

EXCISE

EXTERNAL POLICY

INTERNAL ADMINISTRATIVE APPEAL

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1 SUMMARY OF MAIN POINTS

- a) The policy covers the Internal Administrative Appeal (IAA) process (Sections 77A to H) which is applicable when appeals are lodged either relating to decisions taken in terms of the Customs and Excise Act, No. 91 of 1964 in Branch Offices (BO's) or Head Office (HO).
- b) The policy also describes the process to be followed by Excise Officers (EO's) in dealing with IAA's.
- c) The policy does not cover:
 - i) The Alternative Dispute Resolution [(ADR) (Section 77I)] process; and
 - ii) The Settlement Process (Section 77J to P).

2 POLICY

- a) All persons who deal with Excise must be afforded the opportunity to lodge an appeal on any decision taken in terms of the Act, for example, decisions relating to all duties / levies, penalties, forfeiture, rebates, refunds, etc.
- b) A person aggrieved by a decision of an EO has recourse to consultation with that EO or that EO's immediate superiors, for example, Operations Manager (OPS Manager) and Senior Manager, for purposes of clarifying the decision in question. Should the matter not be resolved by such approaches the aggrieved person might institute a formal IAA.
- c) Any person aggrieved by a decision made by an EO whom was not furnished with adequate reasons for the decision must request such reasons in writing to the relevant EO within **thirty (30) days**.
- d) The EO must provide such reasons in writing within **forty-five (45) days** from the date of acknowledgement of receipt or indicate that reasons have already been provided.
- e) Request for reasons, application for suspension of amount pending the outcome of an appeal, appeal application, application for extension, must all, where applicable, be delivered to the Office at which the decision being appealed against was issued, by:
 - i) eFiling, if this mode of submission is available for such notifications; or
 - ii) E-mail application ; or
 - iii) By hand.
- f) Decisions on appeals must be taken and the applicant notified thereof in writing as soon as possible, but not later than :
 - i) **Sixty (60) days** after the date on which the appeal, or an amended appeal was lodged; or
 - ii) In cases where additional information, documents or things necessary to decide on the appeal are called for by an Appeal Committee from the appellant, within **sixty (60) days** after receiving such information, documents or things from the appellant.
- g) Should an appellant not be satisfied with the decision of an Appeal Committee, his / her further recourse is Alternative Dispute Resolution [(ADR) (refer to SC-CC-26)] or Litigation.

2.1 Transitional arrangements

- a) The provisions in this policy do not apply to a decision taken before **1 September 2019** and any request for reasons or any appeal in respect of such decision must be submitted and dealt with in accordance with the process that existed before such date.

2.2 Introduction and the right of appeal

- a) The underlying principle behind the appeal process is that affected persons get **one (1) opportunity** to appeal against a decision to the appropriate Appeal Committee (depending on the level at which a decision was made).

- b) A decision by a lower-level Appeal Committee (i.e. an Customs and Excise Branch Office Appeal Committee) cannot be referred to a higher-level Appeal Committee (i.e. the Customs and Excise National Appeal Committee) for consideration.
- c) No duties / levies / Tax, which are due and payable, **may be waived** in terms of the IAA process; however, these amounts, with the exception of Section 91 penalties, may be suspended pending the outcome of the applicable Appeal Committee.

2.3 Form and grounds of appeal

- a) In order to ensure that the matter is dealt with correctly and expeditiously, appeals must be submitted to the relevant Office / EO concerned under cover of a DA 51 (Internal Administrative Appeal in terms of the Customs and Excise Act, 1964).
- b) The appeal must be submitted within **thirty (30) days** from the date the appellant became aware of the decision or date of receipt of the reasons, or letter advising that adequate reasons have already been provided on a completed DA 51
- c) The DA 51 must be duly completed in single fold and appeals should specifically contain the requirements mentioned in Rule 77H.04(4) and (5)

2.4 Place of lodgement and delivery of appeals

- a) The appeal must be submitted in accordance with any instructions issued by the SARS in the written communication informing the person of the decision:
 - i) To the Office that communicated the decision; and
 - ii) In the case of a decision relating to the declaration process, to the Office indicated on the SAD 500 as the "Office of destination or Departure".
- b) Any deviation from the above will render the appeal invalid.

2.5 Keeping of records

- a) Every client 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 client must produce such books, accounts and documents on demand.

2.6 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) 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) Clients whose rights have been significantly and unfavourably affected by administrative action and who have not been given reasons for the action may, after the date on which the client became aware of the action, request Excise to furnish written reasons for the action.
- f) 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.

2.7 Appeal against decisions

- a) 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 which made the decision being appealed against. The committee will add its comments thereto and forward the application to the ADR unit for its attention. The policy in this regard as well as the process to be followed is contained in document SC-CC-26.
- b) 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 the South African Revenue Service (SARS) website or nearest SARS Branch Office should be consulted.

2.8 Request for reasons for decisions

- a) Any affected client or their duly authorised representative(s) may request the Excise Officer (EO) who made the decision to provide a full explanation and reasons prior to an appeal process.
- b) Clients are, however, not obliged to ask for the reasons before lodging an appeal against a decision.
- c) A request for reasons contemplated in Section 77D(1)(a) must be submitted in accordance with any instructions issued by the SARS in the written communication informing the person of the decision, to the Office that communicated the decision. or, in the case of a decision relating to the declaration process, to the Office indicated on form SAD 500 as the "office of destination or departure".
- d) The request must be in writing, it must be delivered to the relevant EO / Office within **thirty (30) days (see definition of "day")** of the decision in question and it must contain the address to which the reasons and any other document relating thereto can be delivered.
- e) Where the EO who made the decision is of the opinion that adequate reasons have already been provided, he / she must, within **45 days** of receipt of the request of reasons, notify the affected person thereof in writing. The notice must refer to the documents wherein such adequate reasons were provided.

- f) Where adequate reasons have not yet been provided the EO concerned must provide such reasons, in writing, within **45 days** of receipt of the request for reasons.
- g) A request referred to in paragraph (a) above must reflect—
- i) The name and Customs and Excise client number or the South African Revenue Service (SARS) taxpayer reference number of the person requesting reasons or, if that person does not have such a client number or the SARS taxpayer reference number, the following information:
 - A) If that person is a natural person, his or her—
 - I) Full name;
 - II) Identification document or passport document number;
 - III) Physical and postal addresses; and
 - IV) Contact details; or
 - B) If that person is a juristic entity—
 - I) The registered or official name of the entity;
 - II) Its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of South Africa (SA) or another country, and if another country, the name of that country;
 - III) Its physical and postal addresses;
 - IV) Its contact details; and
 - V) The name and contact details of a contact person;
 - ii) If the request is submitted by a clearing agent, registered agent or other duly authorised representative on behalf of the person referred to in sub-paragraph (g)(i) above, the following information:
 - A) If the request is submitted by a clearing agent or a registered agent, the name and Customs and Excise client number of the clearing agent or registered agent; or
 - B) If the request is submitted by another duly authorised representative, the name of the representative, and —
 - I) If the representative is a natural person his / her identification document or passport document number and his / her contact details and any physical and postal addresses in SA; or
 - II) If the representative is a juristic entity its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of SA or another country and, if another country, the name of that country; its contact details and any physical and postal addresses in SA and the name and contact details of a contact person.
 - iii) The physical or electronic address to which reasons and any documents relating thereto must be sent, if applicable;
 - iv) Particulars of the decision for which reasons are requested in sufficient detail to enable the SARS to identify the decision, including any case reference number indicated in the communication referred to in paragraph (a) above; and
 - v) The date of the request.
- h) A person that requested reasons is entitled to a written acknowledgement of receipt from the SARS indicating the date of receipt of the request, subject to paragraph (i) below.
- i) Paragraph (h) above does not apply if the person requesting reasons, in the case of request submitted otherwise than through eFiling, did not comply with paragraph (g)(iii) above.

2.9 Application for the Commissioner to direct suspension of amounts payable to the Commissioner

- a) If a person aggrieved by a decision **intends to submit an appeal** against a decision in terms of Rule 77H.04 and wishes to apply for the suspension of a disputed or affected payment pending conclusion of the appeal proceedings, that person must submit an application for suspension within the relevant timeframe for submission of an appeal as set out in Rule 77H.04(2).
- b) An application referred to in paragraph (a) must be submitted—
- i) Electronically through—
 - A) eFiling, if this mode of submission is available for such applications; or
 - B) e-mail; or
 - ii) By delivering the document by hand.

- c) Details for submission of an application in terms of paragraph (b)(i)(B) or (ii) are the following:
- i) If sent through e-mail, the e-mail must be directed to the e-mail address indicated on the SARS website for the Office that communicated the decision to the aggrieved person; or
 - ii) If delivered by hand, the application must be submitted to the EO / Office referred to in paragraph (b)(i)(A) or (B), depending on the circumstances.
- d) An application referred to in paragraph (a) above must state the following information:
- i) The applicant's name and Customs and Excise client number or, if the applicant does not have such a client number, the information specified in Rule 77H.02(2)(a)(i) or (ii);
 - ii) If the application is submitted by a clearing agent, registered agent or other duly authorised representative on behalf of the applicant, the information specified in Rule 77H.02(2)(b)(i) or (ii);
 - iii) Particulars of the decision in respect of which the suspension of payment is requested in sufficient detail to enable the SARS to identify the decision, including any case reference number indicated in the communication informing the applicant of that decision;
 - iv) Particulars of the disputed or affected payment which the applicant seeks to have suspended, including the case reference number indicated in the notice demanding payment; and
 - v) The reason why suspension of the payment is sought.
- e) The following documents must support an application referred to in paragraph (a) above:
- i) The applicant's bank statements for a period of three (3) months preceding the application, certified by the bank;
 - ii) If the applicant is a juristic entity, a certified copy of the document authorising the person who submitted the application on behalf of the entity, to act on behalf of the entity;
 - iii) A certified copy of the identification document or passport of an authorised person referred to in sub-paragraph (ii) above; and
 - iv) A certified copy of the document authorising a person contemplated in sub-paragraph (d)(ii) above to act as the representative of the applicant.
- f) An applicant is entitled to a written acknowledgement of receipt from the SARS, indicating the date of receipt of the application.
- g) The factors to be taken into consideration when deciding an application referred to in paragraph (a) above are the following:
- i) The amount of the disputed payment;
 - ii) The compliance history of the applicant;
 - iii) The risk of dissipation of assets by the applicant during the period of suspension;
 - iv) The reasons for suspension as submitted by the applicant;
 - v) The risk of the applicant abusing the application to postpone payment without having the intention to institute an appeal;
 - vi) Whether the applicant has provided or is able to provide adequate security for the payment of the amount;
 - vii) Whether payment of the amount would result in irreparable financial hardship to the applicant;
 - viii) Whether sequestration or liquidation proceedings are imminent; and
 - ix) Whether fraud is involved in the origin of the dispute.
- h) A suspension of payment granted to a person pursuant to an application in terms of Rule 77H.03 may at any time be withdrawn –
- i) If eventual recovery of the disputed payment is compromised by the actions of that person;
 - ii) If that person abuses the appeal proceedings, including by—
 - A) Unreasonably delaying institution or conclusion of the proceedings;
 - B) Consistently raising frivolous, vexatious or irrelevant issues in the proceedings; or
 - C) Employing any dilatory tactics in the proceedings;
 - iii) If on further consideration of the factors, the suspension should not have been granted;
 - iv) If there is a material change in any of the grounds on which the suspension was granted; or
 - v) On any other good ground.

- i) The amount suspended or in respect of which a suspension has been applied for in terms of Rule 77H.03 remains due and payable as specified in the notice demanding payment if –
 - i) The suspension granted is withdrawn in terms of sub-paragraph (h) above; or
 - ii) The application for suspension is refused.
- j) Interest on an amount referred to in paragraph (i) shall be payable as provided for in Section 105.

2.10 Submission of appeals

- a) An appeal against a decision must within the timeframe referred to in paragraph (b) below be submitted —
 - i) Electronically through—
 - A) eFiling, if this mode of submission is available for submission of an appeal; or
 - B) e-mail; or
 - ii) By delivering the document by hand.
- b) The timeframe within which an appeal referred to in paragraph (a) above must be submitted is –
 - i) Within **thirty (30) days** from the date the appellant became aware of the decision, or if reasons were requested for the decision in terms of Rule 77H.02, within **thirty (30) days** from the date of receipt of the reasons;
 - ii) Within **thirty (30) days** of being advised that adequate reasons have been provided; or
 - iii) If the date on which the appellant became aware of the decision is in dispute, within **thirty (30) days** from the date on which the applicant is reasonably expected to have become aware of that decision.
- c) A timeframe referred to in paragraph (b) may on application in terms of Rule 77H.05 be extended by the Commissioner by no more than **twenty (20) days**.
- d) An appeal submitted in terms of paragraph (a)(i)(B) or (ii), must—
 - i) Be on a DA 51; and
 - ii) Be submitted by making use of the details specified in paragraph (f) below.
- e) Details for submission of an appeal in terms of paragraph (a)(i)(B) and (ii) are the following:
 - i) If sent through e-mail, the appeal must be directed to the e-mail address indicated on the SARS website for the Office that communicated the decision to the appellant; or
 - ii) Indicated on SAD 500 as the “office of destination or departure”, in the case of an appeal relating to the declaration process; or
 - iii) If delivered by hand, the appeal must be submitted to the Office referred to in paragraph (f)(i) or (ii), depending on the circumstances.
- f) An appeal referred to in paragraph (a) must reflect—
 - i) The name and Customs and Excise client number or the SARS taxpayer reference number of the appellant or, if the appellant does not have such a client number or the SARS taxpayer reference number, the information specified in Rule 77H.02(2)(a)(i) or (ii), with the necessary changes;
 - ii) If the appeal is submitted by a clearing agent, registered agent or other duly authorised representative on behalf of the appellant, the information specified in Rule 77H.02(2)(b)(i) or (ii), with the necessary changes;
 - iii) Particulars of the decision appealed against in sufficient detail to enable the SARS to identify the decision, including any case reference number indicated in the written communication informing the applicant of the decision;
 - iv) The grounds upon which the appeal is based;
 - v) Any new information which may impact the decision on appeal which was not available at the time when the decision was taken;
 - vi) The physical or electronic address to which the decision on appeal and any documents or communications relating thereto must be sent;

- vii) The date and signature of the appellant or the appellant's authorised representative; and
 - viii) Any other information that may be required for purposes of the appeal.
- g) An appeal referred to in paragraph (a) above must be supported by the following documents:
- i) If the appellant is a juristic entity—
 - A) A certified copy of the document authorising the person who submitted the appeal on behalf of the entity, to act on behalf of the entity; and
 - B) A certified copy of the identification document or passport of an authorised person referred to in (A) above;
 - ii) A certified copy of the document authorising a person contemplated in paragraph (f)(ii) above to act as the representative of the appellant;
 - iii) Any documentary evidence substantiating —
 - A) The grounds for appeal on which the appellant relies; and
 - B) Any new information referred to in paragraph (f)(v) above; and
 - iv) Any other documents as may be required for purposes of considering the appeal.
- h) An appellant is entitled to a written acknowledgement of receipt from the SARS indicating the date of receipt of the appeal:
- i) If the request was handed at the office – Client brings two copies of the request that the designated person signs both copies and hands one copy to the client; and
 - ii) If the request was sent via email – The designated person sends an email to the client acknowledging receipt.
- i) Paragraph (h) above does not apply if the appellant, in the case of appeals submitted otherwise than through eFiling, did not comply with sub-rule (f)(vi) above.
- j) It is the responsibility of the appellant to ensure that all the aspects, which he / she would like to be considered, as well as all relevant supporting documentation, samples or things are included in the appeal. This is vital to enable the appeal to be dealt with correctly and expeditiously.
- k) The DA 51 must be signed by the appellant. Where the appellant is unable to personally sign the form, the person signing on his / her behalf must state in an annexure to the appeal –
- i) The reason why the appellant is unable to sign the form;
 - ii) That he / she has the necessary power of attorney to sign on behalf of the appellant; and
 - iii) That the appellant is aware of the appeal and agrees with the grounds thereof.
- l) On receipt of an appeal, the recipient concerned must immediately indicate the date the appeal was received by endorsing / date stamping the DA 51 in the **“Receipt details: For official use only”** field. The recipient must hand appeal to the officer responsible for the Administrative work of the Appeal Committee.

2.11 Validity of appeals

- a) Where an appeal does not comply with any of the requirements listed below, the appellant must be informed in writing of receipt of the appeal, that it is not accepted as a valid appeal:
- i) It must be in the prescribed form with the information requested in the form completed.
 - ii) It must be in writing and specify in detail the grounds upon which the appeal is made.
 - iii) It must specify an address where the appellant will accept notice and delivery of the SARS' decision and all documents in respect of such appeal.
 - iv) It must be signed by the appellant / his or her representative.
 - v) It must be delivered timeously to the correct address, i.e. to the office at which the decision, which is being appealed against, was made.

2.12 Application for extension of time frame within which internal appeal must be submitted

- a) An appellant that requires an extension of the period within which an appeal must be submitted, must before expiry of the timeframe referred to in Rule 77H.04(2)(a) apply for extension in terms of Rule 77H.05. Such extension must be approved by the appropriate committee, which will be dealing with the matter (to the Branch Office in conjunction with the appropriate appeal committee).
- b) An application referred to in paragraph (a) above must be submitted—
 - i) Electronically through—
 - A) eFiling, if this mode of submission is available for submission of such applications; or
 - B) e-mail; or
 - ii) By delivering the document by hand
- c) An application in terms of paragraph (b)(i)(B) and (ii) must be submitted by making use of the details specified in Rule 77H.04(4)(a) or (b).
- d) An application referred to in paragraph (a) above must reflect the following particulars:
 - i) The name and Customs and Excise client number or the SARS taxpayer reference number of the appellant or, if the appellant does not have such a client number or the SARS taxpayer reference number, the information specified in Rule 77H.02(2)(a)(i) or (ii), with the necessary changes;
 - ii) If the application is submitted by a clearing agent, registered agent or other duly authorised representative on behalf of the appellant, the information specified in Rule 77H.02(2)(b)(i) or (ii), with the necessary changes;
 - iii) Particulars of the decision to be appealed against in sufficient detail to enable the SARS to identify the decision, including any case reference number indicated in the communication informing the applicant of that decision; and
 - iv) The reason why an extension is required.

2.13 Incomplete appeals

- a) If an appeal submitted in terms of Rule 77H.04 does not comply with all the requirements for a complete appeal set out in that rule, the appellant is entitled to be notified in writing of the outstanding requirements within **twenty (20) days** after acknowledgement of receipt referred to in Rule 77H.04(7) had been conveyed to the appellant.
- b) A notification referred to in paragraph (a) above must—
 - i) Reflect the date of notification;
 - ii) State the reason for the appeal being incomplete;
 - iii) List the outstanding information, documents or samples required for the appeal to be considered complete; and
 - iv) Contain instructions for submission of the outstanding information, documents or samples.
- c) An appellant notified of an incomplete appeal in terms of Rule 77H.06 that wishes to continue with the appeal must within **fifteen (15) days** after such notice comply with the outstanding requirements.
- d) The timeframe referred to in paragraph (c) above may on application in terms of Rule 77H.07 before expiry of such period, be extended on reasonable grounds.
- e) If an appellant does not comply with a request to submit outstanding information or documents required for consideration of the appeal within the timeframe referred to in paragraph (c) above or within an extended timeframe contemplated in paragraph (d) above, the appeal lapses.

2.14 Application for extension of timeframe for purposes of compliance with outstanding requirements in relation to incomplete appeal

- a) An appellant that requires an extension of the timeframe contemplated in Rule 77H.06(3)(a), must apply for extension in terms of Rule 77H.07.
- b) An application referred to in paragraph (a) above must be submitted –
 - i) Electronically through–
 - A) eFiling, if this mode of submission is available for submission of such applications; or
 - B) e-mail; or
 - ii) By delivering the document by hand.
- c) An application referred to in paragraph (a) above must –
 - i) Be submitted in accordance with any instructions issued by the SARS in the notification of outstanding requirements in terms of Rule 77H.06(1); and
 - ii) Reflect the following particulars:
 - A) The name and customs and excise client number or the SARS taxpayer reference number of the appellant or, if the appellant does not have such a client number or the SARS taxpayer reference number, the information specified in Rule 77H.02(2)(a)(i) or (ii), with the necessary changes;
 - B) If the application is submitted by a clearing agent, registered agent or other duly authorised representative on behalf of the appellant, the information specified in Rule 77H.02(2)(b)(i) or (ii), with the necessary changes;
 - C) The reference number of the notification relating to outstanding requirements in terms of Rule 77H.06(1); and
 - D) The reason why an extension is required.

2.15 Time within which appeals must be decided

- a) An appeal must be decided –
 - i) Within **sixty (60) days** from the date of submission of the appeal in accordance with Rule 77H.04; or
 - ii) If the appeal was incomplete, within **sixty (60) days** from the date on which the complete appeal was submitted.
- b) The Commissioner may by notice to the appellant extend the period referred to in paragraph (a) above in circumstances and for a period as contemplated in paragraph (c) below.
- c) If the Commissioner is of the opinion that more time is required to decide the appeal due to –
 - i) The complexity of the matter, the principle or amount involved or other circumstances deemed reasonable by the Commissioner, the period referred to in paragraph (a) may be extended by no more than **thirty (30) days**; or
 - ii) Exceptional circumstances, including circumstances where a formal interpretation by an expert was requested, the period referred to in paragraph (a) above may be extended by more than **thirty (30) days**, as may be reasonable in such circumstances.
- d) Any appellant who is dissatisfied with the manner in which his / her appeal is dealt with may lodge a complaint with the SARS Service Monitoring Office (SSMO). Although the SSMO will not be able to deal with the substance or merits of the appeal, it may investigate the manner in which it is being dealt with. The SSMO, therefore, facilitates the resolution of complaints of a procedural nature. More details about the SSMO are available on the SARS website at [http:// www.sars.gov.za. / ssmo](http://www.sars.gov.za/ssmo).

2.16 Withdrawal of an appeal

- a) If an appellant wishes to withdraw an appeal submitted in terms of Rule 77H.04 the appellant must, in writing, submit a notification of withdrawal—

- i) Electronically through—
 - A) eFiling, if this mode of submission is available for such notifications; or
 - B) e-mail; or
 - ii) By delivering the document by hand.
- b) A notification in terms of paragraph (a)(i)(B) or (ii) must be submitted by making use of the details specified in Rule 77H.04(4).
- c) A notification referred to in paragraph (a) above must reflect the following information:
- i) The name and Customs and Excise client number or the SARS taxpayer reference number of the appellant or, if the appellant does not have such a client number or the SARS taxpayer reference number, the information specified in Rule 77H.02(2)(a)(i) or (ii), with the necessary changes;
 - ii) If the request is submitted by a clearing agent, registered agent or other duly authorised representative on behalf of the appellant, the information specified in Rule 77H.02(2)(b)(i) or (ii), with the necessary changes;
 - iii) Particulars of the appeal withdrawn; and
 - iv) The date and signature of the appellant or the appellant's authorised representative.

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 3(1) and (2), 47 (9), 65, 69, 77A to H, 77J to P, 101 and 105. Customs and Excise Rules: Rules 77H.01 to 77H.16 and 77I.01 to 77I.23 Tax Administration Act No. 28 of 2011: Sections 215 to 220 and 224.
Other Legislation:	Promotion of Administrative Justice Act No. 3 of 2000: Section 3 and 5 as well as Regulations 23 and 25. Constitution of the Republic of South Africa 1996
International Instruments:	None

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
SC-CC-26	Alternative Dispute Resolution – External Policy

3.3 Quality Records

Number	Title
DA 51	Notice of Internal Administrative Appeal in terms of the Customs and Excise Act, 1964.
DA 52	Application for Alternative Dispute Resolution (ADR) in terms of the Customs and Excise Act, 1964

4 DEFINITIONS AND ACRONYMS

Act	Customs and Excise Act, No. 91 of 1964
ADR	Alternative Dispute Resolution
Aggrieved person	Means a person affected by the decision that has a right to institute judicial proceedings should that person elect to do so
Amount to which the appeal relates	Means the amount appealed against by the appellant as specified in a notice demanding payment issued by SARS
Appeal	An internal administrative appeal contemplated in Part A of Chapter XA of the Act and Rules thereto
Appellant	Means an aggrieved person that submits or has submitted an internal appeal, whether personally or through a representative
B/O	Branch Office

Day	Any day other than a Saturday, Sunday or a public holiday: Provided that the days between 16 December of a year and 15 January of the following year, both inclusive, shall not be taken into account in determining days or the period allowed for complying with any provision in the Act
Dispute	A disagreement on the interpretation of either the relevant facts involved or the law applicable thereto, or both the facts and the law
eFiling	Means a SARS software application available on the SARS website which enables SARS and registered electronic users to generate and deliver electronic filing transactions;
Head Office	Means the Head Office of SARS
H/O	Head Office
Office	Means a SARS Office where, depending on the circumstances – a) Customs and excise functions are performed; b) Customs functions are performed; or c) Excise functions are performed.
Person aggrieved	Means a person affected by the decision that has a right to institute judicial proceedings should that person elect to do so
Person in charge	In relation to a Branch Office, means the officer or SARS official entrusted with the overall managerial responsibility of that Branch Office
SA	South Africa
SARS	South African Revenue Service
SARS taxpayer reference number	Means a taxpayer number contemplated in section 24 of the Tax Administration Act, 2011 (Act No. 28 of 2011)

5 DOCUMENT MANAGEMENT

Policy Owner	Executive: Governance
Detail of change from previous revision	Initial Release
Template number and revision	GC-TM-03 - Rev 9