



BIODIESEL

TABLE OF CONTENTS

1	PURPOSE	3
2	POLICY STATEMENT	3
2.1	Liability for duty and levies	3
2.2	Type of warehouses allowed in the biodiesel industry:	3
2.3	Production	3
2.4	Blending	3
2.5	Importation of Biodiesel	3
2.5.1	Sea	4
2.5.2	Rail and Road	4
2.6	Manufacturing of biodiesel	5
2.6.1	Obtaining of products	5
2.6.2	Non-commercial manufacturer	5
2.6.3	Commercial manufacturer	5
2.7	Assessment	6
2.7.1	Measure of dutiable quantity	6
2.7.2	Rate of duty	6
2.7.3	Duty payable	6
2.8	Losses	7
2.8.1	Handling losses	7
2.8.2	Abandonment/Destructions	7
2.8.3	<i>Vis major</i> losses	7
2.8.4	Reprocessing	7
2.9	Returns for Duty paid	8
3	REFERENCES	8
3.1	Legislation	8
3.2	Cross References	8
4	DEFINITIONS AND ACRONYMS	9
	DISCLAIMER	9

1 PURPOSE

- a) This policy relates to the commercial manufacturing, blending, and warehousing of biodiesel for exclusive consumption in South Africa.
- b) Manufacturers are informed of possible penalties that could be imposed as well as how to appeal against relevant administrative decisions.

2 POLICY STATEMENT

2.1 Liability for duty and levies

- a) Excise duty, Fuel levy and Road Accident Fund (RAF) levy on biodiesel is charged by way of duty at source (DAS) whereby the duties and levies are assessed when the dutiable product goes into home consumption.
- b) In terms of Rule 37B.02, any person, who wishes to manufacture biodiesel, must register as a commercial or non-commercial manufacturer of biodiesel under Section 59A.
- c) Rule 37B.04 further states that any commercial registered biodiesel manufacturer who manufactures, or who anticipates that they will manufacture, more than 25 000 litres of biodiesel per calendar month **AND** 300 000 litres of biodiesel per calendar year also needs to license their manufacturing premises as a customs and excise manufacturing warehouse (VM).

2.2 Type of warehouses allowed in the biodiesel industry:

- a) The manufacture of biodiesel takes place in a licensed VM. Such warehouse must be licensed at the Controller/Branch Manager's office nearest to the premises where manufacture takes place.
- b) The manufacturing premises of a non-commercial manufacturer of biodiesel is not required to license as a VM.

2.3 Production

- a) Biodiesel is normally produced from vegetable and animal fats or oils sourced from a variety of animal or vegetable products; these raw materials are commonly referred to as feedstock. Biodiesel is a product, which, either alone, or in a blend with distillate fuel (diesel manufactured by a refinery) can be used as a fuel in compression ignition engines.
- b) In terms of Section 44(2), biodiesel goods become excisable when they attain their essential character.

2.4 Blending

- a) Blending is where imported biodiesel is taken into a VM, after the duty differential has been paid and blended into locally manufactured product and thereafter cannot be separately distinguished from the locally manufactured product. It therefore takes on the nature of a locally manufactured excisable product. Any subsequent movement of such product from the VM will be treated as a movement of a locally manufactured excisable product.
- b) **Apart from** biodiesel blended by a non-commercial manufacturer, biodiesel may only be blended with distillate fuel (diesel) where the biodiesel and distillate fuel have been entered or deemed to have been entered for home consumption.

2.5 Importation of Biodiesel

- a) Whether biodiesel is being imported for home consumption (payment of duty) or for warehousing an import permit must be obtained from the International Trade Administration Commission (ITAC) in advance of the product being imported/landed.

2.5.1 Sea

- a) A letter from the ship's agent indicating the quantity of product to be discharged and the names of the companies to whom product is to be discharged and the related quantities must be submitted to the Controller/Branch Manager at least 24 hours before the arrival of the vessel.
- b) A landing order must be completed and presented by the importer or their agent to the Controller/Branch Manager at least 24 hours prior to the arrival of the vessel.
- c) Customs supervision of discharge procedures including physical presence at dipping of **onshore** tanks must be arranged by the importer or their agent with the Controller/Branch Manager at least 24 hours prior to the arrival of the vessel.
- d) A P 2.01 dipping report must be completed and submitted by the importer or their agent to the Controller/Branch Manager, together with a product specification, within 72 hours of completion of the delivery of the shipment.
- e) A Customs Clearance Declaration (CCD) with procedure code (A 11-00) must be completed and submitted by the importer or their agent to the Controller/Branch Manager within seven (7) days after the completion of pumping of the shipment or such later date as the Commissioner may allow upon written request [in terms of Section 38(i)(a)]. The relevant duties in terms of Schedule 1 Part 1 (Customs duty), Part 2A, Part 5A (Fuel levy) and Part 5B (RAF levy) must be paid.
- f) Where the product is to be warehoused, a CCD with procedure code (E 40-00) must be completed and submitted by the importer or their agent to the Controller/Branch Manager within seven (7) days after the completion of pumping of the shipment or such later date as the Commissioner may allow upon written request [in terms of Section 38(1)(a)]. The duty differential must be brought to account on an amended CCD.
- g) Where there is a split consignment (various importers), documentation for each consignment must be submitted to the Controller/Branch Manager for clearance within seven (7) days of pumping having been completed.

2.5.2 Rail and Road

- a) On importation, the following documents must be submitted with the relevant clearance document:
 - i) A rail consignment note;
 - ii) Road manifest;
 - iii) A CCD with procedure code (An 11 00) must be completed and submitted by the importer or their agent to the Controller/Branch Manager. The relevant Customs duty in terms of Schedule 1 Part 1, Part 2A, Part 5A and Part 5B must be paid;
 - iv) Where the product is to be warehoused, a CCD with procedure code (E 40-00) must be completed and submitted by the importer or their agent to the Controller/Branch Manager. The duty differential must be brought to account on an amended CCD; or
 - v) Where there is a split consignment (various importers), documentation for each consignment must be submitted to the Controller/Branch Manager.
- b) Besides the Customs duty being reflected in the Customs duty box, the Excise duty, Fuel levy and RAF levy must also be reflected in this box, with the following alphabetic codes, which is to be inserted in the additional box on the CCD.
 - i) SCD – Part 2A (Excise part);
 - ii) FUL – Fuel levy; and
 - iii) RAF – Road Accident Fund levy.

2.6 Manufacturing of biodiesel

2.6.1 Obtaining of products

- a) The products obtained from the manufacture of biodiesel are:
 - i) Biodiesel; and
 - ii) By products which is:
 - A) Glycerol; and
 - B) Animal feed.
- b) The most popular feedstock for the manufacture of biodiesel is used cooking oil and this is obtained from used cooking oil resellers.
- c) The used oil resellers, who collect the used oil from restaurants and takeaway shops (Nando's, KFC, Spur, Steers, etc.), resell this product mainly to biodiesel manufactures as animal feed (A typical used oil reseller sells ± 1.5 million litres of oil a month into the Biodiesel industry).
- d) Imported or home-grown crops of Sunflower, Soya bean, and Peanuts may use part of the crop for the manufacture of biodiesel.
- e) These seeds are usually sold to oil mills such as Epic Oil Mills who crush the seed to make Soya bean oil or sunflower oil; however, this may be used as feedstock for manufacturing biodiesel.

2.6.2 Non-commercial manufacturer

- a) In terms of Rule 37B.08, a registered non-commercial manufacturer of biodiesel is exempted from the payment of any Excise duty and levies specified in any item of Part 2A, Part 5A and Part 5B of Schedule 1, irrespective of the product being used by them or being sold locally.
- b) Where a non-commercial manufacturer of biodiesel has sold part or all of their production a sales record of such sales must be kept, containing at least the following information:
 - i) Number of the related invoice, dispatch delivery note (or another similar document);
 - ii) Description of the goods;
 - iii) Quantity sold;
 - iv) Date of sale;
 - v) Name, address and delivery address of customer; and
 - vi) Unit selling price and total value.
- c) The aforementioned sales do not attract duties and levies.
- d) The related invoice, dispatch delivery note or other similar document must contain the statement "This sale is not subject to Excise duty, Fuel levy or RAF levy".

2.6.3 Commercial manufacturer

- a) Liability for duty -
 - i) A commercial manufacturer of biodiesel is liable for the duty and levies specified in any item of Part 2A, Part 5A and Part 5B of Schedule 1 in respect of all biodiesel manufactured by such a manufacturer in their licensed manufacturing warehouse (VM).
 - ii) Duty must be brought to account on the relevant Excise accounts being:
 - A) DA 160 –Petroleum Products: Account for manufacturing warehouse [includes Category 2 manufacturers of biodiesel] (Refer to SE-OIL-04-M01); and
 - B) DA 162 – Biodiesel account for Category 1 manufacturing warehouse (Refer to SE-OIL-03-M01).

- b) Category 1 Manufacturers of Biodiesel -
- i) Manufactures biodiesel exclusively for consumption in South Africa;
 - ii) No manufacturer may remove biodiesel from their licensed VM without first completing an invoice or dispatch delivery note containing the information specified in Rule 19A.04(a)(i) and (iii) in respect thereof;
 - iii) Any such invoice or delivery note shall be deemed to be due entry for home consumption of such biodiesel; and
 - iv) The duty and levies on biodiesel removed must be accounted for on the monthly EXD 01.
- c) Accounting for biodiesel for Excise duty, Fuel levy and RAF levy purposes (commercial manufacturers category 1 only) –
- i) Rule 37B.17 provides that routine removals from a VM into the local market must be supported by an invoice or dispatch delivery note which in terms of Rule 19A.04(a)(i), must indicate at least the following:
 - A) Licensed name, Customs client number, warehouse number (where applicable) and physical address of the licensee who moves the goods;
 - B) Description of the goods including the relevant tariff item and, if applicable, the rebate item;
 - C) Quantity dispatched at 20°C;
 - D) Date of removal;
 - E) Name of customer or business name (if any);
 - F) Customer address;
 - G) Delivery address; and
 - H) Where applicable, unit selling price and total value.
 - ii) Rebate code 01.00 under item 460.24 caters for goods, specified in Schedule 1 Part 2A, imported into South Africa for further processing, blending, or mixing or entered for use in the manufacture of Excisable goods of another or the same class or kind, provided that:
 - A) The provisions of Rule 19A.09(c) are complied with;
 - B) All other provisions of the Act pertaining to locally manufactured Excisable goods are complied with; and
 - C) The goods are imported by a licensed manufacturer into an import OS and the goods are removed by such licensed manufacturer or a licensed Remover of Goods (ROG) as contemplated in Rule 64D.

2.7 Assessment

2.7.1 Measure of dutiable quantity

- a) Any measurement of the movement of biodiesel that may be required in terms of the Act or Rules shall be measured at 20°C quantified by utilising the IP 60 (B) measurement tables as the standard basis for calculating such quantities moved.
- b) This only relates to Category 1 commercial manufacturers.

2.7.2 Rate of duty

- a) The rates of duty/levies to be used for the purpose of calculating the Excise duty, Fuel levy and RAF levy on biodiesel is the relevant rate of duty/levies in terms of Schedule 1 Part 2A, Part 5A and Part 5B at time of entry for home consumption.

2.7.3 Duty payable

- a) The Excise duty, Fuel levy and RAF levy is calculated using the following formula:

$$\boxed{\text{Bulk volume (litres)} \times \text{relevant rate of duty and levies} = \text{Excise duty, Fuel levy and RAF levy.}}$$

- b) The Fuel levy rate on biodiesel is partially rebated. This means that the Fuel levy rate on biodiesel is lower than that of the Fuel levy rate on normal distillate fuel (diesel).

2.8 Losses

- a) Biodiesel entered under rebate of duty must be used for the purpose described in the provisions of the specific rebate item under which it is entered.
- b) A detailed list of all such rebates applicable to the Biodiesel industry is found in Schedule 6. The most common rebates applicable to biodiesel are:
 - i) Handling losses;
 - ii) Destructions;
 - iii) *Vis major* losses; and
 - iv) Reprocessing

2.8.1 Handling losses

- i) The only handling losses deductible for duty purposes are those governed by Section 75(18)(e), which provides for fixed allowances on product manufactured in South Africa. The allowance in the case of biodiesel is 0,15% of any quantity entered for removal and removed from a licensed VM.
- ii) Such losses will be separately reported on the EXD 01 each month and will form the basis of a duty reduction in the hands of the VM concerned.

2.8.2 Abandonment/Destructions

- i) Licensees may apply (in terms of rebate item 624.40 of Schedule 6) to the Controller/Branch Manager for the destruction of bonded fuel products in instances where a specific consignment of fuel has lost all commercial value or sale of the specific consignment could be harmful to the industry.
- ii) If the specific consignment, however, still has commercial value and the sale of the specific consignment will not be harmful to industry, the Controller/Branch Manager may insist on the licensee abandoning the consignment to SARS for subsequent sale or other application by SARS to recover the monetary value of the relevant Excise duty and levies.

2.8.3 *Vis major* losses

- i) The only losses deductible for duty purposes are those governed **by rebate item 624.50** of Schedule 6. It allows a full rebate of duty on goods in respect of which the Excise duty, together with the Fuel levy and RAF levy where applicable, amounts to not be less than R 2 500.
- ii) However, it must be proved, to have been lost, destroyed, or damaged on any single occasion in circumstances of *vis major* or in such other circumstances, as the Commissioner deems exceptional. **Furthermore, it should be noted that the circumstances contemplated as exceptional in this Rebate item would exclude robbery or theft.**
- iii) A written application to the Commissioner requesting the allowance of such losses is required.

2.8.4 Reprocessing

- i) Licensees may apply (in terms of Rebate Items 624.60 of Schedule 6) to the Controller/Branch Manager to withdraw biodiesel from the market.
- ii) Such approval must be obtained before such goods are withdrawn and returned to the VM. The manufacturer must provide detailed particulars of the steps they intend taking to keep such goods or materials in his or her VM.
- iii) If the application is approved, the goods returned shall be –
 - A) Kept intact and entirely separate from any other goods or materials until they have been examined and identified by an Excise Officer; and
 - B) Unpacked and transferred to and mixed with stocks of materials for processing under the supervision of an Excise Officer.
- iv) The licensee of the VM to which the product has been returned must produce evidence to the Controller/Branch Manager of the duty/levies paid on the goods so returned and if such evidence cannot be produced, the Controller/Branch Manager may determine an amount, which shall be deemed to be the duty/levies paid on such goods.

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- f) For any other adjustments, that maybe required resulting from extra ordinary business activities, must be applied for in writing through the Controller/Branch Manager.

2.9 Returns for Duty paid

- a) The return of dutiable product into the VM will only be accepted for the purpose of a duty reduction in the hands of the receiving VM when such product has been contaminated or is out of specification. Such returned product must, after receipt by the VM, be returned to production for reprocessing.
- b) Goods may only be returned as contemplated above where the Excise duty, Fuel levy and RAF levy to be deducted is greater than R25 000 on each single occasion. Deductions of less than R25 000 per single occasion will not be considered.
- c) An independent laboratory approved by the Commissioner for such purpose shall undertake a technical analysis of the returned Fuel levy goods at the cost of the licensed VM. Such analysis is required to determine the composition of the said goods, for the purpose, of determining the quantity and tariff to be applied in calculating the reduction in payment of Excise duty, Fuel levy and RAF levy. The said technical analysis may reveal that a proportion of the contaminated product consists of goods, which are not fuel levy goods. In these circumstances, only that proportion which constitutes Fuel levy goods shall rank as the quantity of such goods used to calculate the reduction in payment of Excise duty, Fuel levy and RAF levy.
- d) A delivery note is required to support such returns. The delivery note must at least indicate the:
- i) Quantity returned;
 - ii) Customer details; and
 - iii) Date of return.
- e) The VM must retain the delivery notes referred to above and make them available for inspection or audit by an EO.
- f) Details of such product returned to the VM will be separately reported on the EXD 01 each month and will form the basis of a duty reduction in the hands of the VM to which the product was returned.

3 REFERENCES

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: Sections 19, 19A, 24, 27, 37B, 38(1), 44(2), 47, 59A, 75(18)(e) and 101(1A) Customs and Excise Rules: Rule 18A, 19A, 19A4, 24, 27, 37B.01 to 37B, 38 75 and 101(1A) Tax Administration Act No. 28 of 2011: Sections 215 to 220 and 224
Other Legislation:	Promotion of Administrative Justice Act No 3 of 2000: Constitution of the Republic of South Africa No 108 of 1996: Section 33
International Instruments:	None

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
FIN-AM-03	Excise eAccount on eFiling - User manual External
SE-ACC-02-M02	Declaration and Return Submission via eFiling – User Manual
SE-ACC-05	Submission of accounts/returns – External Policy
SE-BIO-03-M01	DA 162 Monthly Biodiesel Account – Completion Manual
SE-BON-02	Bonds – External Policy
SE-BON-02-S01	Bonds – External SOP
SC-CC-24	Internal Administrative Appeal – External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy
SE-CF-04	Completion of Declarations – Internal and External Manual

DOCUMENT #	DOCUMENT TITLE
SE-LR-02	Licensing and Registration- External Policy
SE-OIL-02	Oil Industry – External Policy
SE-OIL-04-M01	DA 160 Monthly Excise Account – Completion Manual
SE-PAY-02	Prescribed Payment Terms/Periods – External Policy
SE-REF-02	Refunds – External Policy

4 DEFINITIONS AND ACRONYMS

Link for centralised definitions and acronyms: [Glossary A-M | South African Revenue Service \(sars.gov.za\)](https://www.sars.gov.za/glossary)

DISCLAIMER

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