



Special Shops for Diplomats

Customs & Excise



South African Revenue Service

Special Shops for Diplomats

Preface

This guide has been prepared to provide an overview of the key legislative requirements under the Customs and Excise Act 91 of 1964 applicable to special shops for diplomats.

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 8am and 4:30pm 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**.

Legislative Policy: Customs and Excise
SOUTH AFRICAN REVENUE SERVICE
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1. Purpose

This guide provides an overview of the key legislative requirements under the Customs and Excise Act, 91 of 1964 (the Act) applicable to special shops for diplomats.

2. Introduction

The Department of International Relations and Cooperation (DIRCO) is responsible for managing diplomats' and foreign representatives' entitlement to immunities and privileges under the Diplomatic Immunities and Privileges Act 37 of 2001, (DIPA).

To provide for the duty-free privileges under the DIPA, the Act provides for rebate items under Schedule 4 for goods to be imported under rebate of duty for the official use of missions and for personal use of diplomats.

Rebate items under Schedules 4 and 6 of the Act also provide for goods to be sold from a special shop for diplomats licensed by the Commissioner, duty-free, to missions for their official use, and to diplomats for their personal use. Section 21(3)(e) of the Act provides for the Commissioner for SARS to prescribe rules regulating special shops for diplomats. The Commissioner is thus responsible for the licensing, administration and regulation of special shops for diplomats.

3. Customs and Excise Act, 1964

The following table refers to the **key provisions** under the Act that are relevant. This table is not exhaustive and other provisions under the Act may also find application.

CUSTOMS AND EXCISE ACT, 1964	
Section	
20	Goods in customs and excise warehouses
21	Special customs and excise warehouses
38	Entry of goods and time of entry
39	Payment of duties
60	Licence fees according to Schedule No. 8
75	Specific rebates, drawbacks and refunds of duty
120	Regulations and rules
101	Business accounts, documents etc to be available for inspection
101A	Electronic communication for the purposes of customs and excise procedures

Rules under the Customs and Excise Act, 1964	
Rule	
21.05.01	Definitions
21.05.02	Prohibition in relation to selling goods free of duty to persons entitled to diplomatic immunities or privileges
21.05.03	Application for, and refusal, suspension or cancellation of, a licence
21.05.04	Places where special shops for diplomats may be licensed and premises which may be included
21.05.05	Storage of, and marking and ticketing, labelling or otherwise marking of, duty-free goods
21.05.06	Prohibited or restricted goods
21.05.07	Persons to whom goods in a special shop for diplomats may be sold and allowable quantities
21.05.08	Sales in a special shop for diplomats
21.05.09	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
21.05.10	Inventory control
21.05.11	Keeping of books, accounts and documents
21.05.12	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
21.05.13	Commencement of these rules

Schedules to the Act – Tariff Book	
Schedule	
Schedule No. 4 Part 1	Rebate item 406.00 Goods for Heads of State, Diplomatic and other Foreign Representatives
Schedule No. 6	<ul style="list-style-type: none"> • Rebate item 618.01 applies to the excisable goods specified therein, supplied for use by the diplomatic and other foreign representatives mentioned in rebate item 406.02, 406.03 or 406.05 of Schedule No. 4, subject to the requirements of those rebate items and the provisions of Notes 1 to 7 to the rebate item 406.00. • Rebate items 619.01 (01.01), 619.01 (02.01) and 619.01 (03.01) apply to excisable goods specified therein, supplied for use by the diplomatic and other foreign representatives mentioned in rebate item 406.02, 406.03 or 406.05 of Schedule No.4, subject to the requirements of those rebate items and the provisions on Notes 1 to 7 of rebate item 406.00. • Rebate items 620.01, 620.02 and 620.03 apply to the excisable goods specified therein, supplied for use by the diplomatic and other foreign representatives mentioned in rebate item 406.02, 406.03 or 406.05 of Schedule No. 4, subject to the requirements of those rebate items and the provisions of Notes 1 to 7 to rebate item 406.00. • Rebate item 621.02 applies to the excisable goods specified therein, supplied for use by the diplomatic and other foreign representatives mentioned in rebate item 406.02, 406.03 or 406.05 of Schedule No. 4, subject to the requirements of those rebate items and the provisions of Notes 1 to 7 to rebate item 406.00. • Rebate items 622.05, 622.07 and 622.08 apply to the excisable goods specified therein, supplied for use by the diplomatic and other foreign representatives mentioned in rebate item 406.02, 406.03 or 406.05 of Schedule No. 4, subject to the requirements of those rebate items and the provisions of those rebate items and the provisions of Notes 1 to 7 to rebate item 406.00. • Rebate item 631 applies to goods for diplomatic and other foreign representatives.
Schedule No. 8	Licences

The Act, Schedules to the Act and Rules are available on the **SARS website** under Legal Counsel ⇒ Primary Legislation (the Act and Schedules to the Act) and Secondary Legislation (Rules).

4. What is a special shop for diplomats?

A special shop for diplomats is a special customs and excise warehouse licensed under the Act¹ for the duty-free retail sale of goods to a person entitled to diplomatic immunities or privileges under the DIPA and includes any storage facilities on the premises.

“Duty-free”, in relation to goods sold in a special shop for diplomats, means goods sold at a price that does not include any duty leviable under the Act.

5. Who is permitted to sell goods free of duty to persons entitled to diplomatic immunities and privileges?

No person, except a person selling new motor vehicles contemplated below, may sell goods free of duty to persons entitled to diplomatic immunities and privileges under the DIPA, unless the premises where such goods are sold are licensed as a special shop for diplomats.²

New motor vehicles free of duty may be sold to persons entitled to diplomatic immunities and privileges under the DIPA by –

- the importer of a new motor vehicle entered for storage in a customs and excise storage warehouse, in terms of rebate item 406.02, 406.03, 406.04, 406.05 or 406.07;
- the licensee of a customs and excise storage warehouse, in terms of rebate item 406.02, 406.03, 406.04, 406.05 or 406.07; or
- the licensee of a special customs and excise manufacturing warehouse, in terms of rebate item 631.00.

6. Which goods may be sold in a special shop for diplomats?

Bonded goods and goods in free circulation may be sold in a special shop for diplomats.

“Bonded goods” mean 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, and stored for retail sale in a special shop for diplomats.³

“Goods in free circulation”, means goods that are not subject to any customs or excise procedure contemplated under the Act, and includes goods on which value-added tax (VAT) has been paid or exempted.⁴

Goods in respect of which the importation, possession or exportation is prohibited or restricted, may not be sold in a special shop for diplomats.

¹ See section 60 read with rule 21.05.03 to the Act.

² See rule 21.05.02 to the Act for prohibition in relation to selling goods free of duty.

³ See rule 21.05.01 to the Act for the definition of “bonded goods”.

⁴ See rule 21.04.01 to the Act for the definition of “goods in free circulation”.

7. To whom may a licensee of a special shop for diplomats sell goods?

A licensee may sell goods only to a person entitled to diplomatic immunities or privileges under the DIPA, who is in possession of a valid diplomatic identity card issued to that person by DIRCO, certifying such entitlement and the level of privileges granted.

8. May persons entitled to diplomatic immunities and privileges trade in goods obtained under rebate of duty?

No. The onward supply of goods obtained free of duty from a special shop for diplomats for reward or financial gain is prohibited.⁵

9. Is there a quota system for purchases of alcohol and tobacco?

Yes. The rebate of duty on alcohol and tobacco products obtained at a licensed special shop for diplomats is subject to approval of an application, made by persons contemplated in rebate items 406.02, 406.03 and 406.05, on a six-monthly basis (1 January to 30 June, and 1 July to 31 December) to the Director-General: DIRCO or an official acting under his or her authority, authorising the quantities referred to in the items thereto or such lesser or greater quantities as may be determined by DIRCO.⁶

The six-monthly allowance is not transferable to the following six-month period and unused allowances lapse at the end of the six-month period.

Alcohol and tobacco in a special shop for diplomats may thus be sold only to a person entitled to diplomatic immunities or privileges under the DIPA who is in possession of –

- a six-monthly approval by the Director-General of DIRCO 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, set out in rebate items 406.02, 406.03, 406.05 and 406.07 respectively; and
- in accordance with the allowable quantity per person per category of goods referred to above.

10. What are the requirements for application for a licence to operate a special shop for diplomats?

Any person who intends operating a special shop for diplomats must apply for a special customs and excise storage warehouse license in accordance with rule 60.01A(b)(ii).⁷

For more information on application for, refusal, suspension or cancellation of a licence for a special shop for diplomats please refer to SC-CF-19 – Registration Licensing and Designation - External Policy available on the **SARS website**.

⁵ See Note 7 to rebate item 406.00.

⁶ See Note 5 to rebate item 406.00.

⁷ See rule 21.05.03 to the Act.

11. Where may special shops for diplomats be licensed?

A special shop for diplomats may be licensed only in the metropolitan areas of Tshwane, Johannesburg and Cape Town.⁸

A single licence for a special shop for diplomats may be issued in respect of –

- the premises where bonded goods or goods in free circulation for sale in the shop are stored; and
- the separate premises where those goods are sold.

12. What are the requirements relating to storage of, and marking and ticketing, labelling or otherwise marking of, duty-free goods?

Bonded goods in the storage section of a special shop 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.⁹

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.

13. What are the requirements relating to sales in a special shop for diplomat?

The licensee of a special shop must in respect of each sale issue a serially numbered sales receipt or other sales document specifying –¹⁰

- the customs and excise code of the special shop for diplomats;
- the date of sale;
- the precise description and the stock inventory code of the goods;
- the selling price of the goods in South African Rand;
- the rebate item utilised and quantity of goods purchased per category described in the relevant item; and
- the number and expiry date of the diplomatic identity card issued to the person by DIRCO, certifying such entitlement and the level of privileges granted.

The licensee of a special shop for diplomats must –

- retain the original sales receipt or other sales document for record purposes; and
- provide a copy of the sales receipt or other sales document to the purchaser.

⁸ See rule 21.05.04 to the Act.

⁹ See rule 21.05.05 to the Act.

¹⁰ See rule 21.05.08 to the Act.

The licensee of a special shop for diplomats must further endorse the purchaser's approval referred to in 9 with –

- the date of sale;
- the category of goods purchased;
- in respect of each category, the quantity purchased and the remaining allowable quantity for the period;
- a stamp reflecting the customs and excise code of the special shop; and
- the signature of a shop official designated by the licensee to sign off on sales of allowable quantities, confirming the sale of the goods.

14. What are my obligations regarding delivery of a form SAD 500?

Licensees of special shops for diplomats must submit a form SAD 500 (bill of entry) to record accurately the bonded goods received in such a shop that have been sold, lost, destroyed or damaged.¹¹

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 –

- that have been sold in terms of rebate items 406.02, 406.03, 406.05 and 406.07 respectively; and
- that have been lost, destroyed or damaged.

Separate forms SAD 500 must be delivered for –

- locally produced bonded goods that have been sold in terms of rebate items 406.02, 406.03, 406.05 and 406.07 respectively;
- imported bonded goods that have been sold in terms of rebate items 406.02, 406.03, 406.05 and 406.07 respectively;
- locally produced bonded goods that have been lost, destroyed or damaged; and
- imported bonded goods that have been lost, destroyed or damaged.

Each form SAD 500 delivered for locally produced and imported bonded goods sold must be supported by a list of all sales receipts or other sales documents and the dates of issue in respect of each period.

Each form SAD 500 delivered in respect of bonded goods received in the special shop that have been lost, destroyed or damaged must –

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

¹¹ See rule 21.05.09 to the Act.

15. What inventory control requirements must be established and maintained?

Each licensee must establish and maintain an inventory control system approved by the Commissioner.¹²

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

- document such goods on the inventory system; and
- assign to such goods a unique inventory code against which the information listed below must be available in respect of the goods –
 - a precise description of the goods, clearly distinguishing between the types of goods;
 - the quantities, volume or weight of goods received and date of receipt;
 - the reference number and date of the sales invoice or other sales document issued upon sale of the goods, and the date of removal;
 - an indication that the goods are lost, destroyed or damaged, in the case of goods being lost, destroyed or damaged;
 - current balances on quantities of bonded goods; and
 - any other particulars as may be specified by the Commissioner.

16. What are my record-keeping requirements?

A licensee must –¹³ –

- keep proper books, accounts, 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;
- include in such books, accounts, 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
- 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.

Such books, accounts, documents, and data must include, as applicable –

- proper accounting records of each type of goods received, stored and sold;
- monthly and year-end balances of goods that remain unsold;
- copies of bills of entry, invoices, orders for goods, delivery notes and payments received and made;
- copies of forms SAD 500 and supporting documents;

¹² See rule 21.05.10 to the Act.

¹³ See rule 21.05.11 to the Act.

- sales invoices or other sales documents.

The following details in respect of any person who purchased goods from the special shop for diplomats must be retained:

- The name and passport or travel document number
- The number and expiry date of the diplomatic identity card
- Any other documents the Commissioner may specify