

SOUTH AFRICAN REVENUE SERVICE

NO. R. 525

14 June 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**CUSTOMS AND EXCISE ACT, 1964****AMENDMENT OF RULES**

Under sections 21, 60, 119A 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.

**EDWARD CHRISTIAN KIESWETTER****COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE****SCHEDULE****Insertion of rules**

1. The following rules are hereby inserted after rule 21.04.13:

“21.05 For the purposes of section 21(1) and (2) the rules numbered 21.05 followed by further digits relate to special customs and excise storage warehouses licensed as special shops for diplomats”

Definitions

21.05.01 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 –

“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 retail sale in a special shop for diplomats;

“Diplomatic Immunities and Privileges Act” means the Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001);

“duty free”, in relation to goods sold in a special shop for diplomats, means sold at a price that does not include any duty leviable in terms of this Act;

“licensee” means the licensee of a special shop for diplomats, and includes a person that successfully updated licensing information in terms of rule 21.05.12;

“sell” or any of its grammatical variations means the retail selling by a licensee of any goods in a special shop for diplomats to a person contemplated in rule 21.05.07(a) and includes supplying such goods without payment;

“special shop for diplomats” means –

(a) a special customs and excise warehouse licensed in terms of section 60, read with rule 21.05.03, for the duty free retail sale of goods to persons contemplated in rule 21.05.07(a); or

(b) premises of a person referred to in rule 21.05.12 that successfully updated licensing information in terms of that rule;

and includes any storage facilities on the premises referred to in paragraph (a) or (b); and

“these rules” means the rules contemplated in rule 21.05.

Prohibition in relation to selling goods free of duty to persons entitled to diplomatic immunities or privileges

- 21.05.02 (a) No person may sell goods free of duty to persons entitled to diplomatic immunities or privileges under the Diplomatic Immunities and Privileges Act, unless the premises where such goods are sold are licensed as a special shop for diplomats in terms of rule 21.05.03.
- (b) No person referred to in rule 21.05.12(a) may continue to sell goods free of duty to persons entitled to diplomatic immunities or privileges under the Diplomatic Immunities and Privileges Act if –
- (i) such person did not update licensing information within the timeframe contemplated in that rule; or
 - (ii) such person’s licence is cancelled or suspended following such updating.

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

- 21.05.03 (a) Any person who intends operating a special shop for diplomats must–
- (i) apply for a special customs and excise storage warehouse license in accordance with rule 60.01A(b)(ii) and must comply with all the requirements specified on form DA 185 and the relevant annexure, 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; and

- (ii) (aa) before a licence is issued, furnish the security the Commissioner may require; and
(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 special shop for diplomats.

Places where special shops for diplomats may be licensed and premises which may be included

- 21.05.04 (a) A special shop for diplomats may be licensed only in the metropolitan areas of Tshwane, Johannesburg and Cape Town.
- (b) A single licence for a special shop for diplomats may be issued in respect of –
(i) the premises where bonded goods or goods in free circulation for sale in the shop are stored; and
(ii) the separate premises where those goods are sold.

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

- 21.05.05 (a) Bonded goods in the storage section of a special shop for diplomats may be stored together with goods in free circulation, provided that the goods are separately identifiable by way of a unique inventory code assigned to the goods as contemplated in rule 21.05.10(b).

- (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 that the relevant item is for duty free sale only.

Prohibited or restricted goods

- 21.05.06 (a) Bonded goods and goods in free circulation may, subject to paragraph (b), be sold in a special shop for diplomats.
- (b) No goods in respect of which the importation, possession or exportation is prohibited or restricted may be sold in a special shop for diplomats.

Persons to whom goods in a special shop for diplomats may be sold and allowable quantities

- 21.05.07 Goods in a special shop for diplomats may be sold only –
- (a) to a person entitled to diplomatic immunities or privileges under the Diplomatic Immunities and Privileges Act who is in possession of—
- (i) a valid diplomatic identity card issued to that person by the government department responsible for diplomatic relations, certifying such entitlement and the level of privileges granted; and
- (ii) a six-monthly approval by the Director-General of that department or an official acting under his or her authority, authorising the duty free sale to that person of the categories of goods in the quantities as determined by that department, and referred to in the rebate items applicable to persons entitled to diplomatic privileges in Schedules No. 4 and 6, and the Notes to those Schedules applicable to such persons; and

(b) in accordance with the allowable quantity per person per category of goods referred to in paragraph (a)(ii).

Sales in a special shop for diplomats

21.05.08 (a) The licensee of a special shop for diplomats must in respect of each sale issue a serially numbered sales receipt or other sales document specifying—

(i) the customs and excise code of the special shop for diplomats;

(ii) the date of sale;

(iii) the precise description and the stock inventory code of the goods;

(iv) the selling price of the goods in South African Rand;

(v) the rebate item utilised and quantity of goods purchased per category described in the relevant item; and

(vi) the number and expiry date of the diplomatic identity card referred to in rule 21.05.07(a)(i).

(b) The licensee must –

(i) retain the original sales receipt or other sales document for record purposes;

(ii) provide a copy of the sales receipt or other sales document to the purchaser;

(iii) endorse the purchaser's approval referred to in rule 21.05.07(a)(ii) with –

(aa) the date of sale;

(bb) the category of goods purchased;

(cc) in respect of each category, the quantity purchased and the remaining allowable quantity for the period;

(dd) a stamp reflecting the customs and excise code of the special shop for diplomats; and

- (ee) the signature of a shop official designated by the licensee to sign off on sales of allowable quantities, confirming the sale of the goods.

Delivery of form SAD 500 in respect of bonded goods received in the special shop for diplomats that have been sold, lost, destroyed or damaged

- 21.05.09 (a) Under sections 20, 38, 39 and 120 and for the purposes of section 21, the licensee of a special shop for diplomats 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 shop for diplomats –
- (i) that have been sold in terms of the rebate items applicable to persons entitled to diplomatic privileges in Schedules No. 4 and 6, and the Notes to those Schedules applicable to such persons; and
- (ii) that have been lost, destroyed or damaged.
- (b) Separate forms SAD 500 must be delivered for –
- (i) goods referred to in paragraph (a)(i) in respect of –
- (aa) locally produced bonded goods; and
- (bb) imported bonded goods; and
- (ii) goods referred to in paragraph (a)(ii) in respect of –
- (aa) locally produced bonded goods; and
- (bb) imported bonded goods.
- (c) Each form SAD 500 contemplated in paragraph (b)(i) must be supported by a list of all sales receipts or other sales documents and the dates of issue in respect of each period contemplated in paragraph (a).
- (d) Each form SAD 500 contemplated in paragraph (b)(ii) must –
- (i) be supported by a list reflecting the stock inventory code, the date and the circumstances in which the relevant goods were lost, destroyed or damaged; and

- (ii) be accompanied by payment of duty due on such goods.

Inventory control

21.05.10 (a) A licensee must establish and maintain an inventory control system approved by the Commissioner.

(b) Upon receipt of any goods, whether bonded or in free circulation, a licensee must –

(i) document such goods on the inventory system referred to in paragraph (a); and

(ii) assign to such goods a unique inventory code against which the information listed in paragraph (c) must be available in respect of the goods.

(c) The following information in respect of goods in the special shop for diplomats must be available against the unique inventory code assigned in terms of paragraph (b):

(i) A precise description of the goods, clearly distinguishing between the types of goods;

(ii) the quantities, volume or weight of goods received and date of receipt;

(iii) the reference number and date of the sales invoice or other sales document issued upon sale of the goods, and the date of removal;

(iv) an indication that the goods are lost, destroyed or damaged, in the case of goods being lost, destroyed or damaged;

(v) current balances on quantities of bonded goods; and

(vi) any other particulars as may be specified by the Commissioner.

Keeping of books, accounts and documents

21.05.11 (a) For the purpose of section 101, and notwithstanding anything to the contrary in any rule contained, a 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 for purposes of any customs procedure contemplated in the 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;
 - (ii) monthly and year-end balances of goods that remain unsold;
 - (iii) copies of bills of entry, invoices, orders for goods, delivery notes and payments received and made;
 - (iv) copies of forms SAD 500 and supporting documents contemplated in rule 21.05.09;
 - (v) sales invoices or other sales documents;
 - (vi) the following details in respect of any person referred to in rule 21.05.07(a) who purchased goods from the special shop for diplomats:
 - (aa) The name and passport or travel document number; and
 - (bb) the number and expiry date of the diplomatic identity card referred to in rule

21.05.07(a)(i); and
(vii) any other documents the Commissioner may
specify.

Transitional arrangement for persons operating premises currently licensed otherwise than in terms of rule 21.05.03 where goods are sold free of duty to persons entitled to diplomatic immunities or privileges

- 21.05.12 (a) A person who, on the date of publication of these rules operates premises licensed as a special customs and excise storage warehouse, where goods are sold free of duty to persons entitled to diplomatic immunities or privileges under the Diplomatic Immunities and Privileges Act, must within 15 working days after the date of publication update licensing information in accordance with rule 60.10(1)(a)(i).
- (b) The Commissioner may in terms of section 60(2)(b) cancel or suspend a licence of a person contemplated in paragraph (a) of this rule if that person—
- (i) does not update licensing information within the period stated; or
 - (ii) updates licensing information, but fails to comply with any requirement for special shops for diplomats that will in terms of these rules be in effect as from 1 August 2021: Provided that a grace period until 30 September 2021 is allowed to prove compliance before suspension or cancellation proceedings are commenced in terms of the proviso in paragraph (b) of section 60(2).
- (c) The Commissioner may on reasonable grounds extend the grace period stated in paragraph (b)(ii).

Commencement of these rules

21.05.13 These rules come into effect on 1 August 2021, save for rule 21.05.12 which comes into effect on the date of publication.”.

Amendment of rule 60.01A

2. (1) Rule 60.01A is hereby amended by the addition of the following item after item *(dd)* of paragraph *(c)*(i):
- “(ee) for purposes of operating a special shop for diplomats as contemplated in rule 21.05.01.”.
- (2) Subitem (1) comes into effect on the date of publication.

Amendment of rule 119A.R101A(10)(d)

3. (1) Rule 119A.R101A(10)(d) is hereby amended by the substitution in paragraph *(a)* for subparagraph *(iv)* of the definition of “return” for the following subparagraph:
- “(iv) any document for payment of excise duty on locally produced goods stored in a special customs and excise warehouse licensed for the operation of a duty and tax free shop, the operation of a special shop for diplomats or the supply of stores and spares and equipment to foreign-going ships and aircraft as respectively contemplated in rules 21.04, rule 21.05 and the rules for section 38A;”.
- (2) Subitem (1) comes into effect on 1 August 2021.

Substitution of form

4. (1) Item 202.00 of the Schedule to the Rules is hereby amended by the substitution for form DA 185.4B4 of the following form:
- “DA 185.4B4: LICENSING CLIENT TYPE 4B4 – SPECIAL STORAGE WAREHOUSE”.
- (2) Subitem (1) comes into effect on the date of publication.