



OTHER FERMENTED BEVERAGES

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1 PURPOSE

- a) The purpose of the policy is to stipulate the requirements, activities, and liabilities of Other Fermented Beverages (OFB) industry including but not limited to:
 - i) The activities that are permitted in the OFB warehouses;
 - ii) Completion of the DA 260 – EXD 260 account;
 - iii) The assessment of excise duty which involves duty paid removals and non-duty paid removals; and
 - iv) Reprocessing, destruction, or abandonment.
- b) The policy applies to Auditor Excise (AE's) and/or Functional Specialists (FS's) and Operations Specialists (OS's) dealing with role-players in the OFB industry.

2 POLICY STATEMENT

2.1 Liability for Duty

- a) OFB are liable to payment of Excise duty in South Africa.
- b) OFB include:
 - i) Alcoholic beverages obtained from the fermentation (with or without the addition of sugar or yeast, whether artificially flavoured or not) of fruit juices or products other than fresh grapes, e.g. cider, perry, mead, raisin wine, "malton", spruce, saké (rice wine), palm wine, herb beer, pineapple beer, ginger beer;
 - ii) Mixtures of any of these products; and
 - iii) Mixtures of any of these products or wine from fresh grapes with any non-alcoholic beverage.

2.2 Section 47(9)(a)(iv) Tariff determination

- a) Every manufacturer or importer of an alcoholic beverage shall, irrespective of any existing tariff determination at the time Section 47(9)(a)(iv) of the Customs and Excise Act No. 91 of 1964 (the Act) came into operation, apply for a tariff determination of that beverage in terms of this Section.
- b) The tariff determination process for alcohol beverages is explained in SE-TDN-01.
- c) An application for a tariff determination must comply with the provisions of Section 47(9)(a)(iv)(cc) of the Act and must contain inter alia the following:
 - i) Detailed information of the brand name, process of manufacture, the ingredients used, the proportion in which they are used, the alcoholic strength and such other particulars as the Commissioner may specify; and
 - ii) If applicable, a letter from the administering officer referred to in Section 3 of the Liquor Products Act, 1989 (Act No. 60 of 1989), confirming that the alcoholic beverage complies with that Act.
- d) From 1 April 2015 Section 47(9)(a)(iv) of the Act is operational and an application for a tariff determination must be made for an alcoholic beverage, before:
 - i) Release of a clearance for home consumption of the first importation; or
 - ii) Removal from the manufacturing warehouse for any purpose in terms of this Act, as may be applicable in respect of that alcoholic beverage.

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- e) The Commissioner may, for the purposes of implementation of Section 47(9)(a)(iv), by rule:
 - i) Specify a period after the date this Section comes into operation within which and the order in which an application for a tariff determination in respect of any class or kind of alcoholic beverage manufactured or imported shall be submitted; and
 - ii) Prescribe any other matter as contemplated in Section 47(13).
- f) If, for any alcoholic beverage, the brand name, process of manufacture, any ingredient, or the proportion in which it is used, or the alcoholic strength changes, application for a new tariff determination shall be made before release of a clearance for home consumption or before removal from the manufacturing warehouse for any purpose in terms of the Act, as may be applicable in respect of that alcoholic beverage.
- g) Section 47(9)(a)(iv) may not be read as preventing any officer from performing any function contemplated in Section 106.

2.3 Activities permitted in the OFB industry

2.3.1 Special Manufacturing Warehouse (SVM)

- a) The following activities and movements may take place in an Other Fermented Beverages SVM:
 - i) Manufacture of OFB;
 - ii) Duty paid removals to the local market;
 - iii) Bonded removals to other Customs & Excise warehouses;
 - iv) Exports; and
 - v) Rebated removals.

2.3.2 Storage Warehouse (OS)

- a) The following activities and movements may take place in an Other Fermented Beverages OS:
 - i) Duty paid removals to the local market;
 - ii) Bonded removals to another OS and SOS;
 - iii) Exports; and
 - iv) Rebated removals.
- b) An OS warehouse will only be licensed for the storage of own manufactured product of a SVM warehouse.
- c) OFB warehoused in an OS as local Excisable product may not be removed back to a SVM warehouse without the written approval from the Commissioner for SARS.

2.3.3 Special Storage Warehouse (SOS) for export

- a) Exporters of OFB may apply for a SOS license. The license will enable the licensee to receive and export bonded OFB under duty suspension.
- b) The following activities and movements may take place in a SOS licensed for export only:
 - i) Exports; and
 - ii) Rebated removals.
- c) OFB warehoused in a SOS may not be removed to the local Southern African Customs Union (SACU) market for duty paid use or return to a SVM or owner of the OFB without written approval from the Commissioner for SARS.

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- d) For any consignment or part thereof that must be removed to the local market or returned to the sending warehouse (normally an SVM), permission has to be obtained from the Commissioner, stating the quantity to be returned as well as reason(s) for such return.
- e) Products stored in such warehouses are intended solely for export **or** eventual consumption outside the SACU. This implies that these warehouses cannot be used for storage purposes.

2.3.4 Special Storage Warehouse (SOS) licensed as a Duty-Free shop and/or ships **or aircraft chandler**

- a) Owners of Duty Free Shops and companies supplying products for ships **or** aircraft chandlers may apply for the licensing of a SOS.
- b) The following activities and movements may take place in a SOS warehouse licensed as a Duty-Free shop and/or ships **or** aircraft chandler:
 - i) Duty free sales to diplomats and other diplomatic personnel; to foreign-going travellers; and, as stores for foreign-going ships and aircraft;
 - ii) Bonded removals to another SOS licensed as Duty Free Shops and/or Ships **or** Aircraft Chandlers;
 - iii) Exports; and
 - iv) Rebated removals.
- c) OFB warehoused in a SOS may not (without a written approval from the Commissioner for SARS) be removed to the local SACU market for duty paid use **or** consumption as OFB. Products stored in such warehouses are intended solely for export **or** eventual consumption outside the SACU.

2.4 Production

- a) The production of OFB for commercial sale may include production processes and operations such as natural fermentation, fortification, carbonation, blending or mixing, maturation, filtration, stabilisation and bottling of the product.
- b) In terms of Section 44(2), OFB becomes Excisable when it attains its essential character, which is when the product has fermented naturally, or when a fermented beverage is mixed with other products to an alcoholic strength of more than 0.5% alcohol per volume (A/V) and is generally accepted as drinkable **or** fit for human consumption.
- c) The essential character of OFB is attained before blending or mixing, filtration, stabilisation and bottling of the product.
- d) The basic raw material **or** product used for the manufacture of OFB is not regarded as an Excisable product before fermentation. The fermentation process can be stopped by means of different forms of manipulation of the product.
- e) All such products, but with specific reference to ginger beer, not manipulated to stop the fermentation process will be deemed to be capable of fermenting to more than 0.5% A/V and will therefore be regarded by SARS as OFB.
- f) Fortified OFB are produced by increasing the alcoholic strength of unfortified (natural) OFB by means of the addition of spirits, to an alcoholic strength of at least 15.0% A/V but not exceeding 23.0% A/V:
 - i) The strength of spirits used for fortification purposes shall not be lower than 60% A/V; and
 - ii) No spirits removed to a SVM warehouse for fortification purposes may be kept unused in such warehouse for a period longer than ninety (90) days, without the written permission of the Controller **or** Branch Manager.
- g) OFB fortified to an alcoholic strength of more than 23.0% A/V will be regarded, for Excise duty purposes, as a spirituous beverage.

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- h) Other OFB (e.g. sparkling OFB) are produced by increasing the excess pressure of unfortified (natural) OFB by means of natural processes or by the application of carbon dioxide (carbonation) to an excess pressure of not less than 300 kPa when kept at 20°C.

2.4.1 Restrictions

- a) OFB can undergo various processes whereby alcohol (ethanol) and water is extracted in order to lower the alcohol content of such OFB or to manufacture a non-alcoholic beverage i.e. “reverse osmosis”, “nano filtration” and/or “cone spinning”. **Written** approval from the Controller **or** Branch Manager must be obtained prior to the start of any such process.
- b) The ethanol by-product rendered from the alcohol extraction process is regarded as a spirit classifiable under tariff heading 22.08 and is liable to the payment of Excise duty.
- c) In terms of the Liquor Products Act, the adding of water to wine (dilution **or** increasing the volume) changes its essential character. The resultant product is no longer regarded as wine by SARS, but as an “Other Fermented Beverage”.
- d) OFB manufactured in South Africa are identified by an “A” registration number allocated by the Department of Agriculture whereas imported OFB are identified with a “B” registration number. This number is normally reflected on the label of the product and, if not, the full physical address and particulars of the manufacturer must be reflected on the label, which will then indicate the origin thereof.
- e) An extension of the SVM must only be considered if manufacturing will take place at the extended premises and under such circumstances as deemed reasonable and necessary by the commissioner.
- f) The following conditions must apply to an extension of a licensed SVM warehouse, if such application for extension was approved by the Controller **or** Branch Manager:
 - i) All removals from the licensed warehouse to the approved extension of the licensed warehouse must be done on a delivery note - register to be kept;
 - ii) All OFB movements from the licensed warehouse and the extension warehouse **or** premises to any other licensed Customs and Excise warehouse must be done on a DA 32 **or** SAWIS 6 as if taking place from the licensed warehouse; and
 - iii) Only one (1) Excise account must be completed reflecting stock from the extension warehouse **or** premises and the licensed warehouse as well as all movements.

2.5 Completion of the Excise account (DA 260 – EXD 260)

- a) The **DA 260 – EXD 260**—is the summarising document reflecting all production figures, stock figures and movements of bonded OFB, as well as the amount of Excise duty payable in respect of the accounting period.
- b) **DA 260 – EXD 260** must be completed in full; i.e. with all the applicable schedules attached for that specific accounting period and type of warehouse.
- c) All columns and boxes on the Excise account and account schedules must be completed.
- d) If any column is not required for that specific accounting period, the column must be crossed out by drawing a diagonal line across the face thereof, starting from the top left corner of the first box to the bottom right corner of the last box and writing “N/A” (Not Applicable) in the middle thereof.
- e) 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.
- f) If any schedule is not required for that specific accounting period, the applicable schedule does not have to be completed.

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- g) A separate supporting schedule DA 260.04A (Itemised list of Non-Duty Paid Removals) must be used per removal type as indicated on the Excise account schedule DA 260.04 (Summary of Non-Duty Paid Removals).
- h) Provided that the schedule DA 260.04 (Summary of Non-Duty Paid Removals) is completed in full, and the total for a specific removal type is declared as "0.00"; a supporting schedule DA 260.04A (Itemised list of Non-Duty Paid Removals) for that specific removal type, for that specific accounting period, will not be required.
- i) Each schedule to the Excise account also serves as a continuation sheet for that specific schedule.
- j) Licensees may elect, however, to compile a schedule of receipts/removals, approved by the local Controller/Branch Manager, listing all the relevant receipts/removals, and supporting documents pertaining to the specific account schedule and attach that schedule of receipts/removals to the applicable account schedule. In this case, only the total of the schedule of receipts/removals must be reflected in the appropriate box on the prescribed Excise account schedule.
- k) **The full DA 260 excise account is used to complete the EXD 260 excise return which is submitted in terms of SE-AA-08 via eFiling.**
- l) The date of submission will be the date that a licensee submits a fully and properly completed **Excise Account** as described above.
- m) **Special Manufacturing Warehouse (SVM):**
 - i) All licensees of SVM warehouses must submit an **DA 260 – EXD 260**, monthly, to the local Controller/Branch Manager in whose area the warehouse is licensed.
 - ii) The Other Fermented Beverages SVM Excise account consists of the following:

| DA 260 | Excise Account | Summary |
|------------|-------------------------|---|
| DA 260.01 | Excise Account Schedule | Production |
| DA 260.02 | Excise Account Schedule | Receipts from Customs and Excise Warehouses |
| DA 260.04 | Excise Account Schedule | Summary of Non-Duty Paid Removals |
| DA 260.04A | Excise Account Schedule | Itemised list of Non-Duty Paid Removals. A separate supporting schedule form must be used per removal type. |

- n) **Storage Warehouse (OS):**
 - i) All licensees of OS warehouses approved for the storage of locally manufactured OFB must submit an **DA260 – EXD 260**, monthly, to the local Controller/Branch Manager in whose area the warehouse is licensed.
 - ii) The Other Fermented Beverages OS Excise account consists of the following:

| DA 260 | Excise Account | Summary |
|------------|-------------------------|---|
| DA 260.02 | Excise Account Schedule | Receipts from Customs and Excise Warehouses |
| DA 260.04 | Excise Account Schedule | Summary of Non-Duty Paid Removals |
| DA 260.04A | Excise Account Schedule | Itemised list of Non-Duty Paid Removals. A separate supporting schedule form must be used per removal type. |

- o) **Special Storage Warehouse (SOS) licensed for export only:**
 - i) All licensees of SOS warehouses licensed for export only of locally manufactured OFB must submit an **DA 260 – EXD 260**, per calendar quarter, to the local Controller/Branch Manager in whose area the warehouse is licensed.
 - ii) The Other Fermented Beverages SOS Excise account consists of the following:

| DA 260 | Excise Account | Summary |
|--------|----------------|---------|
|--------|----------------|---------|

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| | | |
|------------|-------------------------|---|
| DA 260.02 | Excise Account Schedule | Receipts from Customs and Excise Warehouses |
| DA 260.04 | Excise Account Schedule | Summary of Non-Duty Paid Removals |
| DA 260.04A | Excise Account Schedule | Itemised list of Non-Duty Paid Removals. A separate supporting schedule form must be used per removal type. |

2.6 Assessment of Excise duty

2.6.1 Measure of dutiable quantity

- a) The dutiable quantity of, and Excise duty on OFB is assessed on the total alcohol contained in the product, expressed in litres of absolute alcohol (LAA) rounded off to the second decimal point contained in the total bulk volume of product removed to the local SACU market per accounting period.
- b) For purposes of assessing, the relevant Excise duty, SARS will accept the indicated quantity per container, declared on the commercial invoice, delivery note or similar document issued in relation to each batch and/or consignment of OFB removed to the local market from the SVM.
- c) It is the responsibility of the licensee to monitor and control the filling of containers to ensure that over/under filling is prevented.
- d) If it is established that there is a difference between the declared figures per container and the actual figures, Excise duty will be payable on the actual litres removed.
- e) In the case of a dispute over the alcoholic strength of the product, the SARS will draw and send a sample(s) to an independent scientific laboratory for final determination.

2.6.2 Rate of duty

- a) The rate of duty to be used for the purpose of calculation of Excise duty for OFB is the relevant rate of duty in terms of Schedule 1 Part 2A at the time of clearance declaration (removal) from warehouse for local (SACU) consumption.

2.6.3 Excise duty formula

- a) Excise duty payable on OFB is calculated using the following formula:

| |
|---|
| $\text{Bulk volume (litres)} \times A/V = \text{LAA}$ $\text{LAA} \times \text{relevant rate of duty} = \text{Excise duty payable}$ |
|---|

2.6.4 Duty Paid transactions

- a) Removal of OFB duty paid for consumption as OFB in the SACU is allowed only from SVM and OS warehouses.
- b) No relief of duty (rebate or refund) exists for losses incurred after duty paid OFB has left the warehouse.
- c) Excise duty is assessed per the **DA 260 – EXD 260** as detailed below:
 - i) SVM warehouse:
 - A) Excise duty is assessed on the total bulk volume of OFB removed from the warehouse to the local SACU market during the accounting period.
 - B) The relevant Excise duty is calculated by multiplying the dutiable quantity (litres) by the relevant rate of Excise duty.
 - C) Removals from the SVM to the local SACU market are made per commercial invoice; delivery note or similar document issued in relation to each batch and/or consignment and the total duty paid sales for such period must be reflected on the **DA260 – EXD 260**.

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- D) The total dutiable quantity of OFB so removed during the accounting period must be entered on the **DA 260 – EXD 260**.
- ii) OS warehouse:
- A) Excise duty is assessed on stock difference for the accounting period; i.e. using the following formula:
- I) Opening Balance.
- II) Plus: Receipts from Customs and Excise Warehouses
- III) Less: Total Non-Duty Paid Removals
- Less: Closing Balance
- = Total on which Duty must be paid (Dutiable Quantity).
- B) The relevant Excise duty is calculated by multiplying the dutiable quantity (litres) by the relevant rate of Excise duty.
- C) The total dutiable quantity of OFB so calculated during the accounting period must be entered on the **DA 260 – EXD 260**.
- iii) Samples: In accordance with the rules, samples of OFB in a Customs & Excise warehouse may be taken but are in each case, liable to payment of Excise duty.

2.6.5 Non Duty Paid transactions

- a) OFB can be removed ex warehouse without payment of Excise duty in the following instances:
- i) When OFB is removed in bond to other licensed warehouses within the SACU;
- ii) When OFB is entered under full rebate of duty; or
- iii) When OFB is exported to countries outside the SACU.
- b) Bonded movements:
- i) OFB may be removed ex a licensed warehouse in bond without payment of Excise duty (i.e. duty suspension) to another licensed OFB warehouse in the SACU.
- ii) Movements between SVM warehouses - Bonded movements of OFB between SVM warehouses are allowed for purposes of further manufacturing.
- iii) Movements between SVM and OS warehouses - Bonded movements of OFB between SVM and OS warehouses are allowed for the purpose of storage and subsequent Duty Paid and non-Duty Paid movements out of the OS warehouse.
- iv) Movements between SVM and SOS warehouses - Bonded movements of OFB between SVM and SOS warehouses will only be allowed for the following specified purposes:
- A) Supply to Duty Free Shops and Ships/Aircraft Chandlers; and
- B) Storage for export of such OFB.
- v) Movements between OS warehouses - Bonded movements of OFB between OS warehouses are allowed for the purpose of storage and subsequent Duty Paid and non-Duty Paid movements out of the OS warehouse.
- vi) Movements between SOS warehouses - Bonded movements of OFB between SOS warehouses will only be allowed for the following specified purposes:
- A) Supply to Duty free shops and ships/aircraft chandlers; and
- B) Storage for export of such OFB.
- vii) Movements to BELN (Botswana, eSwatini, Lesotho and Namibia) countries
- A) Bonded movements of OFB will be allowed from licensed warehouses in South Africa (SA) to licensed warehouses within the BELN countries.
- B) The consignor must complete a DA 32 prior to removal of the consignment of bonded OFB from their premises and account for such consignment(s) per the **DA 260 - EXD 260**.
- C) All other non-rebated movements of OFB from SA to the BELN countries will be on a duty paid basis.
- viii) Movements from BELN Countries
- A) Bonded movements of OFB will be allowed from licensed warehouses within the BELN countries to licensed warehouses in SA.
- B) For all other movements of OFB from these countries, proof of payment of Excise duty must be submitted at the port of entry into SA.

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- c) Rebated movements:
- i) OFB 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.
 - ii) A detailed list of all such rebates applicable to the OFB industry is found in Schedule 6. The most common rebates applicable to the OFB industry are rebates for:
 - A) Manufacturing losses;
 - B) *Vis Major* losses;
 - C) Destructions; and
 - D) Unfortified OFB used in the manufacture of other excisable products.
 - iii) Manufacturing losses:
 - A) Rebate Item 624.30 stipulates that Excisable goods in a SVM warehouse and Excisable goods in the process of manufacture and removed from one (1) SVM warehouse to another such warehouse, unavoidably lost in the manufacturing process or through working, pumping, handling and similar causes or through natural causes, to such extent as the Commissioner deems reasonable, may be entered under rebate of duty subject to production of proof that such goods did not enter into consumption.
 - B) Any application by a licensee of a Customs and Excise warehouse for a rebate of duty in terms of Rebate Item 624.30 must be submitted to the Controller/Branch Manager on a form approved by the Commissioner, supported by such evidence of the loss and the circumstances in which such loss occurred as the Commissioner may require in each case.
 - C) The manufacturer must be able to show the actual volume of OFB lost during normal manufacturing processes from their normal commercial records.
 - D) In considering the reasonableness of the loss applied for, regard should be had to the level of manufacturing losses ordinarily incurred by the client (e.g. manufacturing, bottling and packaging operations, and removals between SVM warehouses); and, where appropriate, to industry norms.
 - iv) *Vis Major* losses:
 - A) Rebate Item 624.50 provides for losses, which occur on a single occasion through product being lost, destroyed or damaged in circumstances of *vis major* (forces of nature) or in such other circumstances as the Commissioner may regard as exceptional. **Furthermore, it should be noted that the circumstances contemplated as exceptional in this Rebate item would exclude robbery or theft.**
 - B) Application for such losses must be made in writing. Such loss, whether it occurred in the licensed warehouse or in transit between warehouses, must immediately be reported to the nearest Controller/Branch Manager or if not available, to the South African Police Service (SAPS). The application must also state the circumstances in which the loss occurred as well as the steps that were taken to prevent any further loss.
 - C) The application can be considered if:
 - I) The loss was immediately reported as stated above;
 - II) The amount in Excise duty on the product lost is not less than R2 500;
 - III) The loss was not due to any negligence or fraud on the part of the person liable for the Excise duty;
 - IV) The goods did not enter into consumption; and
 - V) The Excise duty is not due by a third party to the owner of the goods, e.g. the Excise duty is not insured by an insurance company. Should the Excise duty be insured as well, it must be paid over to the SARS.
 - D) If any of the above conditions cannot be met by the applicant, the application cannot be entertained and the Excise duty due must be brought to account.
 - E) Refer to Note 4 to Section G of Schedule 6 as well as Rebate Item 624.50.
 - v) Destructions:
 - A) Licensees may apply (in terms of Rebate Item 624.40) to the Controller/Branch Manager for the destruction of Excisable bonded OFB in instances where a specific consignment of OFB has lost all commercial value or sale of the specific consignment could be harmful to the industry.

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- d) Exports:
- i) Export of OFB to destinations outside the SACU will be allowed under rebate of duty and will be deemed to be duly exported/acquitted only if the prescribed proof of export [original Customs Clearance Declaration (CCD) endorsed copy of the processed export CCD with procedure codes H68-00/F52-00, original signed bill of lading, airway bill, rail note or road manifest] is obtained by the licensee and submitted to the Controller/Branch Manager within thirty (30) days after the export CCD was entered.
 - ii) Failure by the licensee to submit such proof of export, within thirty (30) days after the date of processing of the export CCD, will render the licensee liable for payment of the relevant Excise duty.
 - iii) Locally manufactured OFB exported ex a Customs and Excise warehouse and thereafter brought back (re-imported) by the exporter and re-entered into that warehouse, without having been subjected to any process of manufacture or manipulation and without a permanent change in ownership having taken place, may be allowed free of Customs duty in terms of the conditions set out in Rebate Item 409.06. The procedure to be followed is as follows:
 - A) A permit must be obtained from the Department of Agriculture, Forestry and Fisheries (DAFF) for the importation in the case of wine, spirits or OFB;
 - B) Client must request prior permission from the Commissioner for the re-importation;
 - C) The Excisable goods must be taken into the stock of any Customs and Excise warehouse, unless the Commissioner stipulates otherwise; and
 - D) The rate of Excise duty in force, at the time of entry for home consumption from such warehouse is paid thereon.
 - iv) Via Table Bay Harbour -
 - A) DA 32/SAWIS 6 certificates and a processed CCD with procedure code H68-00 must be completed in respect of bonded movements of OFB to Table Bay Harbour.
- e) Co-loaded (Groupage) Consignments of OFB for Export:
- i) Less Container Load (LCL) Consignments:
 - A) The removing licensee removes the consignment of OFB in bond per DA 32 to another licensed warehouse who accounts for that consignment in their **DA260 – EXD 260**; or
 - B) The removing licensee completes a DA 32, marked as reflected below [In this case the licensee(s) of the warehouse(s) where the co-loading takes place does not account per the **DA260 – EXD 260** for the consignment(s) so temporarily received on their premises):
 - I) For co-loading at: (Warehouse name and number).
 - II) For eventual export ex: Harbour (Name of harbour/port).
 - C) Each individual LCL consignment removed for export per removal certificate DA 32 must be acquitted by each individual removing licensee. The licensees of the warehouses from where the co-loaded consignments originated must submit a copy of the processed export CCD, together with a packing list identifying their specific product as part of the full consignment exported, to their local Controller/Branch Manager acquitting their specific DA 32 marked “For co-loading at”
- f) Movements from SVM to a VMS:
- i) Alcohol Extraction Procedure:
 - A) OFB is manufactured or received in the SVM warehouse.
 - B) The OFB is subjected to the alcohol extraction process, which renders a low alcohol OFB or a non-alcoholic beverage.
 - C) The manufacturer of the non-alcoholic beverage must register in terms of Rebate Item 620.21 for unfortified wine used in the manufacturing of non-alcoholic beverages.
 - D) The entire activity of the alcohol extraction process must take place in the facility of the SVM warehouse.
 - E) Rule 75.24 sets out the requirements with regard to the keeping of a register by the registered rebate users of Excisable goods used in the manufacture of, inter alia, non-alcoholic beverages.
 - F) The ethanol by-product rendered from the alcohol extraction process is regarded as a spirit classifiable under tariff heading 22.08.

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- G) On completion of the alcohol extraction process, the ethanol by-product must be removed to either the:
 - I) VMP warehouse for distillation;
 - II) VMS warehouse for blending into spirituous beverage; or
 - III) SOS for export or for supply of fermented ethyl alcohol to registered rebate users.
- ii) Accounting procedure for the manufacturing of a non-alcoholic beverage is as follows:
 - A) The OFB to be used in the manufacture of a non-alcoholic beverage is rebated out of the SVM warehouse in terms of Rebate Item 620.21 on the DA 260.04 schedule of the DA 260 Excise account.
 - B) The manufacturer of the non-alcoholic beverage who is registered in terms of Rebate Item 620.21 receives the OFB under rebate of duty.
 - C) On completion of the alcohol extraction process, the ethanol by-product of tariff items 104.21.01 (more than 80% A/V) or 104.23.28 (less than 80% A/V), must be removed to either a VMP, VMS or SOS warehouse.
 - D) The CEB 01, with purpose code ZGR must be completed by the rebate registrant to move the ethanol by-product to the VMP, VMS or SOS warehouse.
 - E) Movement of ethanol by-product to the VMP or VMS warehouse:
 - I) The CEB 01, with purpose code ZGR in terms of Rebate Item 621.23/104.21.01 for fermented ethyl alcohol of an alcoholic strength by volume of 80% or higher, undenatured, or
 - II) The CEB 01, with purpose code ZGR in terms of Rebate Item 621.33/104.23.28 for fermented ethyl alcohol being the by-product from a process of extraction (alcohol strength by volume of less than 80%).
 - F) Movement of ethanol by-product to the SOS warehouse:
 - I) The CEB 01, with purpose code ZGR in terms of Rebate Item 621.27/104.21.01 for fermented ethyl alcohol of an alcoholic strength by volume of 80% or higher, undenatured; or
 - III) The CEB 01, with purpose code ZGR in terms of Rebate Item 621.37/104.23.28 for fermented ethyl alcohol being the by-product from a process of extraction (alcohol strength by volume of less than 80%).
 - G) The conversion of litres into litres absolute alcohol (AA) is indicated on the CEB 01 clearance declaration with purpose code ZGR.
 - H) Receipt of ethanol by-product into VMP or VMS warehouse.
- iii) Accounting procedure for the manufacture of low – alcohol OFB is as follows:
 - A) On completion of the alcohol extraction process, the ethanol by-product must be removed to either a VMP, VMS or SOS warehouse.
 - B) The ethanol by-product is rebated out of the SVM warehouse in terms of Rebate Item 620.20/104.17 on the DA 260.04 schedule of the DA 260 Excise account.
 - C) Receipt of ethanol by-product into VMP, VMS or SOS warehouse.

2.7 Duty paid returns from the local market

2.7.1 OFB which is off-specification or has become contaminated or undergone post-manufacturing deterioration

- a) OFB, which is off-specification or has become contaminated or undergone post-manufacturing deterioration, may be returned to an SVM for destruction or reprocessing, only if such product(s) is found to be off-specification, contaminated, or has undergone post-manufacturing deterioration within a period of twelve (12) months after removal from the SVM and that the goods are returned within this period.
- b) The provisions of Rebate Item 620.24 shall apply in respect of OFB:
 - i) Under the control of the manufacturer;
 - ii) Returned as produced from the same batch(es); and
 - iii) Returned in the originally sealed containers for wholesale or similar packaging.
- c) The licensee of the Customs and Excise manufacturing warehouse in which such goods will be reprocessed or destroyed must apply to the Commissioner for such reprocessing or destruction stating

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the circumstances in which the goods have become, and the extent to which the goods are, off-specification or contaminated.

- d) A licensed manufacturer of goods contemplated in Rebate Item 620.24 may, if circumstances arise that impede the return of the goods to that licensee's Customs and Excise special manufacturing warehouse (SVM) for destruction as contemplated in that item, apply to the Commissioner to have the goods destroyed at the manufacturer's own distribution centre or a specialised destruction facility, provided:
- i) The removal to the approved premises takes place within a period of twelve (12) months prescribed in Note 6(a)(i);
 - ii) The destruction and location of such destruction is requested and prior approval is obtained from the Commissioner before the OFB is removed for destruction;
 - iii) The destruction shall otherwise remain subject to the provisions of Rebate Item 620.24, the Notes thereto, the Act and its rules;
 - iv) The destruction is to be done under Customs supervision if required by the Commissioner; and
 - v) Any other requirement as the Commissioner may specify in writing is complied with.
- e) The following is a list of information required to accompany the application in terms of Rebate Item 620.24. This list is not exhaustive and the Controller/Branch Manager may request additional information as needed:
- i) The application must be submitted by the SVM that manufactured the product and be submitted on an official company letterhead to the nearest relevant Customs and Excise office in the area in which the licensee is licensed;
 - ii) The reason for the application for destruction must be provided together with a quality/lab analysis report/certificate of the product(s) in question;
 - iii) Quantity/volume of product to be destroyed, including brand name and packaging size and type;
 - iv) Location and details of place where the goods are currently stored and will be returned from;
 - v) Location and details of place where the goods will be destroyed;
 - vi) Licensee to state how long the destruction process of the volumes applied for will take;
 - vii) If permission for the destruction in terms of Rebate Item 620.24 is granted, the licensee must inform the Controller/Branch Manager of the date and time when the destruction will take place;
 - viii) Licensee to provide a report indicating where the stock originated and where it was removed to;
 - ix) Proof that the duty was paid and the rate of duty that was paid at time of clearance;
 - x) Proof that the goods were removed from the SVM and returned within a period of twelve (12) months after it was found to be off-specification, contaminated or to have undergone post-manufacturing deterioration;
 - xi) After destruction of the OFB, a destruction certificate will be issued for the destruction done under supervision. The destruction certificate must be utilised for the application for permission to conduct the set-off on the excise account as agreed by the Commissioner;
 - xii) The licensee must, at the end of the destruction, provide the Controller/Branch Manager with a report from the specialised destruction facility confirming the quantity of product that was destroyed;
 - xiii) The licensee of such warehouse where the OFB was manufactured may, after destruction of the product and the destruction certificate has been issued, set-off as contemplated in Section 77, the amount duly refundable against the amount payable on the excise account over a period of two (2) years, as approved by the Commissioner.
- f) If the Commissioner approves the application, any OFB returned in terms of Rebate Item 620.24 shall be:
- i) Kept intact and entirely separate from any other goods or materials until they have been examined and identified by an Excise Officer (EO); and
 - ii) Where approved unpacked and transferred to and mixed with stocks of materials for reprocessing, under supervision of an EO; or
 - iii) Destroyed under supervision of an EO.
- g) The licensee of a SVM to which such products are returned for destruction or reprocessing must keep a record which includes at least the following:

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- i) A detailed description of the goods received including the applicable tariff item;
- ii) The quantity received; the date of receipt;
- iii) The delivery note under cover of which such products were returned;
- iv) Proper record of the excise inspection processes; and
- v) Proper record of the excise permission to destroy or reprocess.

2.8 Reprocessing, destruction, or abandonment

2.8.1 Application

- a) The client must apply in writing to the Controller/Branch Manager for the reprocessing, destruction or abandonment of product of which application must at least contain the following information:
 - i) Must be on a company letter head;
 - ii) Power of attorney (if applicable);
 - iii) Which Rebate Item is applied for;
 - iv) Product applicable;
 - v) Quantity/litres;
 - vi) Indemnity letter (indemnifying SARS of any civil claim) (if applicable);
 - vii) Rate of duty applicable;
 - viii) The reason why the application is made;
 - ix) The method that will be used to destroy the product (if applicable);
 - x) The date on which the product will be reprocessed or destroyed;
 - xi) State the location of the goods; and
 - xii) All relevant supporting documentation.
- b) If necessary, the Excise Branch Office can request further information.

2.8.2 Consideration

- a) The EO must ensure that:
 - i) The client has met the conditions of the notes to the relevant Rebate Item; and
 - ii) That all supporting documents have been submitted.
- b) If necessary, the said EO can request further information from the client.
- c) The relevant EO must compile a report for the Operations Manager (OPS Manager), indicating whether the application can be considered or not.

2.8.3 Allows or disallows

- a) When the OPS Manager allows the application, two (2) EOs' must be tasked to attend the reprocessing, destruction, or abandonment. If needed, the application can be verified by these EOs'.
- b) Should the application be unsuccessful, the client must be informed in writing of the reasons thereof, taking PAJA into account.

2.8.4 Supervision

- a) Once the two (2) appointed EOs' have viewed the reprocessing or destruction, a P 2.08 must be completed in duplicate verifying that such destruction has taken place.
- b) A copy thereof must be handed to the client.

2.8.5 Final Report

- a) A final report must be compiled by the EOs', attaching all relevant supporting documentation, and submitting it to the OPS Manager.

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- b) The OPS Manager must inform the client in writing to apply for a set-off on the Excise account/return.

2.9 Set-off

- a) For the purpose of section 75(11A), the licensee of the SVM making such application must produce proof that duty was in fact paid as well as the rate at which the Excise duty was paid on such products presented for destruction or reprocessing in accordance with the provisions of Rebate Item 620.24.
- b) If the licensee is unable to produce such proof of the rate, the duty on any quantity so returned shall be calculated for refund purposes at the lowest rate of Excise duty levied in terms of this Act on such products during the twelve (12) month period.
- c) Where any goods containing spirits for which any rebate of duty on the spirits has been allowed as contemplated in Section 75(18) are returned to a Customs and Excise manufacturing warehouse for reprocessing or destruction as provided in this item, the Excise duty so allowed as a rebate in respect of the goods returned must be paid back before any process of reworking the product or destruction thereof may take place.
- d) The licensee of such warehouse may, after reprocessing or destruction of the products concerned, and on accounting for the goods reprocessed or destroyed in the monthly account (EXD 260), prescribed in the rules for Section 19A, set-off as contemplated in Section 77, any amount duly refundable against the amount payable on such account during a period of two (2) years after receipt of the goods for reprocessing or destruction, as the case may be.
- e) The amount to be set-off shall be calculated in the following manner:

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| $\text{Quantity returned (number, kilograms or litres absolute alcohol etc.)} \times \text{rate of duty (determined as above)} = \text{Duty to be set-off.}$ |
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- f) This amount must then be subtracted from the Excise duty due on the DA260 – EXD 260.

3. REFERENCES

3.1 Legislation

| TYPE OF REFERENCE | REFERENCE |
|---|---|
| Legislation and Rules administered by SARS: | Customs and Excise Act No. 91 of 1964: Sections 18, 18A, 19, 20, 21, 27, 44, 47, 59A, 60, 61, 69, 75, 76, 101, 101A, 116 and 119A. Customs and Excise Rules: Rules 18.01 to 18.15, 18A.01 to 18A.07, 19.01 to 19.07, 20.14, 20.17 to 27.13, 44.01 to 44.04, 47.01 to 47.04, 59A.01 – 59A.11(2), 60.01(1) – 60.10(2) and 119A.R101A(10)(d). Tax Administration Laws Amendment Act, 2014: Section 15 |
| Other Legislation: | Constitution of the Republic of South Africa No. 108 of 1996: Section 3 Liquor Products Act No. 60 of 1989: Sections 3 Promotion of Administrative Justice Act No. 3 of 2000 |
| International Instruments: | None |

3.2 Cross References

| DOCUMENT # | DOCUMENT TITLE |
|---------------|--|
| SE-ACC-08 | Declaration and Return Submission via eFiling – External Guide |
| SE-OFB-01-S01 | Other Fermented Beverages – Internal SOP |
| SE-TDN-01 | Tariff Determination – Internal Policy |

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4 DEFINITIONS AND ACRONYMS

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