

## SOUTH AFRICAN REVENUE SERVICE

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### CUSTOMS AND EXCISE ACT, 1964 AMENDMENT OF RULES (No. DAR/52)

Under section 120 for the purposes of section 21 of the Customs and Excise Act, 1964, the rules published in Government Notice R.1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto **with effect from 10 June 2009.**

**GEORGE NGAKANE VIRGIL MAGASHULE**  
**ACTING COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

#### SCHEDULE

(a) By the insertion after rule 21.03.10 of the following rules:

**“21.04 For the purposes of section 21(1) and (2) the rules numbered 21.04 followed by further digits relate to special customs and excise storage warehouses licensed as duty and tax free shops**

#### **Definitions**

**21.04.01** For the purposes of these rules and any form to which these rules relate, 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 -

**“activity” or “activities”** means any activity or activities in connection with the storage, put up for retail, display, selling or other handling of goods in, or removal of goods from a duty and tax free shop;

**“airport”** means an international customs and excise airport listed as a warehousing place in item 200.02 of the Schedule to the Rules and approved by the Commissioner as a place where special customs and excise warehouses operating as inbound and outbound duty and tax free shops may be established;

**“bonded goods”** means any dutiable locally-produced goods or any imported goods, whether liable to duty or free of duty, that are entered for storage in accordance with the provisions of the Act for storage and stored for sale in a duty and tax free shop;

**“duty and tax free”**, in relation to a duty and tax free shop, means goods are sold at a price that does not include any duty leviable in terms of the Act or any value-added tax leviable in terms of the Value-added Tax Act, 1991 (Act No. 89 of 1991);

**“duty and tax free shop”** means a special customs and excise storage warehouse licensed for the purposes contemplated in these rules;

**“goods in free circulation”** means goods which are not subject to any customs or excise procedure contemplated in the Act and includes goods on which VAT has been paid or exempted;

**“inbound duty and tax free shop”** means a duty and tax free shop located before the customs control point for inbound travellers;

**“inbound traveller”** means a person, including a crew member of the aircraft, who arrives in the Republic on an international flight from a place in a country inside or outside the common customs area;

**“international flight”** means a flight by an aircraft departing from or to a place in a country inside or outside the common customs area;

**“licensee”** means the licensee of a licensed special customs and excise storage warehouse contemplated in these rules;

**“outbound duty and tax free shop”** means a duty and tax free shop located after the customs control point for outbound travellers;

**“outbound traveller”** means a person, including a crew member of the aircraft, who is about to depart from the Republic on an international flight to a place in a country outside the common customs area;

**“purchase”** in relation to an inbound or outbound traveller, includes obtaining any goods supplied in a duty and tax free shop without payment;

**“sell”** or any of its grammatical variations means the supply by the licensee of any goods contemplated in these rules to an inbound or outbound traveller and includes supplying such goods without payment;

**“the Act”** includes any provisions of “this Act” as defined in the Customs and Excise Act, 1964 (Act No. 91 of 1964);

**“VAT”** means value-added tax leviable in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991);

**“VAT Act”** means the Value-Added Tax Act, 1991.

### **Application of provisions**

- 21.04.02**
- (a) The provisions of these rules apply to imported goods and dutiable locally-produced goods, and where specified, goods in free circulation, stored, put up for retail and sold in a duty and tax free shop.
  - (b) Except as otherwise provided in the Act and these rules –
    - (i) any provision of the Act relating to –
      - (aa) a special customs and excise storage warehouse, the activities in such a warehouse including removal of goods from such warehouse, removal

in bond, export, entry under rebate of duty, liability for duty, payment of duty, the responsibility of the licensee and any other requirement prescribed in connection with any such warehouse;

(bb) the importation of goods and imported goods;

(cc) the exportation of goods; and

(ii) sections 59A, 60, 64E and 101 and the rules made thereunder, including the definitions in such rules, shall, as may be applicable, apply *mutatis mutandis* to any goods and any activities in a duty and tax free shop.

### **Application for and refusal, suspension or cancellation of a licence**

#### **21.04.03**

(a) Any person who intends operating a duty and tax free shop must –

(i) apply for a special customs and excise storage warehouse license on form DA 185 and the appropriate annexure thereto and comply with all the requirements specified therein, in these rules, any relevant section or item of Schedule No. 8 governing such licences and any additional requirements that may be determined by the Commissioner.

(ii) (aa) before a licence is issued, furnish the security the Commissioner may require;

(bb) if security is furnished in the form of a bond, such bond –

(A) is subject to the provisions of rules 120.08 and 120.09; and

(B) must be in the form determined by the Commissioner.

(b) The provisions of section 60(2) and the rules for section 60 shall apply with the necessary changes to any refusal of an application for a licence or the renewal, cancellation or suspension of the licence issued in respect of a duty and tax free shop.

**Places where duty and tax free shops may be licensed and premises which may be included in a licence**

- 21.04.04**
- (a) Licenses to operate duty and tax free shops shall be granted only –
    - (i) in respect of inbound or outbound duty and tax free shops in the–
      - (aa) OR Tambo International Airport building; and
      - (bb) Cape Town International Airport building; or
    - (ii) in respect of an outbound duty and tax free shop at any other place than those referred to in subparagraph (i), as the Commissioner may determine,  
at each place operating in a location and in premises approved by the Commissioner.
  - (b) In a licence for a special customs and excise storage warehouse contemplated in these rules may be included -
    - (i) the premises where bonded goods or goods in free circulation for sale are stored; and
    - (ii) the separate premises where those goods are sold.

**Storage of, and marking and ticketing, labelling or otherwise marking of, duty and tax free goods**

- 21.04.05**
- (a) Bonded goods in the storage section of a duty and tax free shop must be stored separately from other goods.
  - (b) All goods displayed for sale and sold must be ticketed, labelled or otherwise marked to indicate that the selling price does not include duty and VAT is zero rated.

### **Prohibited or restricted goods**

- 21.04.06** (a) Subject to paragraph (b), a duty and tax free shop may sell -
- (i) bonded goods; and
  - (ii) goods in free circulation.
- (b) When any goods of which the importation is restricted are sold to an inbound traveller the licensee of the duty and tax free shop must obtain the necessary certificate, permit or other document authorising the importation.
- (c) No goods of which the importation or exportation is prohibited may be sold to an inbound or outbound traveller.
- (d) Any goods for export which are subject to production of a certificate, permit or other document authorising such export, may not be sold to an outbound traveller unless the licensee of the duty free shop is in possession of such certificate, permit or other document.

### **Persons to whom duty and tax free shops may sell goods stored in a customs and excise storage warehouse**

- 21.04.07** A duty and tax free shop may sell goods –
- (a) if an inbound duty and tax free shop, only to inbound travellers;
  - (b) if an outbound duty or tax free shop, only to outbound travellers.

### **Packaging and sealing of goods purchased by inbound travellers**

- 21.04.08** Bonded goods and goods in free circulation must, on being sold at an inbound duty and tax free shop to an inbound traveller, be packaged in a package that -

- (a) is transparent so that the contents can be clearly identified;
- (b) is sealed in such a manner that the goods cannot be removed without the seal being broken; and
- (c) contains the sales receipt or other sales document of which the particulars are clearly visible.

**Sales in a duty and tax free shop**

**21.04.09**

- (a) The licensee of a duty and tax free shop must issue a serially numbered sales receipt or other sales document in duplicate that specify at least -
  - (i) in respect of an inbound or outbound traveller -
    - (aa) the specific retail outlet;
    - (bb) the date of arrival or departure as the case may be;
    - (cc) the airport of destination if outbound or departure if inbound as the case may be;
    - (dd) the flight number; and
    - (ee) seat number;
  - (ii) a precise description of the goods together with -
    - (aa) the quantity;
    - (bb) the sale price reflected in South African Rand; and
    - (cc) the stock code.
- (b) The licensee must -
  - (i) retain the original sales receipt or other sales document for record purposes; and
  - (ii) place a copy of the sales receipt or other sales document with the goods inside the package.

**21.04.10 Delivery of form SAD 500 in respect of bonded goods received in the special customs and excise warehouse that have been sold, lost, destroyed or damaged as contemplated in these rules**

- (a) Under sections 20, 38 and 39 and 120 and for the purposes of section 21 the licensee of a duty and tax free shop must deliver to the Controller within seven days after the last day of any period of seven days during which the shop operated, a form SAD 500 in respect of bonded goods received in the special customs and excise warehouse that have been sold as contemplated in these rules.
- (b) Separate forms SAD 500 must be delivered in respect of –
  - (i) locally produced bonded goods sold at -
    - (aa) an inbound duty and tax free shop; or
    - (bb) an outbound duty and tax free shop; or
  - (ii) imported bonded goods sold at –
    - (aa) an inbound duty and tax free shop; or
    - (bb) an outbound duty and tax free shop; or
  - (iii) goods lost, destroyed or damaged if –
    - (aa) locally produced bonded goods; or
    - (bb) imported bonded goods.
- (c) Each form SAD 500 contemplated in (b)(i) and (ii) must be supported by a list of all sales receipt or other documents; and the date of issue in respect of each period contemplated in paragraph (a).
- (d) Each form SAD 500 contemplated in paragraph (b)(iii) must be -
  - (i) supported by a list reflecting the stock code number,, the date and the circumstances in which the goods were lost destroyed or damaged; and
  - (ii) accompanied by payment of duty and value added tax due on such goods.



## **Inventory control**

- 21.04.11** (a) The licensee of a duty and tax free shop must establish and maintain an inventory control system approved by the Commissioner to reflect, at least-
- (i) a precise description of the goods together with a clear distinction between the types of goods;
  - (ii) the quantities of goods received in the duty and tax free shop and removed therefrom;
  - (iii) the date of receipt of the goods in the duty and tax free shop, the date of sale and the date of removal;
  - (iv) monthly and year-end balances of all unsold goods in the duty and tax free shop;
  - (v) particulars of goods lost, destroyed or damaged; and
  - (vi) any other particulars as may be specified by the Commissioner.

## **Keeping of books, accounts and documents**

- 21.04.12** (a) For the purpose of section 101, and notwithstanding anything to the contrary in any rule contained, every licensee must -
- (i) keep proper books; accounts and documents and any data created by a computer of all transactions relating to the activities in respect of which the license is issued, for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required in respect of any customs procedure contemplated in these rules;
  - (ii) include in such books, accounts and documents and data any requirements prescribed in any provision of the Act in respect of a storage warehouse for imported or locally-produced goods; and
  - (iii) produce such books, accounts, documents and data on demand at any reasonable time and render such returns or submit such particulars in connection with the transactions

relating to the licensed activity as the Commissioner may require.

- (b) Such books, accounts, documents and data must include, as applicable -
  - (i) proper accounting records of each type of goods received, stored and sold at each duty and tax free shop;
  - (ii) copies of bills of entry, invoices, orders for goods, delivery notes and payments received and made;
  - (iii) copies of forms SAD 500 and supporting documents contemplated in rule 21.04.10; and
  - (iv) any other documents the Commissioner may specify.

### **Transitional arrangements**

#### **21.04.13**

- (a)
  - (i) Any person who is a licensee of a special customs and excise storage warehouse operating as a duty and tax free shop for outbound travellers at the places referred to in rule 21.04.04(a)(i) and wishes to extend the licence to include a duty and tax free shop for inbound travellers, must apply on form DA185 and the appropriate annexure for such an extension before these rules come into operation.
  - (ii) If the application is approved, an endorsement to the existing licence will be issued to be effective from the date these rules come into operation.
  - (iii) A licensee of a special customs and excise warehouse operating as a duty and tax free shop for outbound travellers who will continue to sell goods to outbound travellers only when these rules come into operation need not submit the form DA 185 and the existing licence will remain in force.
- (b)
  - (i) Goods entered on a form SAD 500 with purpose code WE for storage in a special customs and excise storage warehouse operating as an outbound duty and tax free shop when these rules are published, must, if those goods or some of those goods will be sold in an inbound duty and

tax free shop included in an extended licence contemplated in paragraph (a), substitute that form SAD 500 with a form SAD 500 reflecting purpose code WH in respect of any unsold goods before such goods are sold in the inbound shop.

(ii) Any bonded goods for storage in a duty and tax free shop of which the licence is issued in respect of an inbound or inbound and outbound duty and tax free shop must be entered on a form SAD 500 reflecting the purpose code WH.

(iii) Any bonded goods for storage in a duty and tax free shop of which the licence is issued in respect of an outbound duty and tax free shop only, must be entered on a form SAD 500 reflecting the purpose code WE.

(b) By the substitution in item 202.00 of the Schedule to the Rules of the following form:

“DA 185.4B4 Licensing Client Type 4B4 – Special Storage Warehouse.”

**LICENSING CLIENT TYPE 4B4 – SPECIAL STORAGE WAREHOUSE**

**Notes:**

- Whenever an asterisk (\*) appears, please delete whichever is not applicable
- Indicate with an **X** in the appropriate block(s) whichever is applicable

**Trading Particulars:**

Please supply all trade names and physical addresses if the business is conducted from a different address or under a different name as that stated in Block 5 of the application form (DA 185).

Trade name of business:			
Customs Client Number (if already registered):			
Physical address: Street name and number:			
Building name and floor number:			
Suburb:			
City/Town:			
Street code:			

**Authority to apply:**

I/We,  
 .....  
 (name of applicant)  
 herein represented by:

(1) ..... (2) .....

(Capacity) (Capacity)

being duly authorised thereto by virtue of –

(a) \*a resolution passed at a meeting of the Board of Directors, held at .....  
 on the ..... day of ..... (CCYY) .....; or

(b) \*express consent in writing of all the members of the close corporation /\* partners of the partnership /\*  
 trustees of the trust; or

(c) \* being a person having the management of any other association; or

(d) \* delegated officer of an organ of State,

hereby apply for licensing of a Special Storage Warehouse.

**Warehouse Particulars:**

(a) Please indicate with an <b>X</b> the type of SOS warehouse to be licensed	
(i) Storage of dutiable imported goods	<input type="checkbox"/>
(ii) Storage of duty-free imported goods for export in terms of section 21(3)	<input type="checkbox"/>
(iii) Storage of dutiable locally manufactured goods for export	<input type="checkbox"/>
(iv) Storage of locally manufactured and/or imported goods for operation of an:	
(aa) inbound duty and tax free shop	<input type="checkbox"/>
(bb) outbound duty and tax free shop	<input type="checkbox"/>
(cc) inbound and outbound duty and tax free shop	<input type="checkbox"/>
(v) Ship / Aircraft chandler for the storage of locally manufactured and/or imported goods for supply as ship/aircraft stores	<input type="checkbox"/>
(vi) Storage of locally manufactured and/or imported goods for supply to (iv) and (v) above	<input type="checkbox"/>
(vii) Storage of dutiable locally manufactured goods for the purpose of denaturing and/or packing of such products for supply to rebate users and/or other SOS warehouses	<input type="checkbox"/>
(viii) Storage of dutiable locally manufactured goods for the purpose of packing and/or repacking of such products for supply to rebate users	<input type="checkbox"/>

*Continues overleaf*

(b) Please state the rebate item(s) and tariff subheading(s) / item(s) (if applicable); and describe the goods that will be stored in the warehouse.			
Rebate item(s)	Tariff subheading(s) / item(s)	Rebate Code	Description of goods stored
(1)			
(2)			
(3)			
(4)			
(5)			
(6)			
(7)			
(8)			
(9)			
(10)			
(11)			
(12)			

<b>Originals or certified copies to accompany the application:</b>
(a) Registration certificate of business (as issued by the Registrar of Companies or Master of the Supreme Court in the case of a Trust)
(b) Resolution/consent or other authority as applicable
(c) Proof of Address
(d) Identity/passport documents of -
* Individual
* Partnership, Close Corporation and Trust (All Members / Partners / Trustees)
* Company (All Directors, including Managing Director and Financial Director)

<b>Declaration:</b>	
I hereby -	
(a) <b>declare</b> that the particulars in the application and all enclosures are true and correct; and	
(b) <b>undertake</b> to -	
(i) inform the South African Revenue Service immediately of any changes in the particulars furnished in the application;	
(ii) comply with the customs and excise laws and procedures.	
.....	
(Initials and Surname)	(Status / Capacity, e.g. Director)
.....	
(Signature)	(Date & Place)

FOR OFFICIAL USE												
File Number:												
Type of Warehouse:	SOS											
Warehouse Number:												
Licence Number:												
Licence Date:												
District Office:												