

CUSTOMS

EXTERNAL POLICY

**INBOUND AND OUTBOUND DUTY AND
TAX FREE SHOPS**

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1 SUMMARY OF MAIN POINTS

- a) A duty and tax free shop for the sale of goods to inbound and outbound travellers is a licenced facility in terms of Section 21(1) situated at approved international airports.
- b) The facility operates under the warehousing regime with specific accounting and record keeping principles to govern all goods taken on hand and removed to the retail outlet for sale.
- c) Goods sold in these facilities are sold at a price that does not include any duty leviable in terms of the Act or any value-added tax leviable in terms of the Value-added Tax Act (Act No. 89 of 1991).

2 POLICY

2.1 Basic requirements to operate a duty and tax free shop

- a) A duty and tax free shop may only be at one (1) of the international airports as designated in the Rules.
- b) Inbound duty and tax free shops must be located before the Customs control point for inbound travellers. Outbound duty and tax free shops must be located after the Customs control point for outbound travellers. The sales areas must be separated from the storage areas.
- c) Approval for a retail outlet facility and to open a duty and tax free shop must first be obtained from the authority managing the international airport, where after application to be licensed must be made to the Controller / Branch Manager on the prescribed forms (refer to SC-CF-19).
- d) The necessary security in terms of the Rules as determined by the Customs Branch Office must be furnished (refer to SC-SE-05).
- e) Sales from inbound duty and tax free shops are restricted to inbound travellers and sales from outbound duty and tax free shops are restricted to outbound travellers.
- f) Travellers arriving from or who embark to the BELN countries may not purchase bonded duty free goods but only goods in free circulation.
- g) Travellers from destinations outside the Southern African Customs Union (SACU) en route to a BELN country may purchase bonded goods.
- h) No monetary restriction will be placed on the duty and tax free shops with regards to sales made to any specific traveller.

2.2 Import clearance

- a) Goods may be imported and placed under a Customs warehouse regime, in terms of Section 38(1)(a), for purposes of being sold in a facility known as a duty and tax free shop licensed in terms of Section 21(1).
- b) All import clearances must be made on a Customs Clearance Declaration (CCD). Refer to SC-CF-55.
- c) The category procedure code (CPC) that must be utilised will be determined by the type of duty and tax free shop licensed:
 - i) If licensed as an outbound duty and tax free shop the CPC for warehouse for export only (E42-00) must be used.
 - ii) If licensed as an inbound or both inbound and outbound duty and tax free shop the CPC for warehousing (E40-00) must be used.
- d) All import control requirements (certificates, permits, letters of authority, etcetera) must be met at the time of clearance under the CPC for warehousing.

- e) Goods prohibited from importation and / or exportation may not be warehoused or sold to travellers.

2.3 Warehouse register and inventory control at time of importation

- a) All goods stored in the warehouse and placed on sale in the retail outlet facility must have a unique stock code:
 - i) Goods, for example cigarettes classified under tariff heading 2402.20.90, must be recorded in the register reflecting both the tariff classification and the stock code.
 - ii) A separate stock code must be allocated for each brand and its specific packaging.
 - iii) Cartons containing packets of 10s must have a different stock code than cartons containing packets of 20s.
- b) Upon receipt of bonded goods into the warehouse, the warehouse register must be updated to reflect such entry particulars.
- c) The register must contain the following minimum information:
 - i) The CCD Movement Reference Number (MRN) and date;
 - ii) Port of entry;
 - iii) Quantity placed in warehouse per CCD; and
 - iv) Storage location of the goods in the warehouse.
- d) Only bonded goods may be kept in the licensed SOS warehouse.
- e) Goods in free circulation must be stored separately.

2.4 Picking phase and documentation requirements

- a) Picking of goods for distribution to the retail outlets may take place at any time when replenishing is required.
- b) Goods must be reflected on a picking slip.
- c) The picking slip must contain the following minimum information:
 - i) Licensee and duty and tax free shop operator name;
 - ii) To which retail outlet the movement will take place [in instances of licensees with more than one (1) retail outlet];
 - iii) Goods code;
 - iv) Quantity; and
 - v) A clear distinction between bonded and free circulation goods if removed together.
- d) The picking slip must be retained as a record of movement, which may be requested at any time by a Customs Officer.

2.5 Removal to retail outlet

- a) Bonded goods being removed from the storage area to the retail outlet must be packed in a lockable trolley and a copy of the picking slip must accompany the goods.
- b) Trolleys may not be left unattended in any area with general access to the public.

2.6 Sale transactions and information required on the sales document

- a) All bonded goods in the retail outlet must be clearly marked indicating that the selling price does not include duty and VAT.

- b) In the event that any goods placed in a warehouse requires an export certificate, permit or other such document to be produced prior to exportation, it may not be sold to outbound travellers unless the licensee is in possession of such certificate, permit or other document.
- c) The tax and duty free shop operator must before concluding a sales transaction:
 - i) Obtain from the traveller a valid flight ticket, boarding pass and passport to be eligible to purchase; and
 - ii) Capture the flight and seat number from the boarding pass and reflect such on the cash receipt or sales document.
- d) Cash receipts or other sales documents must be serially numbered and issued in duplicate containing the following minimum information:
 - i) Information pertaining to the traveller:
 - A) The specific retail outlet must be mentioned, for example shop 7 terminal 2;
 - B) The date of arrival or departure;
 - C) In the instance of an outbound traveller the airport of destination;
 - D) In the instance of an inbound traveller the airport of departure; and
 - E) The flight number and seat number.
 - ii) Information pertaining to the goods sold:
 - A) Precise description of the goods;
 - B) The quantity;
 - C) The sales price in South African Rand; and
 - D) The stock code.
- e) Bonded and free circulation goods sold to inbound travellers at the inbound duty and tax free shop must be placed and sealed in a transparent package ensuring the goods are visible together with the copy of the cash receipt or other sales document.
- f) The duty and tax free shop must keep the original sales document for record purposes.

2.7 Time period for sales and to make clearance

- a) Duty and tax free shop operators are permitted to sell goods for a period of seven (7) days without furnishing clearance.
- b) A further seven (7) days are allowed to conduct reconsolidation of all sales in the preceding seven (7) days.
- c) On the fourteenth day, the CCD must be submitted to SARS Customs.
- d) The Controller / Branch Manager may determine the start and end period of the fourteen (14) day period.
- e) All clearance documents must be submitted on the fourteenth day or the last working day prior to such a day if it falls on a weekend or public holiday.

2.8 Submission of CCD

- a) CCDs may be submitted in electronic format or manually (refer to SC-CF-55).
- b) A CCD with CPC H67-40 must be submitted for all bonded goods sold at the outbound duty and tax free shop.
- c) A CCD with CPC A14-40 utilising rebate item 412.28.00.00.01.00 must be submitted for all bonded goods sold at the inbound duty and tax free shop.
- d) A CCD with CPC A11-40 must be submitted for all losses of bonded goods resulting from pilferage, breakage, and etcetera.

- e) Each CCD for bonded goods sold in an inbound or outbound duty and tax free shop must be supported by a list reflecting all sales receipts or other sales documents and date of issue for that period.
- f) Each CCD for bonded goods lost, destroyed or damaged must be accompanied by a list reflecting the stock code, tariff heading, date and the circumstances in which the goods were lost destroyed or damaged.

2.9 Warehouse register and inventory control after consolidation clearance

- a) The warehouse register must be updated to reflect the CCD MRN and date particulars, and the quantities.
- b) The goods total must balance.

2.10 Keeping of records

- a) Every declarant must keep for record purposes for a period of five (5) years:
 - i) Books, picking slips, accounts and documents in respect of all transactions relating to the Rules for the purpose of any acquittal procedure (cash receipts or other sales documents); 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.

2.11 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 registration, license or accreditation.

2.12 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.

2.13 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 RELATED INFORMATION

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: Sections 19(9), 21(1), 38(1)(a) Customs and Excise Rules: Rules 21.04.01 to 21.04.12 Value-Added Tax Act No. 89 of 1991: Sections 7(1)(b), 13(3)
Other Legislation:	Promotion of Administrative Justice Act No. 3 of 2000: Section 3 and 5 Promotion Of Access To Information Act No. 2 of 2000: All
International Instruments:	Kyoto Convention General Annex Chapter Standard 4.4 Kyoto Convention Specific Annex D Chapter 1 – Customs Warehouses, Standards: 1, 3, 4, 10 and 11 and Recommended practice: 5 WCO Framework of Standards: None

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-19	Registration, Licensing and Designation – External Policy
SC-CF-55	Clearance Declaration – External Policy
SC-CO-01-02	Offences and Penalties - External Policy
SC-SE-05	Bonds – External Policy

3.3 Quality Records

NUMBER	TITLE
DA 103	License Book
DA 185	Application Form: Registration / Licensing of Customs and Excise Clients
DA 185.4B4	Special Storage Warehouse
SAD 500	Customs Declaration Form
SAD 501	Customs Declaration Form (Continuation Sheet)
SAD 502	Customs Declaration Form (Transit Control)
SAD 503	Customs Declaration Form (Bill of Entry Query Notification Voucher of Correction)
SAD 504	SAD: Voucher of Correction (direct)
SAD 505	Customs Declaration Form (bond control)
SAD 506	SAD: Continuations Sheet (for SAD 504 and SAD 514)
SAD 507	Additional information/produced documents
SAD 510	Declaration (direct) Transfer of liability
SAD 514	SAD: Voucher of Correction: Transfer of liability
SAD 551	SAD: Continuations Sheet: Export
SAD 554	SAD: Voucher of Correction: Exports
SAD 600	SAD: Bill of Entry (ex warehouse) Imported Goods
SAD 601	SAD: Continuation Sheet: (ex warehouse) Imported Goods
SAD 604	SAD: Voucher of Correction: (ex warehouse) Imported Goods

4 DEFINITIONS AND ACRONYMS

BELN	The Republic of Botswana; The Kingdom of eSwatini; The Kingdom of Lesotho; and The Republic of Namibia.
CCD	Customs Clearance Declaration – The print and view format for the CCD will be the CD 1. It replaces the SAD 500.
CPC	Customs Procedure Code
PAJA	Promotion of Administrative Justice Act
SACU	The Southern African Customs Union, consisting of: The Republic of South Africa The Republic of Botswana; The Kingdom of eSwatini; The Kingdom of Lesotho; and The Republic of Namibia.
SOS	Special storage warehouse
VAT	Value-Added Tax

5 DOCUMENT MANAGEMENT

Policy Owner	Head: Customs: Border Operations, Ports of Entry & Customs Compliance
Detail of change from previous revision	Incorporated the Standard Operating Procedure for Inbound and Outbound Duty and Tax Free Shops (SC-CW-01-07-S01) to align with template requirements. Removed the transitional arrangements applicable when the rules providing for the administration and licensing of inbound duty and tax free shops came into force on 5 June 2009. Inserted standard paragraphs on keeping records, penalties, PAJA and appeals against decisions. Aligned Business and Document owner with new operational model.
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