OR sources as specified in Note 2(d) of item 148.01.01	78(1)  78(1)	R8 000  R8 000

### 1.19 Licences – Section 27, 36A, 54F – 54I, 54FA – 54FD and 60 – 64F

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Rule 19.07</b> Licensee fails to notify the Controllers / Branch Managers immediately of, or prior to any change to the:  a) Legal identity; b) Name; c) Address of the business; d) Structure of the warehouse; e) Plant; and / or f) goods manufactured.	78(1)	R8 000

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OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Rule 27.04</b> Manufactures goods on a licensed premise and using a plant not approved with the Commissioner	80(1)(n)	R8 000
<b>Sections 27(1), (60)1 and 64</b> Manufactures excisable or levy goods without being licensed with the Commissioner	80(1)(b)	50% of the value with a minimum of R20 000
<b>Sections 27(9), 60(1) and 61</b> Without written permission of the Controller / Branch Manager carries on business in a Customs and Excise manufacturing warehouse for which it is not licensed	80(1)(i)	50% of the value with a minimum of R20 000
<b>Section 27(10)</b> Without the written permission of the Controller / Branch Manager:  i) Uses any premises or plant for any purpose other than that for which it is registered; ii) Effects any alteration to any structure on such premises or to any such plant; iii) Brings into or removes from such premises any plant; and / or iv) Places any pipe contrary to the provisions of Section 27(10)(d).	78(1)	R8 000
<b>Section 36A(1) and 60(1)</b> Manufactures goods subject to Ad valorem Excise duty without being licensed with the Commissioner.	80(1)(b)	25% of the value with a minimum of R20 000
<b>Rule 37B.04 read with Section 60(1)</b> Manufactures biodiesel (being a <u>commercial</u> biodiesel manufacturer) without being licensed with the Commissioner.	80(1)(o)	50% of the value with a minimum of R20 000
<b>Section 54E(1) read with Section 60(1)</b> Manufactures environmental levy goods without being licensed with the Commissioner	80(1)(o)	50% of the value with a minimum of R20 000
<b>Rule 54F.04 read with Sections 59A and 60(1)</b> Manufactures plastic bags liable to environmental levy without being licensed with the Commissioner	80(1)(o)	50% of the value with a minimum of R20 000
<b>Rule 54FA.03 read with Sections 59A and 60(1)</b> Generates electricity liable to environmental levy without being licensed with the Commissioner	80(1)(o)	50% of the value with a minimum of R20 000
<b>Rule 54FA.06(e)</b> Licensed electricity producer deducts or sets-off the following quantities in respect of electricity, which is not allowed:  a) Appropriated for own use; b) Exported from South Africa; and / or	83(a)	25% of the value with a minimum of R20 000



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OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
c) Lost subsequent to generation		
<b>Rule 54FB.01 read with Sections 59A and 60(1)</b> Manufacturers new motor vehicles of which the carbon dioxide emissions are liable for environmental levy, without being licensed with the Commissioner	78(1)	R8 000
<b>Rule 54FC.01 read with Sections 59A and 60(1)</b> Manufactures tyres, liable to environmental levy, without being licensed with the Commissioner	78(1)	R8 000
<b>Rule 54 FD.02 read with Section 59A and 60(1)</b> Manufacturer of emission generation facilities fails to license as a licensee where thresholds as per Schedule 2 of Carbon Tax Act have been reached. Rule 54FD.02	78(1)	R8 000
<b>Rule 54FD.03(a)(i) or (ii)</b> Licensee understated emissions generated or production of emission under-declared.	83(a)	R40 000 per IPCC understated / under-declared
<b>Rule 54I.03 read with Sections 59A and 60(1)</b> Manufactures sugary beverages (being commercial) liable for the Health Promotion levy without being licensed with the Commissioner	80(1)(o)	R8 000
<b>Section 63, 64B, 64C and 64D read with Section 60(1) and Schedule 8</b> Failure to apply for renewal of license within one (1) month after expiry of prescribed period.	80(1)(o)	R8 000
<b>Section 63(1)</b> Owns, possesses or controls an unlicensed still	80(1)(o)	R8 000
<b>Section 64B(1), (3) and (6) read with 60</b> Enters goods for reward on behalf of any principal without the prescribed licence.	80(1)(o)	R8 000 per declaration
<b>Section 64D(1) and (7) read with 60(1) and Rules 64D.10(5) and 64D.11(5)</b> a) No person, except if exempted by Rule, shall remove any goods in bond / transit by road in terms of Section 18(1)(a) or export by road (in terms of Sections 18A, 19, 19A, 20 or 21 or any other goods that may be specified by Rule) unless licensed as a remover of goods.  b) Using security of another remover of goods in bond.	80(1)(a), 80(1)(c), 80(1)(m), 80(1)(o), and 83(1)(a), (b) and (c)  80(1)(o)	R5 000 per declaration / transaction  R20 000
<b>Section 64F read with Section 60(1)</b> Purports to operate as a Licensed Distributor of Fuel (LDF) without being licensed with the Commissioner.	80(1)(o)	R20 000

## 1.20 Time when new or increased duties become payable – Section 58

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 58(4)(a),(b) and (c)</b> Whenever a tax proposal is tabled, the licensee fails to take stock and assess the quantity of goods in the Customs and Excise warehouse which have not been delivered and submit an account of such stock-taking to the Controller / Branch Manager within the specified time and pay the duty / levy due.	78(1)	25% of the value with a minimum of R20 000

## 1.21 Rebates off duty – Section 75

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Sections 38(4), 39(2A)(a), 40(1) and 47(1) read with 113(2), Rule 54FD.03(b)</b> Knowingly enters goods not qualifying for such rebate under rebate of duty.	80(1)(j)	25% of the value with a minimum of R20 000
<b>Section 75(5)(b)</b> Applies any distillate fuel (diesel) or residual fuel oil or portion thereof entered for any other purpose other than the purpose for which it was entered under rebate of duty.	80(1)(j) and 83	25% of the value with a minimum of R20 000
<b>Rule 75.06</b> Moves goods to non-registered premises for further processing or operation without the permission of the Controller / Branch Manager.	80(1)(c)	R7 500
<b>Rule 75.14</b> Fails to maintain a stock record as prescribed by Rule.	78(1)	R8 000
<b>Rule 75.15</b> (1) Does not keep proper / complete record of all receipts into or withdrawals from the rebate store. (2) Failure to keep samples of rebate materials as required by the Controller / Branch Manager.	78(1) 86(1)(f)	R5 000 R8 000
<b>Rule 75.18</b> Deducts and claims a percentage which exceeds the percentage allowed to be deducted in terms of any provision of Section 75(18).	84(2)	25% of the value with a minimum of R40 000
<b>Section 75(19)</b> Diverts goods entered under rebate of duty without the permission of the Commissioner to a destination other than the destination declared on the rebate entry or delivers such goods or causes such goods to be delivered contrary to the provisions of this Act.	80(1)(o)	25% of the under-payment with a minimum of R5000

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OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 75(21)</b>		
(1) Keeps goods entered under rebate of duty in a rebate storeroom for longer than the prescribed period.	78(1) and (3)	R3 000 per consignment or part thereof
(2) Keeps goods in a rebate store that have not been entered under the provisions of Schedule 6.	78(1) and (3)	R8 000 per consignment or part thereof

## 1.22 Set-off of certain amounts – Section 77

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 77(a)</b> Set-off or submits a refund claim after the prescribed period [exceeding two (2) years)].	80(1)(j)	25% of the value with a minimum of R20 000
<b>Section 77(a)(i) to (iii) and (b)</b> Enters an <b>amount (monetary)</b> on the excise account/return (DA 75, DA 159, DA 160, DA 161A, DA 162, DA 176, DA 177, DA 178, DA 179, DA180 and DA 260) which has already been deducted / set-off previously.	80(1)(j)	25% of the value with a minimum of R20 000
<b>Rule 77(1)(a)</b> Enters a <b>quantity/volume</b> on the excise account (DA 75, DA 159, DA 160, DA 161A, DA 162, DA 176, DA 177, DA 178, DA 179, DA180 and DA 260) which has already been deducted/set-off previously.	80(1)(j)	25% of the value with a minimum of R40 000

## 1.23 Serious offences – Section 80, 84 and 88

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b>Section 84(1)</b> Makes a false statement in connection with any matter dealt with in the Act, or who makes use for the purposes of this Act of a declaration or document containing any such statement.	84(2)	R8 000
<b>Section 88(1)</b> Damages, destroys or disposes of any goods to prevent the securing or seizure thereof under the provisions of the Act or without permission, takes back any goods that are detained or have been seized.	80(1)(f)	25% of the value of the goods seized with a minimum of R3 000
<b>Section 88(1)(bA)</b> Removes any ship, vehicle, plant, material or goods from any place where it was detained or from a place of security.	80(1)(o)	25% of the value of the goods detained with a minimum of R3 000

## 1.24 Refunds / drawbacks – Section 75, 76 76B and 113 (Penalties on refunds also apply to VAT)

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b><u>Sections 75, 76 and 76B read with 113(2)</u></b>		
a) Diplomatic fuel refund claims submitted by third parties within the prescribed period (regulated in terms of Section 76B of the Act) containing expired receipts.	80(1)(j) and 84(2)	25% of over claim, minimum of R10 000
b) Agent / exporter / manufacturer claims refund of duties / levies on goods used in the manufacturing (Schedule 6) process where after such manufactured product is not exported. (Proof of export not provided or not adequate).	80(1)(j) and 84(2)	25% of the value with a minimum of R20 000
c) Submit false proof of export to obtain refund of duties.	80(1) and 84(2)	25% of the value with a minimum of R20 000
d) Resubmitting an application for a refund / drawback previously rejected without following the instructions of the officer	80(1)(j) and 84(2)	25% of the value with a minimum of R20 000
e) Submitting an application for a refund / drawback for an amount on a declaration which was originally not paid.	80(1)(j) and 84(1)	25% of the value with a minimum of R20 000
f) An application for a refund / drawback submitted by a person who is of the opinion that he / she is entitled thereto which is rejected by the Controller / Branch Manager or Commissioner and then re-submitted without obtaining an official ruling / decision.	80(1)(j) and 84(2)	25% of the value with a minimum of R20 000
<b><u>Section 76(1)</u></b> Submits a duplicate application for refund of duty or other charge to the Controller / Branch Manager for an amount that has already been refunded	80(1)(j) and 84(2)	25% of over claim, minimum of R10 000
<b><u>Section 76B</u></b> Submits a time expired claim	80(1)(j) and 84(2)	25% of over claim, minimum of R10 000

## 1.25 Keeping of books, records, accounts and documents – Section 101

OFFENCE	PENAL PROVISIONS	DEPOSIT SECTION 91(1)(a)(iii)
<b><u>Rule 19.05 and 75.14</u></b> Does not keep a proper / complete record of all receipts into or removals from the warehouse	78(1)	R4 000
<b><u>Section 101(1)(a) and (2) read with Rule 101.01</u></b> a) Fails to keep the prescribed books, accounts, manufacturing records or documents	86(h)	R8 000

OFFENCE	PENAL PROVISIONS	DEPOSIT 91(1)(a)(iii)	SECTION
b) Fails to produce the prescribed goods, accounts or documents on demand	86(h)	R8 000	
<b><u>Section 101(2B)</u></b> Fails to keep or produce on demand any data created by means of a computer as defined in Section 1 of the Computer Evidence Act, 1983	86(h)	R8 000	
<b><u>Rules 54FB.03(a), (b) and (c)</u></b> Failure to obtain, retain or submit a test report by a manufacturer of new motor vehicles as required in terms of the Rules	80(1)(i) and Rule 120	R8 000	
<b><u>Rule 54I.06(a)(i)(aa) and (bb)</u></b> Manufacturer of sugary beverages fails to obtain and retain a test report as required in terms of Rule 54I.06	80(1)(i) and Rule 120	R8 000	
<b><u>Rule 54FA.08(a)(i)</u></b> Registrant or licensee of electricity generation fails to <b>keep</b> proper books, accounts and documents and any data created by means of a computer, of all transactions relating to the generation of electricity	80(1)(i) and Rule 120	25% of the value with a minimum R20 000	
<b><u>Rule 54FA.08(a)(iii)</u></b> Licensee or registrant of electricity generation fails to <b>produce</b> such books, accounts, documents and data on demand	80(1)(i) and Rule 120	R8 000	
<b><u>Rule 54FA.08(b)(i) and (ii)</u></b> Licensee or registrant fails to record daily:  a) Receipts of non-renewable energy sources for generation; b) Quantities of non-renewable energy sources used and the quantities of electricity generated from such materials; c) The production rate of the materials used; and d) Quantities of electricity generated from renewable sources and co-generation.	80(1)(i) and Rule 120	R8 000 per incident	
<b><u>Rule 54FA.10(a)</u></b> The submission of the report submitted by a non-accredited engineer or by a person without the relevant certification	80(1)(i) and Rule 120	R8 000	
<b><u>Rule 54FA.10(b)(i)</u></b> Failure to timeously submit the electricity generation report as required in terms of the rules	80(1)(i) and Rule 120	R8 000	
<b><u>Rule 54FA.10(c) and (d)</u></b> Fails to submit such report as required by the Rule	80(1)(i) and Rule 120	R8 000	
<b><u>Rule 54FA.10(f)(i) and (ii)</u></b> Submits a report containing a false statement or misleading information or omits to state information which was omitted with the intention to mislead	80(1)(i) and Rule 120	R8 000	

## 1.26 Electronic communications and submission for the purposes of Customs and Excise procedures – Section 101A

OFFENCE	PENAL PROVISIONS	DEPOSIT	SECTION
91(1)(a)(iii)			
<b>Section 101A(15)(a)</b> Use of an electronic signature by any person other than the registered user	101A(15)(a) and (b)	R100 000 every time such signature was so used	
<b>Section 101A(15)(b)(i)</b> Makes a false electronic record or part of an electronic record or who makes a false entry in any electronic record or who makes a false statement in such electronic record	101A(15)(a) and (b)	R100 000	
<b>Section 101A(15)(a) and (b)(ii)</b> (1) Dishonestly or fraudulently –  a) Makes, signs or executes an electronic record; b) Makes or transmits any electronic record or part of any electronic record; or c) Affixes any digital signature on any electronic record	101A(15)(a) and (b)	R100 000	
<b>Section 101A(15)(b)(iii)</b> Without lawful authority dishonestly and fraudulently alters any electronic record in any material part thereof after it had been made, executed or affixed with a digital signature	101A(15)(a) and (b)	R100 000	
<b>Rule 101A.01A(2)(a)</b> Fails to submit documents electronically, unless exempted temporarily or permanently by the Commissioner	86(h)	R5 000 per declaration / report / list / notice	

## 1.27 Conditions for the release of goods under Customs control – Section 107

OFFENCE	PENAL PROVISIONS	DEPOSIT	SECTION
91(1)(a)(iii)			
<b>Section 107(2)(a)</b> Fails to comply with the conditions determined by the Commissioner for allowing goods detained to pass from his / her control	80(1)(p)	R5 000	

## 1.28 Goods subject to a lien – Section 114

OFFENCE	PENAL PROVISIONS	DEPOSIT	SECTION
91(1)(a)(iii)			
<b>Section 114(2A)</b> Removes goods subject to a lien [Section 114(1)(aA) or goods so detained Section 114(2)]	80(1)(o)	25% of the value of the goods subject to a lien with a minimum of R3 000	

## 2 AMOUNT REQUIRED IN TERMS OF SECTION 93(1)(c) IN ORDER TO RETURN TO THE OWNER, GOODS DETAINED, SEIZED OR FOREITED

### 2.1 Ignoring the instruction or actions of an officer – Section 4

OFFENCE	PENAL PROVISIONS	SECTION 93(1)(c) AMOUNT
<b>Section 4(12)</b> Removes any goods from a place locked or sealed by an officer	80(1)(f), 83(1)	Once the value

### 2.2 Entering of goods removed in bond – Section 18 and 18A

OFFENCE	PENAL PROVISIONS	SECTION 93(1)(c) AMOUNT
<b>Section 18(8)</b> Takes delivery of goods removed in bond or removes such goods from the control of the Controller / Branch Manager without due entry for home consumption thereof	80(1)(c) and (o)	25% of value, minimum of R1 500
<b>Section 18(13) and 18A(9)</b> Without permission diverts goods removed in bond to a destination other than the destination declared on entry for removal in bond	80(1)(c) and (o)	50% of value, minimum of R1 500

### 2.3 Customs and Excise warehouses – Sections 19 and 20

OFFENCE	PENAL PROVISIONS	SECTION 93(1)(c) AMOUNT
<b>Section 19(3)</b> Enters any warehouse that is so locked and removes any goods without the permission of the Commissioner	80(1)(f) and 83(a)	Once the value of goods so removed
<b>Section 20(4)</b> Removes goods from a Customs and Excise warehouse without due entry thereof	80(1)(c) and 83(a)	25% of value, minimum of R1 500
<b>Section 20(4)(bis)</b> Diverts goods entered for removal from or delivery to a Customs and Excise warehouse to any other destination without the permission of the Controller / Branch Manager	80(1)(o)	50% of value, minimum of R1 500

### 2.4 Failure to comply with the conditions for the entry of goods – Sections 12, 18A, 38 – 41, 44, 47, 54, 113 and 119A

OFFENCE	PENAL PROVISIONS	SECTION 93(1)(c) AMOUNT
<b>Section 18A(4)</b> a) Failure to process export declaration for ex warehouse goods	80(1)(c) and 83(a)	25% of value, minimum of R1 500

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OFFENCE	PENAL PROVISIONS	SECTION 93(1)(c) AMOUNT
b) Removal of goods for export by unlicensed removers as defined in Section 64D of the Act	80(1)(c) and 83(a)	25% of value, minimum of R1 500
<b>Section 18A(9)</b> Without permission of Commissioner diverts goods to a destination other than that declared	80(1)(c)	50% of value, minimum of R1 500
<b>Sections 38(1), 38(3), 39(1), 40(1), 44(10), 47(1) and 113(2)</b> Failure to make due entry –		
a) Removes, receives, takes, delivers or deals with imported goods without such goods being entered	83(a) 80(1)(c)	Once the value
b) Using false or misleading documents	84(2)	50% of value, minimum of R2 500
c) Enters goods under rebate not qualifying for such rebate	80(1)(j) and 80(3)	50% of value, minimum of R1 500
d) Omission of an invoice	84(2)	50% of value, minimum of R1 500

## 2.5 Rebates of duty – Section 75

OFFENCE	PENAL PROVISIONS	SECTION 93(1)(c) AMOUNT
<b>Section 75(19)</b> Diverts goods entered under rebate of duty without the permission of the Commissioner to a destination other than the destination declared on the rebate entry or delivers such goods or causes such goods to be delivered contrary to the provisions of this Act	80(1)(o)	50% of value, minimum of R2 500

## 2.6 Serious offences – Sections 80(1)(h), 84(1), 86(a) and 88(1)

OFFENCE	PENAL PROVISIONS	SECTION 93(1)(c) AMOUNT
<b>Section 88(1)</b> Damages, destroys or disposes of any goods to prevent the securing or seizure thereof under the provisions of the Act or takes back any goods that are detained or have been seized	80(1)(f)	50% of value, minimum of R2 500
<b>Section 88(1)(bA)</b> Removes any ship, vehicle, plant, material or goods from any place where it was detained or from a place of security	80(1)(o)	50% of value, minimum of R2 500



## 2.7 Conditions of the release of goods under Customs control – Section 107

OFFENCE	PENAL PROVISIONS	SECTION 93(1)(c) AMOUNT
<b>Section 107(2)(a)</b> Fails to comply with the conditions determined by the Commissioner for allowing goods detained to pass from his / her control	80(1)(p)	25% of value

## 2.8 Goods subject to lien – Section 114

OFFENCE	PENAL PROVISIONS	SECTION 93(1)(c) AMOUNT
<b>Section 114(2A)</b> Removes goods subject to a lien [Section 114(1)(aA) or goods so detained Section 114(2)	80(1)(o)	Once the value

## 3 NOTES

- a) The Excise penalty guideline does not apply when penalties are imposed for VAT contraventions. Refer to the Value-Added Tax Act No. 89 of 1991 and the Tax Administration Act No. 28 of 2011.