



Customs Duty and Value-Added Tax Treatment of Goods Forwarded Free as a Donation

Customs & Excise



South African Revenue Service

Customs Duty and Value-Added Tax Treatment of Goods Forwarded Free as a Donation

Preface

The guide enhances the understanding of the payment of value-added tax (VAT) on goods imported into the Republic. 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

For more information, assistance and guidance you may –

- visit the **SARS website**;
- contact the SARS National Contact Centre –
 - if calling locally, on 0800 00 7277;
 - if calling from abroad, on +27 11 602 2093 (only between 8h00 and 16h30 South African time);
- have a virtual consultation with a SARS consultant by making an appointment via the **SARS website**;
- visit your nearest SARS branch office, preferably after making an appointment via the **SARS website**; or
- contact your own tax advisor or tax practitioner.

Comments on this guide may be e-mailed to **C&E_LegislativeComments@sars.gov.za**.

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1. Purpose

This guide enhances the understanding of the payment of the customs duty and VAT treatment of goods forwarded free as a donation.

2. Introduction

Many organisations are increasingly dependent on donor assistance from abroad for the upliftment of indigent people. However, import value-added tax (VAT) and customs duty may be leviable on goods that are imported into South Africa. The Value-Added Tax Act 89 of 1991 (VAT Act) and Schedule 4 of the Customs and Excise Act 91 of 1964, (the Act) provide for an exemption of VAT and a rebate of customs duty on goods forwarded free as donation to certain organisations in the Republic subject to certain conditions.

3. Legislative framework

3.1 Schedule 4 to the Customs and Excise Act 91 of 1964

Section 47 of the Act imposes customs duty on all imported goods in accordance with the duty rates described in Schedule 1 to the Act. Rebate items 405.04/00.00/04.00; 405.04/00.00/05.00 and 405.04/00.00/06.00 of Schedule 4 to the Act provide for rebate of duty on goods forwarded unsolicited and free as a donation subject to certain conditions to specified organisations.

Table 1: Schedule 4 rebate items

Rebate item	Description	Extent of rebate
405.04/00.00/04.00	Goods (excluding clothing) forwarded unsolicited and free to any organisation registered in terms of the National Welfare Act, 1978 (Act No. 100 of 1978), entered in terms of a specific permit issued by the International Trade Administration Commission, for the distribution free of charge by such organisation	Full duty
405.04/00.00/05.00	Goods (excluding clothing) forwarded unsolicited and free to any organisation registered in terms of the National Welfare Act, 1978 (Act No. 100 of 1978), entered in terms of a specific permit issued by the International Trade Administration Commission, for the official use by such organisation	Full duty

Rebate item	Description	Extent of rebate
405.04/00.00/06.00	<p>Goods (excluding foodstuffs and clothing) forwarded free, as a donation to any educational organisation, hospital (including clinic), welfare organisation, religious organisation or sporting organisation, in such quantities and under such conditions as the International Trade Administration Commission, may allow by specific permit and that the Commission is satisfied that the issuing of such permit will not have a detrimental effect on local industry within the common customs area: Provided that the applicant and anybody responsible for the distribution have furnished an undertaking that –</p> <ul style="list-style-type: none"> (a) such goods are for use by the organisation or for free distribution; (b) such goods will not be sold, leased, hired or otherwise disposed of for gain without the duty which has been rebated being paid to the Commissioner; and (c) no donation or other counter-performance may be accepted by anybody in respect of such goods. 	Full duty

3.2 Value-Added Tax Act 89 of 1991

Section 7(1)(b) of the VAT Act imposes VAT on the importation of any goods into the Republic by any person. Section 13 of the VAT Act provides for the collection of VAT on importation of goods, determination of value of such goods and exemptions from VAT. Paragraph 5 of Schedule 1 to the VAT Act provides for an exemption from the payment of VAT on imported goods forwarded unsolicited and free of charge by a non-resident subject to certain conditions.

Paragraph 5 of Schedule 1 to the Value-Added Tax Act, 1991

“5. Goods permitted under conditions prescribed by the International Trade Administration Commission which are forwarded unsolicited and free of charge by a non-resident to—

- (a) a public authority or a municipality; or
- (b) any association not for gain which satisfies the Commissioner that such goods will be used by that association exclusively—
 - (i) for educational, religious or welfare purposes; or
 - (ii) in the furtherance of that association’s objectives directed to the provision of educational, medical or welfare services or medical or scientific research; or
 - (iii) for issue to, or treatment of, indigent persons:

Provided that the recipient of the goods responsible for the distribution has furnished an undertaking that—

- (a) such goods are for the exclusive use by the organisation or for free distribution;

- (b) such goods will not be sold, leased, hired or otherwise disposed of for gain; and
- (c) no consideration or other counter-performance may be accepted by any person in respect of such goods.”

4. Requirements

4.1 Registration as an importer

Any qualifying organisation under the rebate items that intends to import goods into South Africa must register as an importer with the South African Revenue Service (SARS) before making the application for an import permit or rebate permit.

Please consult *Registration, Licensing and Designation – External Policy SC-CF-19*, available on the **SARS website**, for further guidance.

4.2 Import permit

The importation of all goods listed in the Import Control Regulations of the International Trade Administration Act 71 of 2002, including used and second-hand donated goods, is subject to import control measures. Used or second-hand donated goods require an import permit. An import permit will not be issued for the importation of donated imported dutiable goods unless the applicable valid rebate permit has been issued.

No import or rebate permit will be granted for the importation of donated second-hand clothing under rebate items 405.04/00.00/04.00; 405.04/00.00/05.00 and 405.04/00.00/06.00 as these items expressly exclude the importation of all clothing. However, certain items of second-hand clothing such as overcoats, car-coats, raincoats, anoraks, ski-jackets and duffle-coats, may be imported under partial rebate of duty under rebate item 460.11.

To apply for an import permit to import used donated goods that are duty free, the prescribed application form must be completed and submitted to the Import and Export Control Unit at the International Trade Administration Commission (ITAC) together with a confirmation letter and invoices from the donor confirming that the goods in question are in fact donated goods. The application form for the importation of donated used goods that are dutiable must also include a copy of the relevant valid rebate permit, in addition to the abovementioned documentation. Application forms not duly completed are deficient and cannot be considered. All requested information must be provided, and documentation be attached to the application forms.

The forms are available on the ITAC website at **www.itac.org.za**.

4.3 Rebate permit

To qualify for the rebate of customs duty under rebate items 405.04/00.00/04.00; 405.04/00.00/05.00 and 405.04/00.00/06.00, a permit for rebate of duty will be required.

More information regarding rebate permit applications is available on the ITAC website at **www.itac.org.za**, by selecting Services followed by Tariff Investigations.

4.4 Application for value-added tax exemption

Goods that have been donated by a non-resident to an association not for gain and imported by that association under conditions prescribed by ITAC may be exempt from VAT on importation. The association not for gain must satisfy SARS that the goods will be used exclusively –

- for educational, religious or welfare purposes;
- in the furtherance of that association's objectives directed to the provision of educational, medical or welfare service or scientific research; or
- for issue to (or treatment of) indigent persons, free of charge.

More information regarding the application process, documents and information that must be submitted to SARS (before clearing the goods) relating to each donation received can be obtained by e-mailing VATExemption@sars.gov.za

5. Clearance of goods

A SAD 500 customs declaration form must be submitted to SARS to clear and obtain release of the goods. Used or second-hand goods, whether received as a donation or as result of a commercial transaction, will be released by SARS only if the declarant has an ITAC import permit. SARS will rebate the duty payable provided the declarant has a rebate permit. As the goods are supplied free of charge "NC" must be entered in the "Actual Price" field on the customs declaration. Further, the value-added tax exemption (VTE) code, the reference number, and date of such permission must be reflected in the "Additional Information Code" field.

Further guidance is available in the *Completion of Declarations – External Annex SC-CF-55-A01*, which is available on the **SARS website**.