



Export Duty on Scrap Metal

Customs & Excise



South African Revenue Service

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Preface

This guide has been prepared to provide an overview of the key legislative requirements in terms of the Customs and Excise Act, 1964 applicable to export duty on scrap metal. It does not go into comprehensive technical and legal detail and should therefore not be used as a legal reference.

This guide has no binding legal effect.

Should you require more information you may –

- visit the SARS website at www.sars.gov.za ;
- visit your nearest SARS branch office;
- contact your own tax advisor or tax practitioner;
- contact the SARS National Contact Centre –
 - if calling locally, on 0800 00 7277;
 - if calling from abroad, on +27 11 602 2093 (only between 8am and 4pm South African time).

Comments on this guide may be emailed to policycomments@sars.gov.za.

Legislative Policy: Customs and Excise
SOUTH AFRICAN REVENUE SERVICE

30 July 2021

Contents

Preface.....	i
1. Introduction	1
2. Summary of key customs legislation	1
3. Imposition, withdrawal, increase or reduction of export duty	2
4. Registration as an exporter	3
5. Export clearance and payment of export duty	3
6. Value of goods exported	3
7. Validity of export bill of entry	3
8. Liability for export duty	3
9. Application for refunds	4
10. Permit requirements for export	4

1. Introduction

Export duties are imposed, amongst other things, to stimulate domestic industries to become more cost competitive, enhance investment and promote job creation. Its main function is the protection of domestic supplies rather than to raise revenue.

Before the introduction of export duty on scrap metal the International Trade Administration Commission of South Africa (ITAC) introduced the Price Preference System (PPS) to improve the availability of better-quality scrap metal at affordable prices for foundries and mills in the domestic market and to assist them in becoming more cost competitive against imports, enhancing investment, jobs and industrialisation. In terms of the PPS, ITAC would not authorise the exportation of scrap metal unless it had first been offered for sale to the domestic consuming industry of scrap metal for a period and at a price discount or other formula determined by ITAC. An investigation conducted by ITAC on the effectiveness of the PPS concluded that the PPS alone has not effectively provided support to the foundries and mills with availability of affordable, quality scrap metal. Accordingly, the Customs and Excise Act, 1964 (the Act) was amended to insert provisions dealing with the introduction and levying of export duties on scrap metals. To complement and support the operation of the export duty, the PPS was extended from 31 July 2021 until 31 July 2023 by the Minister of Trade, Industry and Competition in *Government Gazette* 4905 dated 28 July 2021.

This guide provides an overview of the key legislative requirements prescribed in the Act that are applicable to export duty on scrap metal.

2. Summary of key customs legislation

The table below refers to the **key sections** in the Act that may be relevant to export duty on scrap metal. Other provisions in the Act may also be applicable.

Customs and Excise Act, 1964	
Section	
1	Definition of “export duty”, “exporter”, ‘Minister”
12	Goods imported or exported overland
16	Opening of packages in absence of importer or exporter
17	State warehouse
38	Entry of goods and time of entry
39	Importer and exporter to produce documents and pay duties.
40	Validity of entries
41	Particulars on invoices.
43	Disposal of goods on failure to make due entry, goods imported in contravention of any other law and seized and abandoned goods

44	Liability for duty
48	Amendment of Schedule No. 1
59A	Registration of persons participating in activities regulated by this Act.
72	Value of goods exported
75	Specific rebates, drawbacks and refunds of duty
76B	Limitation on the period for which refund and drawback claims will be considered and the period within which applications therefor must be received by the Controller
101	Business accounts, documents etc to be available for inspection
101A	Electronic communication for the purposes of customs and excise procedures
106	Samples
107	Expenses of landing, examination, weighing, analysis etc
113	Prohibition and restrictions
114	Duty constitutes a debt to the State
Schedule to the Act – Tariff Book	
Schedule No. 1 Part 6	Export duty - Export duty on scrap metal

3. Imposition, withdrawal, increase or reduction of export duty

Section 1 defines “export duty” to mean any duty leviable under Part 6 of Schedule No. 1 on goods exported from the Republic.

Section 48(4)(a) empowers the Minister of Finance to impose an export duty, on such basis as he may determine, in respect of any goods intended for export or any class or kind of such goods or any goods intended for export in circumstances specified by notice in the *Gazette*, and any export duty so imposed shall be set out in the form of a schedule, which shall be deemed to be incorporated in Schedule No. 1 as Part 6 thereof, and to constitute an amendment of Schedule No. 1.

Section 48(4)(b) makes provision for the Minister of Finance to withdraw or reduce any export duty imposed with or without retrospective effect, or increase such export duty, from a date, and to such extent as may be determined by the Minister in such notice.

The rates of export duty imposed on scrap metal is contained in Schedule No. 1 Part 6. The export duties on scrap metal apply to exports to all countries except those countries benefitting from exemptions under trade agreements to which South Africa is a party.

4. Registration as an exporter

An exporter of scrap metal is required to register with SARS as an exporter under section 59A. Registration is an important element in the customs regulatory framework and serves a key function in the supervision chain. Exporters of scrap metal cannot use the registration code number 70707070. This type of registration and code is limited in its application, and is considered inadequate for the purposes of administering and regulating exporters of scrap metal.

5. Export clearance and payment of export duty

Under section 38(3)(a) every exporter shall, before goods are exported from the Republic, deliver to the Controller a bill of entry in the prescribed form.

Under section 39(2)(a), if any goods intended for export are liable to any export duty under the Act, the amount thereof shall be stated in the bill of entry relating to such goods, and shall be payable upon presentation of such entry to the Controller. Under section 39(2)(b) no such bill of entry shall be valid, nor shall any person export such goods, until the duty has been paid to the Controller.

The Act does not provide for the deferment of export duty, and therefore the payment of export duty cannot be deferred.

6. Value of goods exported

Under section 72, for the purposes of the Act, the value of any goods exported from the Republic shall be the price of those goods free on board at the place of despatch from the Republic, which value shall be declared on the bill of entry export.

For the purpose of section 72, “free on board”, in relation to goods exported to or to be exported from the Republic, includes all profits, costs, charges and expenses incidental to placing goods on board a vessel, aircraft, train or vehicle in which the goods are to be transported across the border of the Republic.

7. Validity of export bill of entry

Under section 40(3)(a) the obligation is placed on an exporter to amend any export bill of entry that does not comply in every respect with section 39 or that is invalid under section 40(1) by means of a voucher of correction or in such other manner as prescribed by the Commissioner.

8. Liability for export duty

Under section 44(1)(b) liability for export duty on any goods specified in Part 6 of Schedule No. 1 shall commence when the export bill or entry in respect of such goods is submitted before export under section 38(3)(a) or in circumstances where no export bill of entry is submitted before export, when the goods are deemed to have been exported under section 38(3)(b).

9. Application for refunds

An application for refund of export duty on goods specified in Part 6 of Schedule No. 1 shall be paid or granted in accordance with the provisions of section 76. Under section 76(4) no application for a refund or payment under section 76 shall be considered by the Commissioner unless it is received by the Controller, duly completed, and in the form as may be prescribed by rule and supported by the necessary documents and other evidence to prove that such refund or payment is due under section 76 within a period of two years from the date on which the charge to which the application relates was paid or in any other case within the relevant period specified in section 76B.

Under section 76B(1A) where any person becomes entitled to a refund of export duty, such refund shall be limited to an application received by the Controller within a period of two years from the date of entry for export of the goods to which the application relates.

Section 76(2)(a) to (h) prescribes the circumstances under which any application for a refund or payment from any applicant who contends that he or she has paid any duty or other charge for which he or she was not liable or that he is entitled to any payment under this Act by reason of –

- (a) an error in determining an assessment or calculating the amount thereof;
- (b) the duty having been assessed on a value higher than the value for duty purposes;
- (c) a determination under section 47(9) or incorrect tariff classification;
- (d) the goods concerned having been damaged, destroyed or irrecoverably lost by circumstances beyond his or her control before the release thereof for home consumption, or in the case of goods destined for export, after the release thereof but before the departure of the goods from the Republic: Provided that, for purposes of section 76, such circumstances exclude damage, destruction or loss of goods due to robbery or theft;
- (e) all or part of such goods having been shortlanded, shortshipped or shortpacked in the case of imported goods, or shortshipped or shortpacked in the case of goods exported;
- (f) the substitution of any bill of entry under section 40(3);
- (g) the duty having been reduced or withdrawn as provided for in section 48(2), (2A) or (4), 56(2), 56A(2) or 57(2); or
- (h) duty having been paid, notwithstanding the provisions of section 49(9), on any goods at the general rate of duty specified in respect thereof in any heading or subheading in Part 1 of Schedule No. 1, and proof is produced that the goods concerned qualify for a preferential rate of duty specified for such heading or subheading in the said Part 1 of the said Schedule No. 1.

10. Permit requirements for export

Under section 113(2) goods that purport to have been imported or exported under a permit, certificate or other authority under any provision of this Act or any other law shall be deemed to have been imported or exported in contravention of such provision, unless the permit, certificate or other authority in question is produced to the Controller.