

**EXCISE**  
**EXTERNAL POLICY**  
**TOBACCO**

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## 1 SUMMARY OF MAIN POINTS

- a) This policy applies to role-players in the Tobacco Industry.
- b) This policy does not cover:
  - i) Customs and Excise payments as this is dealt with in document BP-02;
  - ii) Declaration and Return submission via eFiling as this is dealt with in document SE-ACC-02-M02;
  - iii) Submission of accounts / returns as this is dealt with in document SE-ACC-05;
  - iv) Bonds as this is dealt with in document SE-BON-02;
  - v) Control and Clearance of bonded / inter-warehouse movements as these are dealt with in document SE-CON-02;
  - vi) Accounting for duty / levy as this is dealt with in document SE-GEN-02;
  - vii) Introduction to Excise Duties, Levies and Air Passenger Tax as this is dealt with in document SE-GEN-04-G01;
  - viii) Licensing requirements as this is dealt with in document SE-LR-02;
  - ix) Prescribed payment terms / periods as these are dealt with in document SE-PAY-02; and
  - x) Refunds as these are dealt with in document SE-REF-02.

## 2 POLICY

### 2.1 Liability for duty

- a) Tobacco products and substitutes thereof are liable to payment of Excise duty in South Africa (SA) as described in Schedule 1 Part 2A.
- b) Tobacco products include:
  - i) Cigarette tobacco;
  - ii) Pipe tobacco;
  - iii) Cigarettes;
  - iv) Cigars; and
  - v) Any product used as a substitute for any of the above products.
- c) Products manufactured in the Southern African Customs Union (SACU) to be used as a substitute for cigarette tobacco, pipe tobacco, cigarettes or cigars will be classified under the tariff item of that specific tobacco product it is substituting.
- d) The liability for Excise duty in the tobacco industry is assessed and collected on a Duty at Source (DAS) basis.
- e) In terms of the SACU agreement, the governments of South Africa (SA), Botswana, eSwatini (Swaziland), Lesotho and Namibia (BELN) agreed, amongst other things, to broadly apply the same Excise duty principles in order to reduce trading and compliance costs for businesses within the SACU.
- f) The 'DAS' system of assessing Excise duty and accounting for Excisable products, and its principles, is an example of such a commonly applied system / principle. Many of the procedures described in this document will therefore similarly apply to tobacco products produced in SA and any of the BELN countries.

### 2.2 Type of warehouse and activities allowed in the Tobacco Industry

#### 2.2.1 Manufacturing Warehouse (VM)

- a) The following activities and movements may take place in a tobacco product VM:
  - i) Manufacture of tobacco products;
  - ii) Duty paid removals to the local market;

- iii) Bonded removals to Customs and Excise warehouses [VM and Special Storage Warehouse (SOS)];
- iv) Exports; and
- v) Rebated removals.

### 2.2.2 Special Storage Warehouse (SOS)

- a) Tobacco products warehoused in a SOS may not without written approval from the Commissioner for the South African Revenue Service (SARS) be sold / removed to the local SACU market. Products stored in such warehouses are intended solely for export / eventual consumption outside the SACU:
  - i) **SOS licensed for export -**
    - A) Exporters of tobacco products may apply for a SOS license for the sole purpose of exporting such products to countries outside the SACU.
    - B) The following activities and movements may take place:
      - I) Exports; and
      - II) Rebated removals.
  - ii) **SOS licensed as a Duty Free Shop and / or Ship / Aircraft Chandler -**
    - A) Owners of Duty Free Shops and Ship / Aircraft Changers may apply for a SOS license.
    - B) The following activities and movements may take place:
    - C) Duty free sales to diplomats and other diplomatic personnel to foreign-going travellers and, as stores for foreign-going ships and aircraft;
    - D) Bonded removals to other Customs and Excise SOS's licensed as Duty Free Shops and / or Ships / Aircraft Changers;
    - E) Exports; and
    - F) Rebated removals.
  - iii) **SOS licensed as a Duty Free Shop and / or Ship / Aircraft Chandler -**
    - A) Manufacturers of tobacco products may apply to license a SOS for the sole purpose of supplying Duty Free Shops and / or ships / aircraft changers with tobacco products.
    - B) The following activities and movements may take place:
    - C) Bonded removals to licensed Duty Free Shops and / or Ships / Aircraft Changers;
    - D) Exports; and
    - E) Rebated removals.

## 2.3 Production of tobacco products

- a) In terms of Section 44(2), tobacco products become Excisable when it attains its essential character, which is when the tobacco is in such a condition that it is capable of being used for smoking purposes.
- b) The basic raw material / product used for the manufacture of tobacco is un-cut tobacco leaf, which is not regarded as an Excisable product.
- c) Tobacco leaf becomes Excisable once the leaf is cut (cut-rag) and is then classified either as cigarette tobacco or pipe tobacco.
- d) Cigarette tobacco means any tobacco cut into strips less than one (1) mm in width or any cut tobacco described or offered for sale as tobacco for making into cigarettes.
- e) Pipe tobacco means any tobacco cut into strips of one (1) mm in width or more or any tobacco described or offered for sale as tobacco for smoking in a pipe.
- f) Any product created for smoking purposes by wrapping tobacco in paper or in any other material (excluding tobacco leaf) is regarded as a cigarette.
- g) Any product created for smoking purposes by wrapping tobacco in tobacco leaf is regarded as a cigar.

## 2.4 Product counters on cigarette production lines

- a) The licensee of a VM warehouse for the manufacture of cigarettes shall calculate the quantities of all cigarettes manufactured in the warehouse by means of a functional product counter on each cigarette-packaging machine.
- b) The licensee shall for the purpose of the above paragraph:
  - i) Ensure that a product counter is installed and maintained on each cigarette-packaging machine according to the specifications of the manufacturer of such cigarette-packaging machine and the manufacturer of such product counter respectively;
  - ii) Ensure that a device is installed and maintained for the recording of data for each product counter on the quantities of all cigarettes manufactured;
  - iii) Seal any inoperative cigarette-packaging machine or cigarette production line with a tamper-proof security seal under the supervision of an Excise Officer (EO);
  - iv) Conserve any security seal and only allow the seal to be removed and replaced under the supervision of an EO;
  - v) Bear the cost of installing and maintain any product counter and data recording device; and
  - vi) Bear the cost of installing and conserving any security seal.
- c) The licensee shall comply with the provision mentioned in paragraph (b) above:
  - i) Within thirty (30) days after the commencement of Rule 110;
  - ii) Within thirty (30) days after the acquisition of any operative cigarette-packaging machine after the commencement of Rule 110; or
  - iii) Within an alternative period, the Commissioner may allow upon a request in writing from such licensee.

## 2.5 Reporting

- a) The licensee shall record and report to the Commissioner:
  - i) Annually, the layout in the warehouse of each product counter and its data recording device per cigarette-packaging machine per cigarette production line;
  - ii) Daily, the readings of each product counter and its data recording device per cigarette-packaging machine per cigarette production line and per cigarette production run;
  - iii) Immediately upon occurrence, the:
    - A) Resetting, deactivation or malfunction of any product counter or data recording device;
    - B) Deactivation or malfunction of any operative cigarette-packaging machine or cigarette production line;
    - C) Breach or malfunction of any security seal;
    - D) Activation of any inoperative cigarette-packaging machine or cigarette production line;
    - E) Alteration of any cigarette-packaging machine or cigarette production line that impacts on any product counter or data recording device; or
    - F) Acquisition, installation, sale or removal of any cigarette-packaging machine or cigarette production line; and
    - G) Retain the records available for inspection by the Commissioner for a period of five (5) years calculated from the end of the calendar year in which any such records were created.
- b) If, for any reason, the quantities of all cigarettes manufactured cannot be determined as prescribed in paragraph 2.4(a) above, the licensee may request approval in writing from the Commissioner for an alternative methodology to be used.

## 2.6 Keeping of records

- a) The licensee of a VM must keep records of:
  - iv) Raw materials received, used in the production process, and/or removed;
  - v) Yield from raw materials;
  - vi) Production;

- vii) Stock on hand;
  - viii) Receipts of bonded product;
  - ix) Removal of bonded product;
  - x) Removal of rebated product;
  - xi) Removal for home consumption;
  - xii) Returns of duty paid stock; and
  - xiii) Exports.
- b) The licensee of a **SOS** must keep records of:
- i) Stock on hand;
  - ii) Receipts of bonded product;
  - iii) Removal of bonded product;
  - iv) Removal of rebated product; and
  - v) Exports.
- c) A licensee may keep electronic records if it can be readily converted into paper copies and made available to the SARS when required / requested.
- d) For purposes of this Act, the retention period for all Excise related documents (prescribed Customs and Excise documents as well as relevant trader's commercial and financial records) is five (5) years, subject to the provisions of Rule 60.08(2)(a)(i).
- e) **Every tobacco grower and tobacco leaf dealer shall –**
- i) **Keep records in respect of –**
    - A) Each receipt of tobacco leaf product, including the name, address and Customs and Excise client number of the supplier;
    - B) The date, volume, value and detailed description of each such receipt of tobacco leaf product;
    - C) The tobacco leaf processing carried out in respect of each such receipt of tobacco leaf product;
    - D) The person on whose behalf such tobacco leaf processing was carried out, including the name, address and Customs and Excise client number of such person;
    - E) Each supply of tobacco leaf product, including the name, address and Customs and Excise client number of the recipient; and
    - F) The date, volume, value and detailed description of each such supply of tobacco leaf product.
  - ii) **Retain such records and the documents in support thereof available for inspection by the Commissioner for a period of five (5) years calculated from the end of the calendar year in which any such record was created.**

## 2.7 Penalties

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

## 2.8 Promotion of Administrative Justice Act

- a) The Promotion of Administrative Justice Act (PAJA) No. 3 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 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 for give effect to those rights;

- iii) Promotes and 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 of the performance of a public function, by giving effect to the right to just administrative action.
- b) Administrative action, which significantly and unfavourably affects the rights or valid expectations of any person, must be procedurally fair. A fair administration procedure depends on the circumstances of each case.
- c) A person must be given
- i) Written notice of the nature and purpose of the proposed administrative action;
  - ii) A reasonable opportunity to make representation;
  - 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 a serious or complex case, legal representation;
  - ii) Present and distribute information and argument; and
  - iii) Appear in person.
- e) Just administrative action requires Excise Officers to consider all the facts presented and obtained, in addition to affording the client the opportunity to be heard prior to instituting any administrative action.
- f) Clients whose rights have been significantly and unfavourably affected by administrative action and who have not been given reasons for the action may, after the date on which the client became aware of the action, request Excise to furnish written reasons for the action.
- g) Excise must, after receiving the request, give the client adequate reasons in writing for an administrative action. It must, subject to subsection (4) of the Promotion of Administrative Justice Act 3 of 2000, and in the absence of proof for the contrary, be presumed in any proceedings for judicial review that the administrative action was taken without good reason.

## 2.9 Appeal against decisions

- a) In cases where clients are not satisfied with any decision taken in terms of the Customs and Excise Act, they have a right of appeal to the relevant appeal committee. The policy in this regard, as well as the process to be followed, is contained in document [SE-APL-02](#).
- b) Should clients be unhappy with a decision of any appeal committee, their recourse will be to lodge an application for Alternative Dispute Resolution (ADR) with the relevant appeal committee. The committee will add its comments thereto and forward the application to the ADR Unit for attention. The policy in this regard, as well as the process to be followed is contained in document SC-CC-26.

## 2.10 Completion of Excise account (DA 260)

- a) The Excise account (DA 260) is the summarising document reflecting all production figures, stock figures and movements of bonded tobacco products, as well as the amount of Excise duty payable, in respect of the accounting period.
- b) Excise accounts must be completed in full; i.e. the DA 260 with all the applicable Excise Account Schedules attached for that specific accounting period and type of warehouse as detailed below.
- c) All columns 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) All boxes on the Excise account and account schedules must be completed.

- f) 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.
- g) If any schedule is not required for that specific accounting period, the applicable schedule does not have to be completed.
- h) A separate supporting schedule DA 260.04A (Itemised list of Non-Duty Paid Removals) must be used per each type of removal as indicated on the Excise account schedule DA 260.04 (Summary of Non-Duty Paid Removals).
- i) 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.
- j) Each schedule to the Excise account also serves as a continuation sheet for that specific schedule.
- k) 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 block on the prescribed Excise account schedule.
- l) The date of submission will be the date that a licensee submits a fully and properly completed Excise Duty and Levy return (EXD 01) as described above.
- m) **Manufacturing warehouse (VM):**
- i) All licensees of VM's must submit an EXD 01, monthly, to the local Controller / Branch Manager in whose area the warehouse is licensed.
  - ii) The VM Excise account for tobacco products consists of the following:

DA 260	Excise Account	
DA 260.01	Excise Account Schedule	Production
DA 260.02	Excise Account Schedule	Receipts from Customs and Excise Warehouses
DA 260.03	Excise Account Schedule	Returns of Duty Paid Stock
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) **Special Storage Warehouse (SOS):**

- i) All licensees of SOS's, except such SOS licensed as Duty Free Shops and / or Ship / Aircraft Chandlers, must submit an EXD 01, per calendar quarter, to the local Controller / Branch Manager in whose area the warehouse is licensed.
- ii) The SOS Excise account for tobacco products consists of the following:

DA 260	Excise Account	
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.



## 2.11 Assessment of duty

### 2.11.1 Measure of dutiable quantity

- a) The dutiable quantity of and Excise duty on cigarettes (“sticks”) is assessed on the total quantity, expressed in number of cigarettes, of product removed to the local SACU market per accounting period.
- b) The dutiable quantity of and Excise duty on cigarette tobacco, pipe tobacco and cigars is assessed on the total weight, expressed in kilograms rounded to the second decimal point, of product removed to the local SACU market per accounting period; i.e. where the third decimal point is less than .005 it is rounded down to .00 and where the third decimal point is .005 or more, it is rounded up to .01.
- c) For purposes of assessing the relevant Excise duty SARS will accept the indicated quantity [number of cigarettes (“sticks”) / weight] per container, declared on the commercial invoice, delivery note or similar document issued in relation to each batch and / or consignment of tobacco products removed to the local market from the VM.
- d) It is the responsibility of the licensee to monitor and control the filling of packages / containers to ensure that over / under filling is prevented.
- e) If it is established that there is a difference between the declared quantities / weight per container and the actual figures, Excise duty will be payable on the actual quantity / weight removed.

### 2.11.2 Rate of duty

- a) The rate of duty to be used for the purpose of calculation of Excise duty for tobacco products is the relevant rate of duty in terms of Schedule 1 Part 2A at time of entry for local (SACU) consumption.
- b) This could be the time of removal from the VM warehouse.

### 2.11.3 Calculation of duty

- a) Excise duty payable on cigarettes (CIGS) is calculated using the following formula:

Total quantity (Number) x relevant rate of duty = Excise duty payable
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<b>[The rate of duty is expressed in units of ten (10) cigarettes]</b>
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- b) Excise duty payable on cigarette tobacco (CTOB), pipe tobacco (PTOB) and cigars (CGAR) is calculated using the following formula:

Bulk weight (Kilogram) x relevant rate of duty = Excise duty payable
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### 2.11.4 Duty paid transaction

- a) Removals of locally manufactured tobacco products duty paid for consumption in the SACU is allowed only from the VM.
- b) No relief of duty (rebate or refund) exists for losses incurred after duty paid tobacco products have left the VM.
- c) Excise duty is assessed per the EXD 01, as detailed below for the **VM**:
  - i) Excise duty is assessed on the total dutiable quantities of tobacco products removed from the warehouse to the local SACU market during the accounting period.
  - ii) The relevant Excise duty is calculated by multiplying the total dutiable quantities by the relevant rate of Excise duty.

- iii) Removals from the VM 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 must be accounted for per the EXD 01.
- iv) The total dutiable quantities of tobacco products so removed during the accounting period must be entered and submitted as per the EXD 01 to the local Controller / Branch Manager.

### 2.11.5 Non-duty paid transactions

- a) Tobacco products may be removed ex warehouse without payment of Excise duty in the following instances:
  - i) When tobacco products are removed in bond to other licensed warehouses within the SACU;
  - ii) When tobacco products are entered under full rebate of duty; and / or
  - iii) When tobacco products are exported to countries outside the SACU.
- b) **Bonded movements** - Tobacco products may be removed ex a licensed warehouse in bond without payment of duty (i.e. duty suspension) to another licensed tobacco product warehouse in the SACU.
- c) **Movements between VM's** - Bonded movements of tobacco products between VM's are allowed for the purposes of further manufacturing and / or re-packing only.
- d) **Movements between VM's and SOS's** - Bonded movements of tobacco products between VM's and SOS's will only be allowed for the following specified purposes:
  - i) Supply to Duty Free Shops and Ship / Aircraft Chandlers;
  - ii) Storage for supply to Duty Free Shops and Ship / Aircraft Chandlers; and
  - iii) Storage for export of such tobacco products.
- e) **Movements between SOS's** - Bonded movements of tobacco products between SOS's will only be allowed for the following specified purposes:
  - i) Supply of tobacco products to Duty Free Shops and Ship / Aircraft Chandlers; and
  - ii) Storage for export of such tobacco products.
- f) **Movements to BELN countries** -
  - i) Bonded movements of tobacco products will be allowed from licensed warehouses in SA to licensed warehouses within the BELN countries.
  - ii) The consignor must submit a duly completed clearance declaration with procedure code E 45-47 to the Controller / Branch Manager prior to removal of the consignment of bonded products from his / her premises.
  - iii) All other non-rebated movements of tobacco products from SA to the BELN countries will be on a duty paid basis.
- g) **Movements from BELN countries** -
  - i) Bonded movements of tobacco products will be allowed from licensed warehouses within the BELN countries to licensed warehouses in SA.
  - ii) For all other movements of tobacco from these countries, proof of payment of Excise duty must be submitted at the port of entry into SA.
- h) **Rebated movements** -
  - i) Tobacco products 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 tobacco products industry is found in Schedule 6. The most common rebates applicable to the tobacco products industry are rebates for:
    - A) **Manufacturing losses** -
      - 1) Rebate Item 624.30 stipulates that Excisable goods in a Customs and Excise manufacturing warehouse and Excisable goods in the process of manufacture and removed from one (1) Customs and Excise manufacturing 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.

- II) The manufacturer must be able to show the actual quantity / weight of tobacco product lost during normal manufacturing processes from his / her normal commercial records.
- III) 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 and packaging operations) and, where appropriate, to industry norms.
- B) **Vis Major losses** - Incurred in a licensed warehouse or in transit between licensed warehouses or for export, may be allowed under rebate of duty (Rebate Item 624.50), but not before each individual application in writing for such rebate of duty has been approved by the Commissioner for the SARS.
- C) **Destructions**
  - I) Licensees may apply (in terms of Rebate Item 624.40) to the Controller / Branch Manager for the destruction of Excisable bonded tobacco products in instances where a specific consignment of tobacco product has lost all commercial value or sale of the specific consignment could be harmful to the industry.
- D) **Excisable goods on which the duty has been paid for** use in the manufacture of other goods upon export of such manufactured goods in terms of Rebate Item 624.10.
- E) **Tobacco used in the manufacture of cigarettes** is obtained under full rebate of duty in terms of Rebate Item 624.20. Such tobacco is transferred to the tariff item for cigarettes and the new manufactured product then becomes accountable for Excise purposes under that specific tariff item.
- F) **Tobacco products removed for re-processing or destruction** is obtained under full rebate of duty in terms of Rebate Item 622.21. After compliance to the specific provisions of this Rebate Item, the duty originally paid may then be deducted / set-off from the duty due on the EXD 01.

#### i) Exports -

- i) Export of tobacco products 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 endorsed copy of the processed export clearance declaration with procedure code H 68-47/F 52-47, original signed bill of lading, airway bill, rail note or road manifest) as described in SC-TR-01-02 is obtained by the licensee and submitted to the Controller / Branch Manager within thirty (30) days after the export clearance declaration was entered.
- ii) Failure by the licensee to submit such proof of export, as described in SC-TR-01-02, within thirty (30) days after the date of processing of the export clearance declaration, will render the licensee liable for payment of the relevant Excise duty.
- iii) Locally manufactured tobacco product 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.

## 2.12 Duty paid returns from the local market

### 2.12.1 Tobacco products / substitutes found to be off-specification or have undergone post-manufacturing deterioration or have become contaminated

- a) Tobacco products and tobacco substitute products which are off-specification or have undergone post-manufacturing deterioration or have become contaminated may only be reprocessed or destroyed in a Customs and Excise manufacturing warehouse (VM) where the Excise duty is not less than R25 000 on any quantity found to be off-specification or that has undergone post-manufacturing deterioration or which has become contaminated within a period of twelve (12) months after removal from such VM and such goods are returned to such VM within such period.
- b) The provisions of Rebate Item 622.21 shall apply in respect of tobacco products or tobacco substitute products –

- i) In the case of cigarettes, if the cigarettes are returned in the originally sealed outer containers containing at least 9 000 cigarettes; and / or
  - ii) In the case of other tobacco products or tobacco substitute products, if such products are returned in the originally sealed outer containers used for wholesale or similar trade packing.
- c) Any such application shall be supported by a credit note in respect of the products concerned (Refer to Note 4(a)(ii)(bb) to Section E of Schedule 6).
- d) If the application is approved by the Commissioner, any tobacco products or tobacco substitute products returned in terms of Rebate Item 622.21 shall be –
- i) Kept intact and entirely separate from any other goods or materials until they have been examined and identified by an EO; and
  - ii) Unpacked, where applicable, and transferred to and mixed with stocks of materials for processing, under supervision of an EO; or
  - iii) Destroyed under supervision of an EO.
- e) The licensee of a VM to which such products are returned for reprocessing or destruction must keep a record which includes at least the following -
- i) A detailed description of the goods received including the applicable tariff item;
  - ii) The quantity received;
  - iii) The date of receipt;
  - iv) The name or registered business name (if any) and the physical address of the person from whose premises the products concerned were returned; and
  - v) The delivery note under cover of which such product was returned.
- f) The tobacco products / substitutes so returned must be recorded and accounted for as bonded stock per the EXD 01.

## 2.13 Process for reprocessing, destruction or abandonment

### 2.13.1 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 B/O can request further information.

### 2.13.2 Consideration

- a) The Auditor Excise (AE), Functional Specialist (FS) or Operations Specialist (OS) 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 Officer can request further information from the client.

### 2.13.3 Allows / disallows

- a) Should the application be unsuccessful, the client must be informed in writing of the reasons thereof taking PAJA into account.

### 2.13.4 Supervision

- a) Once the Officers have viewed the reprocessing or destruction, a P 2.08, must be completed in duplicate verifying that such destruction or reprocessing has taken place.
- b) A copy thereof must be handed of the client.

### 2.13.5 Final report

- a) Once the OPS Manager has received the final report, he / she must inform the client in writing to apply for a set-off on their Excise account / return.

## 2.14 Set-off

- a) For the purpose of Section 75(11A), the licensee of the VM must produce proof of the rate of Excise duty paid or payable on the products for **reprocessing or destruction** in accordance with the provisions of Rebate Item 622.21.
- b) If the licensee of the VM is unable to produce such proof, 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 a period of twelve (12) months prior to the date of the examination.
- c) The licensee of the VM may, after reprocessing or destruction of the products concerned, and on accounting for the goods reprocessed in the monthly account, prescribed in the rules for Section 19A, set-off as contemplated in Section 77, any amount duly refundable against the amount payable on any such account (EXD 01) during a period of two (2) years after receipt of the goods for reprocessing or destruction, as the case may be.
- d) The rand amount to be set off shall be calculated in the following manner:

Quantity returned (number and / or kilograms) × rate of duty (determined as above) = Duty to be set-off.
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- e) This amount must then be subtracted from the duty due on the EXD 01.

## 3 RELATED INFORMATION

### 3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	<b>Customs and Excise Act No. 91 of 1964:</b> Sections 18, 18A, 19, 19A, 20(4), 27, 35A, 54, 59A, 64D, 75(11A), 77, <b>107A, 110</b> , 119A and 120 <b>Customs and Excise Rules:</b> 18.01 to 18.14, 18A.01 to 18A.08, 19.01 to 19.07, 19A, 19A.1, 19A.08, 20.14, 20.17, 27.01 to 27.13, 35A, 54.01, 54.02, 59A.01(a), 60.08(2)(a)(i), 64D.01(1) to 64D.19, <b>107A.01(c), 110.01 to 110.06</b> and 119A.R101A(10)(d) <b>Customs and Excise Tariff:</b> Schedules 1 Part 2A, 4 and 6 <b>Tax Administration Act No. 28 of 2011:</b> Sections 215 to 220 and 224
Other Legislation:	<b>None</b>
International Instruments:	<b>None</b>

### 3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
BP-02	Customs and Excise Payments - External Policy
FIN-AM-03	Excise eAccount on eFiling – External User Manual

DOCUMENT #	DOCUMENT TITLE
SC-CC-26	Alternative Dispute Resolution – External Policy
SC-CF-04	Completion of Declarations – External Manual
SE-ACC-02-M02	Declaration and Return Submission via eFiling – External Manual
SE-ACC-05	Submission of Accounts / Returns – External Policy
SE-APL-02	Internal Administrative Appeal – External Policy
SE-BON-02	Bonds – External Policy
SE-CON-02	Control and Clearance of Bonded/Inter-Warehouse movements – External Policy
SE-GEN-02	Accounting for Duty / Levy – External Policy
SE-GEN-04-G01	Introduction to Excise Duties, Levies and Air Passenger Tax – External Guide
SE-LR-02	Licensing and Registration – External Policy
SE-PAY-02	Prescribed Payment Terms / Periods – External Policy
SE-REF-02	Refunds – External Policy

### 3.3 Quality Records

Number	Title
DA 260	Excise Account - Tobacco Products (VM and SOS) Summarising Page of all movements of Tobacco Products during the accounting period
DA 260.01	Excise Account Schedule - Tobacco Products (VM) Schedule of Production during the accounting period
DA 260.02	Excise Account Schedule - Tobacco Products (VM and SOS) Schedule of Receipts from C&E Warehouses during the accounting period
DA 260.03	Excise Account Schedule - Tobacco Products (VM) Schedule of Returns of Duty Paid Stock during the accounting period
DA 260.04	Excise Account Schedule - Tobacco Products (VM and SOS) Schedule of Non-Duty Paid Removals during the accounting period
DA 260.04A	Excise Account Schedule - Tobacco Products (VM and SOS) Itemised list, per removal type, of Non-Duty Paid Removals during the accounting period
EXD 01	Excise Duty and Levy return

## 4 DEFINITIONS AND ACRONYMS

<b>BELN</b>	a) Consists of:  i) The Republic of Botswana; ii) The Kingdom of eSwatini (Swaziland); iii) The Kingdom of Lesotho; and iv) The Republic of Namibia.
<b>CGAR</b>	Cigars
<b>CIGS</b>	Cigarettes
<b>Cigarette packaging machine</b>	Any machine used in the packing of any cigarettes.
<b>Cigarette production line</b>	Any sequence or combination of machines used in the manufacture of cigarettes.
<b>Clearance Declaration</b>	Applicable SAD form (e.g. SAD 500, 501, 502, 503, 504, 505, 506, etc.) or CD 1 (Customs Declaration).
<b>Commercial sale</b>	A sale made by a vendor (including a manufacturer) in the normal run of business, with the intention of making a profit.
<b>Controller / Branch Manager</b>	The officer designated by the Commissioner to be the Controller / Branch Manager of Customs and Excise in respect of that area or matter and includes officers acting under the control or direction of any officer so designated by the Commissioner.
<b>DAS</b>	Duty At Source – Assessment of duty and levies at the time when fuel and other excisable products except wine is removed from the manufacturing warehouse.



<b>Duty Free Shops</b>	<p>a) These shops or stores are retail outlets that are exempt from the payment of certain local or national taxes and duties on the following requirements i.e.:</p> <ul style="list-style-type: none"> <li>i) That the goods sold will be sold to travellers who will take them out of the country; or</li> <li>ii) Only persons who are accredited by the Department of International Relations and Cooperation (DIRCO) that are in possession of a valid Diplomatic or Consular identity card may enter and purchase goods that are duty free.</li> </ul>
<b>Duty suspension</b>	Refers to the storage, holding or movement of goods liable to excise duty without payment of duty.
<b>E 45-47</b>	Clearance for Removal in Bond of excise goods from one Excise Warehouse to another Excise Warehouse in South Africa or BLNS, where the goods were previously subject to a change of ownership.
<b>EO</b>	Excise Officer
<b>Excisable Goods</b>	Any goods specified in Part 2 of Schedule 1, imported into or locally manufactured in SA.
<b>F 52-47</b>	Supply of Stores of Excise goods ex a "Storage Warehouse", previously subject to a change of ownership.
<b>H 68-47</b>	Clearance for Outright Export of Excise goods from an Excise Warehouse, previously having undergone a change of ownership.
<b>Licensees</b>	Any person licensed under any provision of the Act.
<b>Manufacturing</b>	<p>In the discretion of the Commissioner, any process –</p> <ul style="list-style-type: none"> <li>i) in the manufacture or assembly of any excisable goods, environmental levy goods, fuel levy goods or Road Accident Fund levy goods;</li> <li>ii) in the conversion of any goods into excisable goods, environmental levy goods, fuel levy goods or Road Accident Fund levy goods;</li> <li>iii) whereby the dutiable quantity or value of any imported goods specified in Section B of Part 2 of Schedule 1, Excisable goods, environmental levy goods, fuel levy goods or Road Accident Fund levy goods is increased in any manner;</li> <li>iv) in the recovery of excisable goods, environmental levy goods, fuel levy goods or Road Accident Fund levy goods from Excisable goods or any other goods;</li> <li>v) in the packing or measuring off of any imported goods specified in Section B of Part 2 of Schedule 1, Excisable goods, environmental levy goods or Road Accident Fund levy goods; or</li> <li>vi) in the generation of electricity liable to environmental levy; or</li> </ul> <p>Any process as may be prescribed in any Part of Schedule 1 wherein such duty or levy is specified; or</p> <p>Any other process in respect of goods contemplated in paragraph (a) that the Commissioner may prescribe by rule.</p>
<b>Policy</b>	Used to convey the policy mandated by legislation and the sequential steps to be followed
<b>Production of Tobacco products</b>	The production of tobacco products for commercial sale may include production processes and operations such as threshing where the leaves are separated from the stems, mixing of the stems with the lamina (soft part of the leaf), cutting of the tobacco into thin strips of equal thickness, mixing into the correct ratio and drying after which it is ready for sale or used in the manufacture of cigarettes and cigars.
<b>Role-players</b>	<ul style="list-style-type: none"> <li>a) The South African Revenue Service;</li> <li>b) Manufacturers of tobacco products;</li> <li>c) Importers of tobacco products;</li> <li>d) Exporters of tobacco products; and</li> <li>e) Licensees of customs and excise warehouses</li> </ul>

<b>SACU</b>	The Southern African Customs Union, consisting of: <ul style="list-style-type: none"> <li>i) The Republic of South Africa;</li> <li>ii) The Republic of Botswana</li> <li>iii) The Kingdom of <b>eSwatini (Swaziland)</b>;</li> <li>iv) The Kingdom of Lesotho; and</li> <li>v) The Republic of Namibia.</li> </ul>
<b>Schedule 1 Part 2A</b>	Specific Excise Duties on locally manufactured or on imported goods of the same class or kind.
<b>Schedule 6</b>	Rebates and Refunds of Excise Duties, Fuel Levy and Environmental Levy.
<b>Standard</b>	Used to convey the standards mandated by legislation and the sequential steps to be followed
<b>Sticks</b>	A Cigarette (stick) or cigarettes (sticks)
<b>Tobacco grower</b>	Any person who engages in the farming of tobacco leaf product.
<b>Tobacco leaf dealer</b>	Any person who engages in the storing, processing or transporting of tobacco leaf product, excluding the farming thereof.
<b>Tobacco leaf processing</b>	Any preliminary, intermediate or supplementary process in connection with tobacco leaf product, including the drying and threshing thereof
<b>Tobacco leaf product</b>	Tobacco not stemmed or stripped, tobacco partly or wholly stemmed or stripped, or tobacco refuse
<b>Tobacco not stemmed or stripped</b>	Tobacco classified under tariff subheading 2401.10 of Section IV of Part 1 of Schedule No. 1
<b>Tobacco partly or wholly stemmed or stripped</b>	Tobacco classified under tariff subheading 2401.20 of Section IV of Part 1 of Schedule No. 1
<b>Tobacco refuse</b>	Tobacco classified under tariff subheading 2401.30 of Section IV of Part 1 of Schedule No. 1
<b>Vis Major</b>	A natural and unavoidable catastrophe that interrupts the expected course of events, normally caused by forces of nature.

## 5 DOCUMENT MANAGEMENT

<b>Policy Owner</b>	Executive: Excise
<b>Detail of change from previous revision</b>	<p>The document has been amended as follows:</p> <ul style="list-style-type: none"> <li>• BLNS countries have been amended to BELN countries due to the Kingdom of Swaziland changing to the Kingdom of eSwatini;</li> <li>• New paragraphs 2.4 and 2.5 have been inserted to make provision for 'Product counters on cigarette production lines' and 'Reporting';</li> <li>• A new paragraph 2.6(e) has been inserted to make provision for 'Tobacco grower and tobacco leaf dealer';</li> <li>• Provision has been made for the 'Promotion of Administrative Justice Act' under paragraph 2.8;</li> <li>• Paragraphs 3.1, 3.2 and 4 regarding 'Legislation', 'Cross References' and 'Definitions and Acronyms' have been updated; and</li> <li>• Policy owner changed.</li> </ul>
<b>Template number and revision</b>	GC-TM-03 - Rev 9