

CUSTOMS AND EXCISE
EXTERNAL STANDARD
LEGAL ENTITY

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1 SUMMARY OF MAIN POINTS

- a) This standard describes the legislative requirements to register a person who has applied to SARS for Legal Entity (LE) or to manage/maintain such LE profile or amend registration details.
- b) This document relates to the following new or existing Customs and/or Excise client types or warehouses:
- i) Customs client types -**
- A) Importer (Local or Foreign);
 - B) Exporter (Local or Foreign):
 - I) Exporter for SADC, TDCA and SACU)/EFTA;
 - II) Exporter for AGOA;
 - III) Approved Exporter – TDCA or SACU/EFTA; or
 - IV) Exporter GSP (various countries).
 - C) Rebate User (Schedule 3 or 4);
 - D) Special Manufacturing Warehouse: APDP;
 - E) Electronic Communication with SARS;
 - F) Producer;
 - G) Industrial Development Zone (IDZ) Operator and/or designation of a Customs Controller Area (CCA);
 - H) Deferment;
 - I) Manufacturers in terms of drawback items 501.00 to 521.00;
 - J) Clearing Agent;
 - K) Remover of goods in Bond (Local or Foreign);
 - L) Nomination of registered agent by foreign principal;
 - M) Registered Agent; and
 - N) Customs warehouses:
 - I) Special Manufacturing Warehouse (APDP);
 - II) Storage Warehouse;
 - III) Special Storage Warehouse;
 - IV) Storage Warehouse (Customs Controlled Area Enterprise): and
 - V) Manufacturing Warehouse (Customs Controlled Area Enterprise).
- ii) Excise client types:**
- A) Rebate User (Schedule 6);
 - B) Commercial manufacturer of biodiesel;
 - C) Non-commercial manufacturer of biodiesel;
 - D) Electricity producer; and
 - E) Excise warehouses:
 - I) Special Manufacturing Warehouse;
 - II) Manufacturing Warehouse;
 - III) Storage Warehouse; and
 - IV) Special Storage Warehouse.
 - F) Licensed Distributor of Fuel (LD) - Although not an Excise “warehouse”, Section 60 read with Section 64F stipulates that any person, other than the licensee of a fuel manufacturing warehouse, who wishes to claim a refund on fuel has to license as an LD with SARS. Such refunds can only be claimed on fuel obtained at any place in South Africa from duty paid stocks of a fuel manufacturing warehouse for delivery to any destination outside South Africa.
- c) This standard does not cover the following taxes:
- i) Income Tax;
 - ii) VAT;
 - iii) PAYE; or
 - iv) SDL.
- d) This standard does not cover:**
- i) Excise licensing and registration procedures as these are dealt with in SE-FS-02 and SE-FS-21 respectively, i.e. Inspections, cancellations/suspensions; and**

- ii) Customs licensing and registration procedures as these are dealt with in SC-CF-19, i.e. Inspections, cancellations/suspensions.

2 STANDARD

2.1 Registration and maintaining Legal Entity details

- a) Any individual who wishes to interact with SARS in relation to any Customs and/or Excise functionality such as a Clearing agent, warehouse, etc for the **first time** must physically present themselves to the nearest SARS Branch Office (B/O) in order to register as a Legal Entity (LE).
- b) Where a representative submits an application on behalf of a client (i.e. a legal entity), the representative's details must also be captured.

2.2 Authentication

- a) The Capturer must confirm the identity details provided by face-to-face validation and also ensure that supporting documents match the third party data details provided on the proof of address, business and banking details.
- b) To enable Customs or Excise staff to authenticate the applicant or representative in person the following documents must be provided when the person approaches the Customs or Excise Branch Office:
 - i) Original identity document, driver's licence or passport or a temporary identity document/ passport of the applicant/representative; or
 - ii) Certified copy of identity document, driver's licence or passport or temporary identity document/ passport of the applicant/representative; and
 - iii) Original resolution/authorisation specifying who is authorised to act on behalf of the applicant (Company, Trust, Close Corporation, etc.) if applicable.
- c) A letter of authority is required when the applicant sends a representative to Customs or Excise for the authentication process.
- d) **The representative must have the letter of authority signed by the Directors giving such authority and this is different to the resolution. Further the representative must bring in a certified copy of their ID together with the letters from Directors.**

2.3 Supporting documents

- a) The following supporting documents are mandatory, depending on the client type applied for and must be submitted with the DA 185 application:
 - i) Registration certificate of the business as issued by the Registrar of Companies [i.e. the Companies and Intellectual Property Commission (CIPC)], Founding Statement, Memorandum of Association or Master of the Supreme Court in the case of a Trust;
 - ii) Identity document, driver's license or passport of individual, partners, all members of a close corporation, trustees and all directors of a company;
 - iii) If a company: A resolution to apply passed at a meeting of the board of directors;
 - iv) Proof of physical address of licensed or registered premises;
 - v) A4 copy of the site plan of such premises;
 - vi) Asset register (plant and machinery);
 - vii) Agreement for warehouse applications;
 - viii) User Agreement for Electronic Data Interchange (EDI);
 - ix) Agreement in terms of Rule 64F for licensed distributor of fuel applications;
 - x) Certificate of value of ad valorem goods for manufacturers of ad valorem goods applications;
 - xi) Declaration for exemption from licensing as a commercial bio-diesel manufacturer applications (Non-commercial);
 - xii) Declaration for exemption from licensing and payment per calendar year, including audited financial statements for ad valorem purposes;
 - xiii) Letter of authority;
 - xiv) Trade agreement for Approved Exporter;

- xv) Rebate User must have a Rebate permit;
 - xvi) Surety in form of a bond;
 - xvii) IDZ permit for Industrial Development Zone Operator;
 - xviii) Curriculum Vitae for Clearing Agent and a Clearing Agent Agreement;
 - xix) Remover Agreement;
 - xx) User agreement for Electronic User;
 - xxi) IDZ permit and business plan for a IDZ Operator or CCA;
 - xxii) Remover Agreement and a DA 188 for a Remover of goods in bond;
 - xxiii) Clearing Agent Agreement;
 - xxiv) Proof of land for a Container Depot, Degrouping and Transit Shed;
 - xxv) A4 copy of Building Plan;
 - xxvi) Self-Assessment, Accreditation and Curriculum Vitae for Accreditation; and
 - xxvii) Surety for Road Bond;
 - xxviii) A South African registered user who is responsible for supplying data electronically to, and who is entitled to receive data from the Commissioner, may apply for electronic communication with SARS. A covering letter on an official company letterhead requesting digital certificate from SARS. This covering letter must state the company particulars, the client Customs/Agent code and whether the applicant is a new or existing EDI user.
- e) This document also prescribes the relevant procedures to be followed when a Customs or Excise client or his/her representative visits the Customs and Excise Branch Office (B/O) to apply for registration. The registration processes for Customs and Excise are initiated through the LE Registration (LER) performed on the RAV01 via the SARS Service Manager (SSM).

2.4 Applications received at the branch office

2.4.1 Application processing

- a) All DA 185 licence and registration applications together with the relevant supporting documents must be submitted to a Customs or Excise B/O via walk-in.
- b) When an application is submitted, it can be for a **new** registration implying that no Customs/Excise number exists for the specific client.
- c) For sensitive changes or new registrations the official company representative will have to come into the B/O for authentication and registration purposes.
- d) The client/representative must engage with the capturer to assist with the registration or maintenance of any Customs and/or Excise product.
- e) For existing licenses and registrations a messenger, clearing agent or representative can come into the B/O to make non-sensitive changes or amendments to their current profiles. A once off mandate is required in order to change information.

2.4.2 Perform physical authentication

- a) First time applications for any Excise functionality and current clients amending any of their profile details (DA 185) must physically present themselves at the nearest Excise B/O to authenticate the applicant or representative in person.
- b) The application (DA 185) must be supported by the supporting documents as called for on the DA 185.
- c) To enable Excise staff to authenticate the applicant or representative in person the following documents must be provided when the person approaches the Excise B/O:
 - i) Original identity document, driver's licence or passport or a temporary identity document/passport of the applicant/representative; or
 - ii) Certified copy of identity document, driver's licence or passport or temporary identity document/passport of the applicant/representative; and
 - iii) Original resolution/authorisation specifying who is authorised to act on behalf of the applicant (company, trust, close corporation, etc.) if applicable.

- d) A letter of authority is required when the applicant sends a representative to Excise for the authentication process.

2.5 Finalise case

- a) Electronic signature:
- i) The implementation of the electronic signature pad eliminates the need to print two (2) copies for the client to sign, as well as forwarding the forms for scanning. Customs or Excise B/O are advised not to forward signed copies of the RAV01 for scanning if an electronic signature was obtained via the signature pad.
- b) Manual signature:
- i) If the client, who submitted the RAV01 is an illiterate person and cannot sign the form or if the signature pad is not available/working, the client will not sign on the signature pad.
- ii) Select the RAV01 for the representative client to read the declaration, sign and date the form.
- iii) If the person is illiterate, place the client's finger print in the signature box.

2.6 Portfolio corrections (maintain or change profile details)

- a) **Where a messenger, clearing agent or representative submits an application for profile amendments or changes on behalf of a client (e.g. identity details, bank detail, address etc.) the request for amendments or changes can be done at a Customs or Excise B/O.**
- b) Information on the representative clients, members, trustee, beneficiaries, partners and directors of the registrants are also recorded through the LE process which are managed through the registration of information such as the:
- i) Identity number,
- ii) passport number,
- iii) Company/cc/trust registration numbers; and
- iv) Contact details –
- A) Addresses;
- B) Telephone numbers; and
- C) Bank details.
- c) A request to update the client's or his / her representative's '**Sensitive**' and '**Controlled**' details may be received -
- i) **Sensitive** information contains the following:
- A) Identity details for individuals and registration details for Trusts, and Companies; and
- B) Bank detail changes.
- ii) **Controlled** information comprises of the below:
- A) Address details;
- B) Contact details; and
- C) Relationship/representative details.

3 RELATED INFORMATION

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: Section 59A and 64F Customs and Excise Rules: Rules 59A.00 to 59A.11(2) and 64F.01 to 64F.07
Other Legislation:	Companies Act, No. 71 of 2008 Promotion of Administrative Justice Act, No. 3 of 2000 Diplomatic Immunities and Privileges Act No. 37 of 2001 Co-Operatives Act No. 14 of 2005 Close Corporations Act No. 69 of 1984 Companies Act No. 61 of 1973 Trust Property Control Act No. 57 of 1988 Sectional Titles Act No 95. Of 1986
International Instruments:	Vienna Convention on Diplomatic Relations, 1961 Vienna Convention on Consular Relations, 1963

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
SC-CF-19	Licensing Registration and Designation – External Policy
SE-FS-02	Licensing – External Standard
SE-FS-21	Registration – External Standard

3.3 Quality Records

Number	Title
CRA 01	Confirmation of Residential Address/Business Address
DA 185	Application Form: Registration/Licensing of Customs and Excise Clients
ECS-LER-01-A02	Checklist for supporting documents
RAV 01	Registration, Amendment and Verification form

4 DEFINITIONS AND ACRONYMS

AGOA	African Growth and Opportunity
APDP	Automotive Production and Development Programme
B/O	Branch office
CC	Closed Corporation
CCA	Customs Controller Area
CIPC	Companies and Intellectual Property Commission
EDI	Electronic Data Interchange
EFTA	European Free Trade Association
GSP	Generalised System of Preferences
ID	Identity Document
IDZ	Industrial Development Zone
LD	Licensed Distributor of Fuel
LE	Legal Entity
Legal Entity	Any individual (including Company/Trust/CC) that want to interact with SARS must first register themselves as a Legal Entity before registering a tax product/type
LER	Legal Entity Registration
LOA	Letter of Authority
PAYE	Pay As You Earn
SACU	Southern African Customs Union
SADC	Southern African Development Countries
SARS	South African Revenue Service
Schedule 3	Industrial Rebates of Customs Duties
Schedule 4	General Rebates of Customs Duties, Fuel Levy and Environmental Levy
Schedule 6	Refunds and Rebates of Excise Duties, Fuel Levy and Environmental Levy
SDL	Skills Development Levy

SSM	SARS Service Manager
SM	Service Manager
TDCA	Development and Cooperation Agreement
T/L	Team Leader
VAT	Value Added Tax

5 DOCUMENT MANAGEMENT

Standard Owner	Executive: Compliance Centre Operations Executive: Customs Operations
Detail of change from previous revision	Due to system bugs being experienced paragraphs 1, 2.4.1 and 2.6 have been amended to assist clients.
Template number and revision	ECS-TM-03 - Rev 8