

**CUSTOMS**

**EXTERNAL POLICY**

**INVOICE REQUIREMENTS**

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## 1 SUMMARY OF MAIN POINTS

- a) The purpose of this policy is to document the minimum requirements on an invoice, as prescribed by law, in order to make due entry when importing goods.
- b) This document is for all Clients dealing with Customs controls and the pre- or post-clearance verification of the Customs declaration as described in SC-CF-55-A01, with specific focus on the invoice requirements.
- c) This policy does not cover the invoice requirements:
  - i) For exported goods; and
  - ii) For tax invoices which is prescribed in Sections 20(4) and 20(5) of the Value-Added Tax Act No. 89 of 1991.

## 2 POLICY

### 2.1 When an invoice is required

- a) Section 39(1)(c) requires the importer to produce documents including an invoice.
- b) In terms of Section 40 a Customs clearance declaration (CCD), amongst other requirements will not be valid if a correct and sufficient invoice, as prescribed, is not available on request. Any goods taken, delivered, or removed by virtue of an invalid CCD shall be deemed to be goods landed or taken without a due entry. Such goods would be considered “illicit goods” liable to forfeiture in terms of Section 87.

### 2.2 Types of invoices

| TYPE OF INVOICE | DESCRIPTION OR USE                                                                                                                                                                                                                 |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| C & F           | Cost and freight                                                                                                                                                                                                                   |
| CIF             | Cost, insurance and freight                                                                                                                                                                                                        |
| CIFI            | Cost, insurance, freight and interest                                                                                                                                                                                              |
| Commercial      | Generally indicate the final selling price(s) of the goods                                                                                                                                                                         |
| Consular        | Invoice declared before a consul (diplomat; ambassador; representative)                                                                                                                                                            |
| FAS             | Free alongside ship                                                                                                                                                                                                                |
| FOB             | Free on board                                                                                                                                                                                                                      |
| FOR             | Free on rail                                                                                                                                                                                                                       |
| Franco          | Includes freight, charges, duty, landing, railage, commission, profit, etc., for delivery at site in the country of destination and such documents must specify all the items separately in order to arrive at a correct FOB price |
| Loco            | First cost of goods, normally ex-works                                                                                                                                                                                             |
| Pro forma       | Produced in the absence of any invoice and should be examined to ascertain the correct nature, contents and quantity of the goods                                                                                                  |

### 2.3 Minimum requirements for an invoice to be accepted by Customs

- a) The clearance of goods for home use or any other Customs procedure requires that an invoice must:
  - i) Be in one (1) of the official languages;
    - A) If a client's invoices are in a foreign language, the Controller/Branch Manager may accept the invoices, if it is accompanied by translation certificates, completed by parties registered with the South African Translators Institute.
    - B) Arrangements must be made by the client with the Controller/Branch Manager for the official written acceptance of the foreign language invoice and translation certificates before presenting it to Customs as supporting documentation.
  - ii) Be issued by the supplier who exports the goods to South Africa;
  - iii) Be a true reflection of the transaction which is the cause for the goods to be exported to South Africa, including:
    - A) The nature of the transaction for example, an outright sales transaction, higher/lease or barter transaction;

- B) The goods to which the transaction relates; and
  - C) The amount **paid or** payable in terms of the transaction.
- iv) Reflect the country of origin;
- A) Where different rates of duty apply to goods originating from different territories or the extent of rebates under Schedule No. 3 is affected by the origin of the goods, completion of the certificates of origin (DA 59) is a pre-requisite for making due entry.
  - B) If no certificate of origin is produced the general rate of duty will be payable until the importer produces the certificate of origin.
- v) Display:
- A) The date of issue;
  - B) The name and physical address of the issuer;
  - C) The name of the person to whom the invoice is issued;
  - D) The price paid or payable:
    - I) Commissions;
    - II) Discounts;
    - III) Costs;
    - IV) Charges;
    - V) Expenses;
    - VI) Royalties;
    - VII) Freight costs;
    - VIII) Taxes;
    - IX) Drawbacks;
    - X) Refunds;
    - XI) Rebates;
    - XII) Remissions; or
    - XIII) Other information whatsoever that affects the price or price payable.
  - E) Any other information as may be prescribed by Rule, such as in the case of forward exchange contracts.
- vi) Contain all particulars necessary to make a valid entry (as defined in Section 40), assess the duty due and compile trade statistics, including:
- A) All particulars or information of the **final amount** of the transaction value;
  - B) Any proprietary or trade name of such goods; and
  - C) A full description of the nature and characteristics of such goods as at time of importation.
- b) The invoice must be a true reflection of the transaction which is the cause of the goods imported into South Africa, inclusive of the:
- i) Nature of the transaction.
  - ii) Goods to which the transaction relates; and
  - iii) Amount paid or payable in terms of the transaction.
- c) Description of the nature and characteristics of such goods.
- i) Section 41(2) makes provision for an identification number, code description, character or other mark to be allocated to goods of a class specified in the Rules, as the use of long trade descriptions is not practical. In such cases the importer must also be able to supply a list detailing what each code refers to.
    - A) The description of the goods given in the invoice must be sufficient in detail to enable the goods to be identified for tariff purposes.
    - B) Where the tariff classification depends on such factors as the physical characteristics of the goods, for example, weight, capability, composition, method of manufacture, etc. the description given on the invoice must include these particulars.
    - C) The quantity must be supplied.
  - ii) Section 41(3) stipulates that all particulars on an invoice must describe the goods as they are or will be at the time when imported into South Africa. If the goods are examined or analysed post clearance and the goods differ from those described on the invoice, Customs will deem the invoice to be incorrect, unless the importer can prove otherwise. Where a change in conditions between landing and examination or analysis is proven and the outcome is:
    - A) Not in favour of Customs, then the Commissioner may, in his/her discretion, insist on clearance according to the invoiced particulars; or
    - B) Not in favour of the importer and he/she can prove any changes and the extent thereof, then clearance can be made in accordance with the result of the examination or analysis.

## 2.4 Where the invoice contains inadequate information or no invoice is available

- a) Where goods are imported by private persons for own use (not for commercial purposes) and Customs can satisfy themselves that the revenue is not prejudiced in any way, the goods may, at Customs discretion, be released without the production of an invoice. This will not apply in cases where goods of a high value and liable to duties, for example, fur coats and jewellery, etc., are imported by private individuals. In such cases an invoice must be insisted upon or valuation must be resorted to.
- b) Sight declarations - Where no invoices are available and the goods are "sighted" importers may make "due entry after sight" in the usual manner in accordance with the result of the examination. If the examination has revealed sufficient detail to enable proper entry and the goods are not subjected to anti-dumping duty release may be granted against an indent or covering statement or other satisfactory evidence of value for permit or wharfage purposes.
- c) Section 41(4)(c) allows Customs to determine a transaction value (using the methods provided for by the Act), origin, date of purchase, quantity, description or the characteristics of such goods according to the best information available to Customs at such time, if:
  - i) Any particulars referred to in Section 41(4)(a) of any imported goods are not declared in the prescribed invoice;
  - ii) Any change in the particulars declared in any invoice relating to any imported goods which occurred after the date of issue of the invoice is not immediately reported to Customs by the importer; or
  - iii) If Customs has reason to believe that an offence referred to in Sections 86(f) or 86(g) has been committed in respect of any imported goods.
- d) Section 41(4)(c) empowers Customs to determine particulars when all other means of obtaining the correct particulars, for instance from the exporter (supplier or manufacturer) or the importer, have been exhausted.
- e) In the event that a conflict between the provisions of Sections 41(4)(c), 65(4) and 66(9) regarding the determination of the transaction value may exist, the specific value determination provisions of Sections 65(4) and 66(9) must prevail, taking into consideration the World Trade Organisation (WTO) Agreement.
- f) In dealing with invoices showing delivered prices (also called Franco invoices) the following should be borne in mind:
  - i) Freight, insurance, South African clearing charges, duty and railage to destinations which suppliers include in their selling price, are estimated and should consequently be verified in order to arrive at the correct FOB price; and
  - ii) Suitable provisional payments should be secured pending production of proof of the exact amounts paid to the service providers of these charges. Refer to SC-CR-A-04 and SC-CR-A-04-S01 and SC-CF-30-S01.

## 2.5 When an amended invoice required

- a) An invoice supporting the clearance of goods **must be amended if any change in the particulars referred to in Section 41(4)(a) is made to the invoice after the date it was issued to the importer, the supplier** of the imported goods must issue:
  - i) An amended invoice replacing the original invoice;
  - ii) Supplementary invoices if the original invoice is split; **or**
  - iii) **A debit or credit note if the amount(s) are changed on the original invoice.**
- b) The amended invoice accompanied by a statement setting out the reasons for the amendment and any documentary proof substantiating those reasons:
  - i) If it is necessary to insert information or correct any incorrect information on the invoice;

- ii) If the amount paid or payable in terms of the transaction as reflected by the original invoice is affected by an amount credited or debited by the issuer of the invoice;
  - iii) If a refund on the amount paid in terms of the transaction reflected by the original invoice has been made by or has become due to the issuer of the invoice;
  - iv) If payment other than the amount payable in terms of the transaction reflected by the original invoice has been made or has become due to the issuer of the invoice, whether directly or indirectly, in any manner and that payment affects the amount payable in terms of the transaction;
  - v) If there has been a change in the particulars, characteristics or nature of the goods after the date of issue of the invoice; or
  - vi) If splitting of the invoice is necessary for any reason, including for the purposes of facilitating tax administration.
- c) An invoice is amended by the issuing of:
- i) An amended invoice replacing the previous one (1);
  - ii) A supplementary invoice (if the invoice is split); or
  - iii) A debit or credit note.
- d) The Act places an obligation on the:
- i) **Supplier exporting the imported goods to South Africa to issue:**
    - A) **An amended invoice replacing the previous invoice; or**
    - B) **A credit or debit note if the amount(s) on the invoice is amended.**
  - ii) Importer to produce the amended invoice, **debit or credit note** to Customs within one (1) month of the date of receipt thereof and report the circumstances.
- e) No amended to an invoice is effective for Customs purposes:
- i) Unless and amended **CCD** has been submitted to notify Customs of the changes on the amended invoice, supported by:
    - A) The amended invoice or a debit or credit note;
    - B) A statement from the supplier of the goods explaining why the invoice was amended; and
    - C) Any other document providing evidence of the change in particulars or circumstances.
  - ii) If Customs refuses on good grounds to accept the amendment.

## 2.6 Keeping of records

- a) Every declarant must keep for record purposes for a period of five (5) years:
- i) Books, accounts and documents in respect of all transactions relating to the Rules for the purpose of any acquittal procedure; and
  - ii) Any data related to such documents created by means of a computer.
- b) The five (5) year period is calculated from the end of the calendar year in which the document was created, lodged or required (Sections 101 and 101A).
- c) Every declarant must produce such books, accounts and documents on demand.

## 2.7 Penalties

- a) Failure to adhere to the provisions of the Act is considered an offence.
- b) Offences may render the declarant liable to, as provided for in the Act:
- i) Monetary penalties (**SC-CO-01-02**);
  - ii) Criminal prosecution; and/or
  - iii) Suspension or cancelation of **their deferment account**, registration, license, accreditation and/or **designation**.

## 2.8 Promotion of Administrative Justice Act

- a) The Promotion of Administrative Justice Act (PAJA) No. 3 of 2000 gives effect to everyone's right to administrative action that is lawful, reasonable and procedurally fair. Any person whose rights have been adversely affected by administrative action has the right to be given written reasons, as contemplated in Section 33 of the Constitution of the Republic of South Africa, 1996. PAJA:
- i) Provides for the review of administrative action by a court or where appropriate, an independent and impartial tribunal;
  - ii) Imposes a duty on the State to give effect to those rights;
  - iii) Promotes an efficient administration as well as good governance; and
  - iv) Creates a culture of accountability, openness and transparency in the Public Administration or in the exercise of a public power or the performance of a public function, by giving effect to the right to just administrative action.
- b) Administrative action which significantly and unfavourably affects the rights or valid expectations of any person must be procedurally fair. A fair administrative procedure depends on the circumstances of each case.
- c) A person must be given:
- i) Written reasons of the nature and purpose of the proposed administrative action;
  - ii) A reasonable opportunity to make representations;
  - iii) A clear statement of the administrative action; and
  - iv) Adequate notice of any right of review or internal appeal, where applicable.
- d) Just administrative action requires the Customs Officer to consider all the facts presented and obtained in addition to affording the client the opportunity to be heard, prior to instituting any administrative action.
- e) Before administrative action can be taken by Customs the declarant must be allowed the opportunity to:
- i) Obtain assistance and, in serious or complex cases, legal representation;
  - ii) Present and dispute information and arguments; and
  - iii) Appear in person.
- f) Declarants whose rights have been significantly and unfavourably affected by administrative action and who have not been given reasons for the action may, within **thirty (30)** days after the date on which the declarant became aware of the action, request Customs to furnish written reasons for the action.
- g) Customs must within **forty five (45)** days after receiving the request, give the declarant adequate reasons in writing for the administrative action. If Customs fails to furnish adequate reasons for the administrative action, it is presumed in any proceedings for judicial review that the administrative action was taken without good reason.

## 2.9 Appeals against decisions

- a) In cases where declarants are not satisfied with any decision taken in terms of the Customs and Excise Act they have a right of appeal to the relevant appeal committee. The policy in this regard, as well as the process to be followed, is contained in document **SC-CA-02**.
- b) If declarants disagree with a decision of any appeal committee their recourse will be to lodge an application for ADR (Alternative Dispute Resolution) with the relevant appeal committee. The committee will add its comments thereto and forward the application to the ADR Unit for attention. The policy in this regard, as well as the process to be followed is contained in document SC-CC-26.

### 3 REFERENCES

#### 3.1 Legislation

| TYPE OF REFERENCE                           | REFERENCE                                                                                                                                     |
|---------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| Legislation and Rules administered by SARS: | <b>Customs and Excise Act No. 91 of 1964:</b> Sections 39(1)(c), 41(4)(a) to 41(4)(c)<br><b>Customs and Excise Rules:</b> Rule 41.01 to 41.05 |
| Other Legislation:                          | <b>Promotion of Administrative Justice Act No. 3 of 2000:</b> Section 3 & 5                                                                   |
| International Instruments:                  | <b>None</b>                                                                                                                                   |

#### 3.2 Cross References

| DOCUMENT #   | DOCUMENT TITLE                                   |
|--------------|--------------------------------------------------|
| SC-CA-02     | Internal Administrative Appeal – External Policy |
| SC-CC-26     | Alternative Dispute Resolution – External Policy |
| SC-CF-30-S01 | Invoice Requirements - External SOP              |
| SC-CF-55-A01 | Completion of Declarations – External Annex      |
| SC-CO-01-02  | Offences and Penalties - External Policy         |
| SC-CR-A-03   | Valuation of Imports - External Policy           |
| SC-CR-A-05   | Method 1 Valuation of Imports - External Policy  |

### 4 DEFINITIONS AND ACRONYMS

|                   |                                                                                                                                                                                                                                                                         |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| C & F             | Cost and Freight                                                                                                                                                                                                                                                        |
| CCD               | Custom clearance declaration                                                                                                                                                                                                                                            |
| CIF               | Cost, Insurance and Freight                                                                                                                                                                                                                                             |
| CIFI              | Cost, Insurance, Freight and Interest                                                                                                                                                                                                                                   |
| FAS               | Free Alongside Ship                                                                                                                                                                                                                                                     |
| FOB               | <b>INCOTERM:</b> Free on Board<br><b>Point of valuation:</b> FOB price (contract of sale) - All costs, charges and expenses up to the point where the goods are loaded into a container or, in the case of break bulk cargo, onto a ship or other vehicle, are dutiable |
| FOR               | Free on Rail                                                                                                                                                                                                                                                            |
| Transaction Value | Price actually paid or payable for the goods when sold for export to South Africa, adjusted in terms of Section 67                                                                                                                                                      |
| WTO               | World Trade Organisation                                                                                                                                                                                                                                                |

### 5 DOCUMENT MANAGEMENT

|                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Policy Owner                            | Director: Customs: Border Operations, Ports of Entry & Customs Compliance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Detail of change from previous revision | <ul style="list-style-type: none"> <li>a) Changed Customs declaration to Customs clearance declaration (CCD)</li> <li>b) Amend references from supplier to exporter when referring to an invoice</li> <li>c) Inserted references to SC-CO-01-02 - Offences and Penalty – External Policy.</li> <li>d) Amended the time periods in which clients may request Customs to furnish reasons for an action and in which Customs must respond to such a request to align with Rules 77H.02(4) and 77H.02(5)</li> <li>e) Changed the q-code of: <ul style="list-style-type: none"> <li>i) SC-CC-24 - Internal Administrative Appeal – Internal Policy to SC-CA-02; and</li> <li>ii) SC-CF-04 – Completion of Clearance Declaration – External Manual to SC-CF-55-A01.</li> </ul> </li> <li>f) Updated the Policy Owner from Group Executive: Customs Branch to Director: Customs: Border Operations, Ports of Entry &amp; Customs Compliance to align with the new SARS structure</li> </ul> |
| Template number and revision            | GC-TM-03 - Rev 9                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |