

EXCISE

EXTERNAL POLICY

SUBMISSION OF ACCOUNTS / RETURNS

TABLE OF CONTENTS

1	SUMMARY OF MAIN POINTS	3
2	POLICY	3
2.1	eFiling	3
2.2	Keeping of records	4
2.3	Penalties	4
2.4	Promotion of Administrative Justice Act	4
2.5	Appeal against decisions	5
2.6	Submission of the EXD 01 and EXD180 (for CBT – levy)	5
3	RELATED INFORMATION	6
3.1	Legislation	6
3.2	Cross References	6
3.3	Quality Records	6
4	DEFINITIONS AND ACRONYMS	6
5	DOCUMENT MANAGEMENT	8

1 SUMMARY OF MAIN POINTS

- a) The policy applies to licensees and registrants who are required to submit accounts / returns on a monthly, quarterly or bi-annual **or yearly** via e-Filing.
- b) The policy covers the following product accounts / returns:
- i) Ad Valorem;
 - ii) Air Passenger Tax (APT);
 - iii) Biodiesel;
 - iv) Carbon Dioxide (CO₂) Emission levy;
 - v) **Carbon Tax**;
 - vi) Diamond Export Levy;
 - vii) Electricity Levy;
 - viii) Fuel [Includes Fuel levy and Road Accident Fund (RAF)];
 - ix) Health Promotion Levy on Sugary Beverages;
 - x) Malt Beer;
 - xi) Other Fermented Beverages;
 - xii) Plastic Bags;
 - xiii) Spirits;
 - xiv) Tobacco;
 - xv) Traditional African Beer and Beer powder;
 - xvi) Tyre Levy; and
 - xvii) Wine and Vermouth.
- c) This policy does not cover:
- i) **SARS Payment Rules** as this is dealt with in document **GEN-PAYM-01-G01**; and
 - ii) Declaration and return submission via eFiling as this is dealt with in document SE-ACC-02-M02.

2 POLICY

- a) **This document must be read together with the Constitution, the South African Revenue Service Act No 34 of 1997 ("SARS Act") and any other applicable legislation. Should the policy be in conflict with any provisions of the legislation, the applicable Act shall take precedence.**

2.1 eFiling

- a) Rule 119A.R101A(10)(d) defines an account and return as follows:
- i) **"account"** in relation to the document required to be submitted in respect of the payment of duty in terms of any provision of the Act and any other rule, must be regarded as a return;
 - ii) **"return"** contemplated in the eFiling service of the regulations includes -
 - A) An account for payment of excise duty, fuel levy, RAF levy or environmental levy (**includes Carbon Tax**) submitted by a licensee of a Customs and Excise warehouse as specified in the rules for the sections imposing such duty or levies;
 - B) A tax account for payment of air passenger tax as specified in the rules for section 47B;
 - C) A return submitted for payment of diamond export levy as specified in the rules made under the Diamond Export Levy (Administration) Act, 2007 (Act No. 14 of 2007);
 - D) Any document for payment of Excise duty on locally produced goods stored in a special Customs and Excise warehouse (SOS) licensed for the operation of a duty and tax free shop or the supply of stores and spares and equipment to foreign-going ships and aircraft as respectively contemplated in Rules 21.04 and the Rules for section 38A; and
 - E) Any supporting document of an account or return and any declaration to be made as contemplated in paragraph (C).
- b) Furthermore, Rule 119A.R101A(10)(e) states that as from **31 January 2014**, a person defined as a "taxpayer", or a tax practitioner must submit returns (including accounts) to SARS **only** in terms of the eFiling service.

- c) If licensees are not able to access the eFiling service, they must contact the nearest SARS Branch Office (B/O) for assistance.

2.2 Keeping of records

- a) Every client must keep for record purposes for a period of five (5) years:
 - i) Books, returns and documents in respect of all transactions relating to the Rules; 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. (Refer to Sections 101 and 101A).
- c) Every client must produce such books, returns and documents on demand.

2.3 Penalties

- a) Failure to adhere to the provisions of the Act is considered an offence.
- b) Offences may render the client liable to, as provided for in the Act:
 - i) Monetary penalties;
 - ii) Criminal prosecution; and / or
 - iii) Suspension or cancellation of registration and / or license.

2.4 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 administration procedure depends on the circumstances of each case.
- c) A person must be given:
 - i) Written notice 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) Before administrative action can be taken by Excise, the client 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.
- e) Just administrative action requires Excise Officers 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.

- f) Clients whose rights have been significantly and unfavourably affected by administrative action and who have not been given reasons for the action may, within ninety (90) days after the date on which the client became aware of the action, request Excise to furnish written reasons for the action.
- g) Excise must after receiving the request, give the client adequate reasons in writing for an administrative action. It must, subject to subsection (4) of the Promotion of Administrative Justice Act 3 of 2000 and in the absence of proof to the contrary, be presumed in any proceedings for judicial review that the administrative action was taken without good reason.

2.5 Appeal against decisions

- a) In cases where clients 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 SE-APL-02.
- b) Should clients be unhappy with a decision of any appeal committee their recourse will be to lodge an application for Alternative Dispute Resolution (ADR) 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.
- c) Should clients wish to appeal any decisions in terms of Value-Added Tax (VAT) penalties, they are directed to the provisions of Sections 215 to 220 of the Tax Administration Act No. 28 of 2011 for the percentage based penalty and Section 224 of the Tax Administration Act No. 28 of 2011 for the understatement penalty. In this regard, please consult the SARS website or nearest SARS Branch Office.

2.6 Submission of the EXD 01 and EXD 180 (Carbon Tax)

- a) The Excise Duty and Levy return (EXD 01) is the summarising document reflecting all movements and sales figures, as well as the amount of duty / levy payable, in respect of all goods during the accounting / assessment period.
- b) The Carbon Tax account (EXD 180) is the summarising document for carbon emissions equivalent submissions, as well as the tax payable during the accounting period.
- c) All columns and boxes on the EXD 01 / EXD 180, if applicable, must be completed.
- d) If there is no figure to be declared for a specific box in a column applicable for that specific accounting period, it must be indicated by declaring "0.00" in that box.
- e) Paper copies of the relevant Excise account / return and schedules, the format of which is prescribed in the Rules, must be kept by each licensee / registrant for record purposes.
- f) Licensees / Registrants must submit the EXD 01 / EXD 180 to SARS via eFiling.
- g) Refer to the attached table (SE-ACC-04-A01) which indicates the accounting period and submission rules for the various products.

3 RELATED INFORMATION

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	<p>Customs and Excise Act No. 91 of 1964: 21, 38A, 47B, 101, 101A and 119A.</p> <p>Customs and Excise Rules: 21.04, 38A.01 to 38A.13, 47B.01 – 47B.11, 101, 101A and 119A.R101A(10)(b), (d), (e) and (f).</p> <p>Customs and Excise Tariff: Schedule 1 Parts 2, 3 and 7</p> <p>Carbon Tax Act No. 15 of 2019: Rule 54FD.04(b)</p> <p>Diamond Export Levy (Administration) Act No. 14 of 2007: Sections 1 to 21</p> <p>Diamond Export Levy (Administration) Act No. 14 of 2007: Rules 1.01 – 15.01</p> <p>Tax Administration Act No. 28 of 2011: Sections 215 to 220 and 224</p> <p>The South African Revenue Service Act No. 34 of 1997</p>
Other Legislation:	<p>Constitution of the Republic of South Africa No. 108 of 1996</p> <p>Carbon Tax Act No. 15 of 2019: Sections 4(1) to 4(2)</p> <p>Diamond Export Levy Act No. 15 of 2007: Sections 1 to 15</p> <p>Diamond Export Levy Act No. 15 of 2007: Rules 1.01 – 11.01</p>
International Instruments:	None

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
GEN-PAYM-01-G01	SARS Payment Rules – External Guide
EA-01-M01	Excise eAccount on eFiling – External Manual
SC-CC-26	Alternative Dispute Resolution – External Policy
SE-ACC-02-M02	Declaration and return submission via eFiling – External Manual
SE-APL-02	Administrative Appeal – External Policy
SE-PAY-02	Prescribed Payment Terms/Periods – External Policy

3.3 Quality Records

Number	Title
EXD 01	Excise Duty and Levy return
EXD 180	Carbon Tax account
SE-ACC-04-A01	Accounting period and submission rules

4 DEFINITIONS AND ACRONYMS

ADR	Alternative Dispute Resolution
Ad Valorem	A Latin term meaning: “on the value”
APT	Air Passenger Tax
Biodiesel	Biodiesel is normally produced from vegetable or animal fats and oils sourced from a variety of vegetable or animal products.
CO₂	Carbon Dioxide
Diamond Export Levy	The levy payable when a Customs declaration has been delivered for export in respect of unpolished diamond(s).
Duty Free Shops	<p>a) These shops or stores are retail outlets that are exempt from the payment of certain local or national taxes and duties on the following requirements i.e.:</p> <p>i) That the goods sold will be sold to travellers who will take them out of the country; or</p> <p>ii) Only persons who are accredited by the Department of International Relations and Co-operation (DIRCO) that are in possession of a valid Diplomatic or Consular identity card may enter and purchase goods that are duty free.</p>

e-Filing	A free, online process for the submission of returns and declarations and other related services. This free service allows taxpayers, tax practitioners and businesses to register free of charge and submit returns and declarations, make payment and perform a number of interactions with the SARS in a secure online environment.
Environmental levy	<p>a) A levy imposed in terms of Part 3 of Schedule 1 and the Notes thereto, which includes levies on:</p> <ul style="list-style-type: none"> i) Carbon Tax; ii) Plastic bags; iii) Filament lamps; iv) Electricity; v) Carbon dioxide; and vi) Tyres.
Excise duty	Any duty leviable under Part 2 of Schedule 1 of any goods imported into or manufactured in SA.
Licensee	Any person licensed under any provision of the Customs and Excise Act No. 91 of 1964.
Malt Beer	Alcoholic beverage produced by the natural fermentation of sugars derived from malt.
Policy	Used to convey the policy mandated by legislation and the sequential steps to be followed.
Road Accident Fund (RAF)	A state insurer established by statute. It provides insurance cover to all drivers of motor vehicles in SA in respect of liability incurred or damage caused as a result of a traffic collision. Liability incurred in relation to property damage (such as damage to vehicles, buildings, vehicle contents) is excluded from cover. The RAF operates a system whereby the claimant is assigned a percentage of responsibility for the accident, and the RAF pays the claimant a percentage of a full settlement based on a percentage that was not deemed to be their responsibility. Insurance premiums are collected by the RAF through a levy on motor vehicle fuel.
SOS	Special Storage Warehouse
Sugary Beverages Levy	The sugary beverages levy imposed in terms of item 191.01 to 191.07 in Section A of Part 7 of Schedule 1 and the notes thereto.
Tax practitioner	Any agent provided for in the Act for any person referred to in the definition of a Taxpayer in paragraphs (i) to (iii) indicated below.
Taxpayer	<p>a) Includes:</p> <ul style="list-style-type: none"> i) The licensee of a customs and excise warehouse; ii) A registered aircraft operator or an aircraft operator who is liable to register; iii) Except for the purpose of Rule 119A.R101A(10)(b), a person who must effect payments by using e-Filing as contemplated in rule 119A.R101A(10)(f); or iv) A registered person who is required to submit a return in terms of the Diamond Export Levy (Administration) Act. No. 14 of 2007.
Value-Added Tax	Value-added Tax is commonly known as VAT. VAT is an indirect tax on the consumption of goods and services in the economy. Revenue raised for government by requiring certain businesses to register and to charge VAT on the taxable supplies of goods and services. These businesses become vendors that act as the agent for government in collecting the VAT. VAT is charged at each stage of the production and distribution process and it is proportional to the price charged for the goods and services.

5 DOCUMENT MANAGEMENT

Policy Owner	Executive: Excise
Detail of change from previous revision	<p>Paragraph 1(a) has been updated; Paragraph 1(b) has been updated to include Carbon Tax; Paragraph 1(c) has been updated; Paragraph 2(a) has been updated with the correct information; Provision has been made for the Promotion of Administrative Justice Act under paragraph 2.4; Paragraph 2.6 has been updated to include the EXD 180 Carbon Tax account; Legislation under paragraph 3.1 has been updated; Cross References under paragraph 3.2 has been updated; and Definitions and Acronyms have been updated under paragraph 4.</p>
Template number and revision	GC-TM-03 - Rev 9