



HEALTH PROMOTION LEVY ON SUGARY BEVERAGES

TABLE OF CONTENTS

1	PURPOSE	3
2	POLICY STATEMENT	3
2.1	Implementation of the Health Promotion Levy on Sugary Beverages	3
2.2	Liability for levy	4
2.3	Assessment of the HPL on sugary beverages	5
2.3.1	Implementation provisions	5
2.3.2	Declaration of quantity and levy	5
2.3.3	Commercial invoices and dispatch/delivery notes (DN)	5
2.3.4	Removal of sugary beverages	6
2.3.5	Movement of sugary beverages	6
2.3.6	Levy paid returns	7
2.3.7	Deduction	7
3	REFERENCES	7
3.1	Legislation	7
3.2	Cross References	7
4	DEFINITIONS AND ACRONYMS	8

1 PURPOSE

- a) This policy relates to the commercial production chain and the application of the health promotion levy (HPL) on sugary beverages in the sugary beverages industry.
- b) Manufacturers are informed of behaviours that can attract impositions of penalties and how to appeal against certain administrative decisions.

2 POLICY STATEMENT

2.1 Implementation of the Health Promotion Levy on Sugary Beverages

- a) HPL is legislated in Chapter VB of the Customs and Excise Act No. 91 of 1964 (the Act) and the Rules thereto. Any provisions, as reflected in Chapter VA and its rules of the Act except as otherwise provided in Chapter VB and the rules, shall as may be applicable, apply to any HPL goods manufactured in or imported into South Africa.
- b) HPL is imposed on sugary beverages manufactured in South Africa in terms of item 191.00 in Section A of Part 7 of Schedule 1. The levy so specified on the items shall be payable in addition to any duty prescribed in respect of the goods concerned.
- c) Any reference to sugar means both the intrinsic and added sugar as well as other sweetening matter contained in any sugary beverage.
- d) The licensee must endorse or provide a note to an invoice or delivery note issued as contemplated in Rule 54F.05 and in respect of sugary beverages that was manufactured before the date when the HPL came into operation.
- e) Any person who manufactures or imports any sugary beverage that is liable for HPL must determine and declare the sugar content of the sugary beverage based on:
 - i) The total sugar content in grams per 100ml of the sugary beverage as certified on a valid test report obtained and retained from a testing laboratory. The Laboratory should be accredited with and uses methodology recognised by the South African National Accreditation System (SANAS) or the International Laboratory Accreditation Cooperation (ILAC); and
 - ii) The report referred to in item (i) above must be kept available for inspection for a period of five (5) years from the date that the sugary beverage was manufactured or imported and must be produced or submitted at the request of an Excise Officer (EO); or
 - iii) The sugar content that is used for the calculation of the SBL liability is either the actual sugar content of the SBL item as substantiated on an acceptable laboratory test report or the deemed sugar content of 20 gram for 100ml. The declaration of the sugar content in respect of an SBL good with a deemed sugar content must therefore be reflected as 20 gram for 100ml on the DA 179. In practice, the system will apply the normal SBL calculation that first subtracts the threshold of 4gram per 100ml exempt sugar content from the declared sugar content in the calculation of the final SBL liability; and
 - iv) For powder or liquid concentrates, sugar content will be calculated on the total volume of the prepared beverage.
- f) For the purposes of Rules 54F.10 to 54F.12, sugary beverages manufactured in South Africa may only be entered for removal in bond and exported from a Customs and Excise warehouse (VM) to any place outside South Africa or any place in any other country in the Common Customs Area (CCA). If licensees do not make use of their own transport, a licensed Remover of goods in bond (ROG) must be used.
- g) All licensees must be registered for eFiling because the submission of the returns and payments can only be made via eFiling. Accounts and payments must be submitted as prescribed in the rules in the format and in accordance with the procedures specified in the eFiling service [Rule 119A.R101A(d)]. Other payment methods may only be used if the eFiling service is not available (refer to BP-02). Licensees can register for eFiling on the SARS Website: www.sars.gov.za

- h) If licensees are unable to access the eFiling service, they must visit the nearest SARS Branch Office (B/O) for assistance. The licensee must present the return [DA 179 and DA 179.01 (in an electronic format)] and the B/O will upload the CSV and capture any other required information on Service Manager (SM). A printed copy of the EXD 01 with the PRN will be handed to the licensee for payment.
- i) The following provisions have also been catered for:
- i) **Refund Item 691.01** - A **refund** in respect of HPL on sugary beverages goods removed (exported) by such licensee of a manufacturing warehouse (VM) to a consignee in a **BELN** country.
 - ii) **Rebate Item 691.02** – A **refund** in respect of HPL goods. It should be noted that HPL goods are perishables and could in fact become contaminated or off-specification. For this reason, rebate item 691.02 has been amended to align with similar provisions for perishable goods. It allows for reprocessing or destruction and the necessary control measures, such as Customs supervision, documentary evidence, etc.
 - iii) **Refund Item 691.03 (e.g. Distribution centre)** – HPL goods exported, other than exports contemplated in Refund Items 691.01 and 691.04.
 - iv) **Refund Item 691.04** – A **refund** in respect of HPL on sugary beverages goods are removed (exported) by such licensee of a VM to a consignee outside the common customs union.
 - v) **Refund Item 691.05** – A **refund** provision in respect of HPL goods to be used in the manufacture of HPL or Excise goods. Upon proof of use in such manufacture, a refund can be claimed on a DA 66.
 - vi) **Refund item 691.06** – A refund provision in respect of HPL goods used in the manufacture of other goods is not subject to the HPL.

2.2 Liability for levy

- a) The liability for the HPL in the sugary beverages industry is assessed and the levy collected on a duty at source (DAS) basis.
- b) On implementation, the accounting period will commence on **1 April 2018** after which the accounting period shall be a calendar month.
- c) The DA 179 return and DA 179.01 (CSV) for the HPL on sugary beverages must be completed, submitted and paid by the VM on a monthly basis. The HPL rate is fixed as contemplated in Part 7A of Schedule 1.
- d) In instances where powder and liquid concentrate are used for preparations for the making of beverages, the sugar content must be calculated based on the total volume of the prepared beverage when mixed or diluted according to the manufacturer's product specifications.
- e) For the purposes of Rule 54F.10, in respect of the liability and the termination of liability for duty, the liability for duty of a licensee for the manufacture of sugary beverages shall cease only:
 - i) Upon proof of payment of HPL on such sugary beverages and entry for home consumption of such sugary beverages; or
 - ii) Upon proof that the export to any country or removal to any BELN country of such sugary beverages has been received in such country.

2.3 Assessment of the HPL on sugary beverages

- a) The DA 179 and applicable DA 179.01 (CSV – file) must be completed for which the information must be submitted via the SARS eFiling (EXD 01) [Rule 119A.R101A(10)(d)(a – g)]. The paper copies thereof must be kept for record purposes.

2.3.1 Implementation provisions

- a) Upon implementation, when issuing any commercial invoice or dispatch/delivery note (DN) contemplated in Rule 54F.05 in respect of sugary beverages manufactured before the date when the HPL came into operation, the licensee must endorse such commercial invoice or DN to state that such sugary beverages were manufactured before the effective date.
- b) With regards to (a) above, licensees must ensure to endorse with either a red stamp or red pen the words **“manufactured prior to 1 April 2018”**, when issuing such commercial invoice or DN in respect of sales and removal of sugary beverages products.
- c) The implementation accounting period will commence on the effective date, after which the monthly accounting periods will commence on the first day of each calendar month.

2.3.2 Declaration of quantity and levy

- a) The licensee must declare all the sales, returns, refunds and rebates that took place during the accounting month on the Excise Duty and Levy Return (EXD 01) via eFiling as per the information on the DA 179 and DA 179.01 (CSV – file).
- b) The licensee must account for all movements of products subject to the levy removed to the local market and Botswana, eSwatini (formerly Swaziland), Lesotho and Namibia (BELN) and foreign countries, as reflected on the DN's and commercial invoices. The products must be removed on a levy paid basis.

2.3.3 Commercial invoices and dispatch/delivery notes (DN)

- a) Sugary beverages classifiable under items 191.01 to 191.07 of Section A of Part 7 to Schedule 1, must be removed from the VM with a valid invoice or DN. The invoice or DN must contain the following information:
- i) The words ‘commercial invoice’ or ‘dispatch/delivery note’;
 - ii) Name, physical address and Value Added Tax (VAT) number of the manufacturer;
 - iii) Name and physical address of the purchaser;
 - iv) A serial number of the invoice;
 - v) Date of removal;
 - vi) Description of the goods (Cocoa powder, containing added sugar or other sweetening matter – Preparations for making beverages, etc.);
 - vii) The amount of levy; and
 - viii) The amount of VAT.
- b) The invoices or DN's must, in all instances, include any other particulars required for determining the rate and amount of duty on any goods specified in such invoice and removed from such warehouse [refer to Rule 54F.05(a)]. This means that the details on the invoice must reflect the HPL amount payable for each sugary beverage product specified in such invoice. A single aggregate HPL total at the bottom of the invoice would therefore not suffice, unless the invoice is only for one (1) sugary beverage product.
- c) Care should be taken of the fact that invoices and/or DN's are authentic and meet the requirements as above (i.e. the invoice and DN's must be able to be traced back to the manufacturing warehouse from where the goods were removed from).

- d) For goods manufactured in SA which are subject to HPL, the VAT must be levied and paid on the value of the goods inclusive of the HPL in terms of Section 7(3)(a) of the VAT Act.

2.3.4 Removal of sugary beverages

- a) Assessments on VM removals to the BELN or other foreign countries – In this case the VM must complete commercial invoices and all relevant export Customs Clearance Declaration (CCD) documents.
- b) All commercial invoices or dispatch/delivery notes must be serially or transactionally numbered and dated as required by Rule 54F.05. Take note of the requirement regarding the “old stock” as mentioned in paragraph 2.6.1 (a) and (b) above.
- c) The licensee may only account for leviable sugary beverages on its monthly return, which was removed from the VM. Sugary beverages removed or being dealt with from a place other than such a warehouse may not be accounted for on the monthly return.

2.3.5 Movement of sugary beverages

- a) Local market (levy paid):
- i) These are removals (sales) to the local market. The levy on the movement of sugary beverages from a VM directly to the local market must be paid to SARS within the prescribed payment period.
 - ii) The levy on sugary beverages must be paid on a monthly basis after the required information was captured on the eFiling functionality.
- b) Movements to the BELN countries (locally manufactured):
- i) All movements of sugary beverages, subject to the levy, from SA to the **BELN** and foreign countries will be on a levy paid basis.
 - ii) The licensee must produce the following completed documents to the Controller/Branch Manager at the port of exit from SA:
 - A) A duly completed CCD SAD 500;
 - B) Commercial invoice; and
 - C) Depending on the mode of transport, the licensee must also keep copies of documents as prescribed in the Clearance Declarations policy (SC-CF-55).
- c) Receipt of imported goods in the licensed VM:
- i) Goods imported via a CCD SAD 500 for use (manufacture) in a licensed VM must be received in such a warehouse on a P 2.53 which must be duly completed by the licensee;
 - ii) The imported product(s) must be recorded in the warehouse register which must at least contain a “receipt” and a “despatch” column;
 - iii) The “despatch” column must reflect each and every quantity of the imported product despatched for downstream production activities;
 - iv) The register must also provide for a signature and date column;
 - v) The P 2.53 must be signed and dated by the licensee or their appointed public officer;
 - vi) Copies of the CCD SAD 500 and P 2.53 must be kept for record purposes for a period of five (5) years; and
 - vii) Refer to the Excise Refunds document (SE-REF-02) for the comprehensive warehouse register and P 2.53 requirements.
- d) Movement of manufactured sugary products subject to the levy for further downstream production process, i.e. syrups and concentrates to another licensed manufacturing warehouse (either within the company or legal entity or to a third party) must be removed on a levy paid basis.
- e) Movement of manufactured sugary beverages from a licenced manufacturing warehouse to a non-licensed manufacturer must be removed on a levy paid basis.

- f) Movement of imported sugary beverages to another third-party licenced manufacturing warehouse for further downstream production of sugary beverages liable to the levy is allowed, but such imported sugary products removed must be duly described and noted as a deduction in the licensed manufacturing warehouse's register from which it is removed. Such removal may only be performed on a levy paid basis. Note should be taken of the refund claim requirements regarding such imported sugary products into the licensed VM.
- g) Movement of sugary beverages from a licensed manufacturing warehouse to a consignee to the BELN and/or beyond the SACU must be undertaken by the licensee only. If the licensee does not have the ability of using their own vehicles to remove their sugary beverages, they must use the services of a licensed remover of goods in bond (ROG) for the removal and transport.

2.3.6 Levy paid returns

- a) The VM may apply for a refund of the levy on compliance with the relevant conditions and procedures prescribed in Rebate Item 691.02 regarding sugary beverages found to be off-specification, have become contaminated, or have undergone post-manufacturing deterioration may be returned to a VM for destruction or reprocessing.
- b) The above will only happen if such products are found to be off-specification, contaminated or have undergone post manufacturing deterioration within a period of six (6) months after removal from the VM and that the goods are returned within this period, where the HPL amounts to not less than R100.
- c) The licensee must also refer to the notes, provisions and requirements of Rebate Item 691.02

2.3.7 Deduction

- a) Deduction (set-off) against refund items on the returns may only be made by the VM on compliance with the relevant conditions and procedures prescribed in each case.
- b) Deductions from levy quantities and levy amounts may be made in respect of:
 - i) Sugary beverages removed by such licensee for a consignee in a **BELN** country; and/or
 - ii) Sugary beverages removed by such licensee to a consignee outside the Common Customs Area (CCA).

3 REFERENCES

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: Sections 20(4), 27, 54A – F, 87, 88, 119A and 120 Customs and Excise Rules: Rules 19, 54F; 54I.01 to 54I.09 and 119A.R101A(10)(d) Customs and Excise Tariff: Schedule 1Part 7A and Schedule 6 Tax Administration Act No. 28 of 2011: Sections 215 to 220 and 224 Value-Added Tax Act No. 89 of 1991: Section 7(3)(a)
Other Legislation:	None
International Instruments:	None

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
QMS-01	Quality Management System Manual
BP-02	Customs and Excise Payments – External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy

SC-CF-55	Clearance Declaration – External Policy
SE-ACC-02-M01	Declaration and Return Submission via eFiling – External Manual
SE-ACC-05	Submission of Accounts>Returns – External Policy
SE-APL-02	Administrative Appeal – External Policy
SE-BON-02	Bonds – External Policy
SE-LR-02	Licensing and Registration – External Policy
SE-PAY-02	Prescribed Payment Rules – External Policy
SE-REF-02	Refunds – External Policy
SE-SB-03-M01	DA 179 and Schedule – External Manual

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

The information contained in this guide is intended as guidance only and is not considered to be a legal reference, nor is it a binding ruling. The information does not take the place of legislation and readers who are in doubt regarding any aspect of the information displayed in the guide should refer to the relevant legislation or seek a formal opinion from a suitably qualified individual.

For more information about the contents of this publication you may:

- Visit the SARS website at www.sars.gov.za;
- Make a booking to visit the nearest SARS branch;
- Contact your own tax advisor / tax practitioner;
- If calling from within South Africa, contact the SARS Contact Centre on 0800 00 SARS (7277); or
- If calling from outside South Africa, contact the SARS Contact Centre on +27 11 602 2093 (only between 8am and 4pm South African time).