
GOVERNMENT NOTICE

SOUTH AFRICAN REVENUE SERVICE

No. R. 645

5 June 2009

CUSTOMS AND EXCISE ACT, 1964 AMENDMENT OF RULES (No. DAR/52)

Under section 120 for the purposes of section 21 of the Customs and Excise Act, 1964, the rules published in Government Notice R.1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto with effect from 10 June 2009.



ACTING COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

(a) By the insertion after rule 21.03.10 of the following rules:

"21.04 For the purposes of section 21(1) and (2) the rules numbered 21.04 followed by further digits relate to special customs and excise storage warehouses licensed as duty and tax free shops

Definitions

21.04.01 For the purposes of these rules and any form to which these rules relate, any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned and unless otherwise specified or the context otherwise indicates -

"activity" or "activities" means any activity or activities in connection with the storage, put up for retail, display, selling or other handling of goods in, or removal of goods from a duty and tax free shop;

“airport” means an international customs and excise airport listed as a warehousing place in item 200.02 of the Schedule to the Rules and approved by the Commissioner as a place where special customs and excise warehouses operating as inbound and outbound duty and tax free shops may be established;

“bonded goods” means any dutiable locally-produced goods or any imported goods, whether liable to duty or free of duty, that are entered for storage in accordance with the provisions of the Act for storage and stored for sale in a duty and tax free shop;

“duty and tax free”, in relation to a duty and tax free shop, means goods are sold at a price that does not include any duty leviable in terms of the Act or any value-added tax leviable in terms of the Value-added Tax Act, 1991 (Act No. 89 of 1991);

“duty and tax free shop” means a special customs and excise storage warehouse licensed for the purposes contemplated in these rules;

“goods in free circulation” means goods which are not subject to any customs or excise procedure contemplated in the Act and includes goods on which VAT has been paid or exempted;

“inbound duty and tax free shop” means a duty and tax free shop located before the customs control point for inbound travellers;

“inbound traveller” means a person, including a crew member of the aircraft, who arrives in the Republic on an international flight from a place in a country inside or outside the common customs area;

“international flight” means a flight by an aircraft departing from or to a place in a country inside or outside the common customs area;

“licensee” means the licensee of a licensed special customs and excise storage warehouse contemplated in these rules;

“outbound duty and tax free shop” means a duty and tax free shop located after the customs control point for outbound travellers;

“outbound traveller” means a person, including a crew member of the aircraft, who is about to depart from the Republic on an international flight to a place in a country outside the common customs area;

“purchase” in relation to an inbound or outbound traveller, includes obtaining any goods supplied in a duty and tax free shop without payment;

“sell” or any of its grammatical variations means the supply by the licensee of any goods contemplated in these rules to an inbound or outbound traveller and includes supplying such goods without payment;

“the Act” includes any provisions of “this Act” as defined in the Customs and Excise Act, 1964 (Act No. 91 of 1964);

“VAT” means value-added tax leviable in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991);

“VAT Act” means the Value-Added Tax Act, 1991.

Application of provisions

- 21.04.02**
- (a) The provisions of these rules apply to imported goods and dutiable locally-produced goods, and where specified, goods in free circulation, stored, put up for retail and sold in a duty and tax free shop.
 - (b) Except as otherwise provided in the Act and these rules –

 - (i) any provision of the Act relating to –

 - (aa) a special customs and excise storage warehouse, the activities in such a warehouse including removal of goods from such warehouse, removal

- in bond, export, entry under rebate of duty, liability for duty, payment of duty, the responsibility of the licensee and any other requirement prescribed in connection with any such warehouse;
- (bb) the importation of goods and imported goods;
- (cc) the exportation of goods; and
- (ii) sections 59A, 60, 64E and 101 and the rules made thereunder, including the definitions in such rules, shall, as may be applicable, apply *mutatis mutandis* to any goods and any activities in a duty and tax free shop.

Application for and refusal, suspension or cancellation of a licence

21.04.03

- (a) Any person who intends operating a duty and tax free shop must –
 - (i) apply for a special customs and excise storage warehouse license on form DA 185 and the appropriate annexure thereto and comply with all the requirements specified therein, in these rules, any relevant section or item of Schedule No. 8 governing such licences and any additional requirements that may be determined by the Commissioner.
 - (ii) (aa) before a licence is issued, furnish the security the Commissioner may require;
 - (bb) if security is furnished in the form of a bond, such bond –
 - (A) is subject to the provisions of rules 120.08 and 120.09; and
 - (B) must be in the form determined by the Commissioner.
- (b) The provisions of section 60(2) and the rules for section 60 shall apply with the necessary changes to any refusal of an application for a licence or the renewal, cancellation or suspension of the licence issued in respect of a duty and tax free shop.

Places where duty and tax free shops may be licensed and premises which may be included in a licence

- 21.04.04**
- (a) Licenses to operate duty and tax free shops shall be granted only –
 - (i) in respect of inbound or outbound duty and tax free shops in the–
 - (aa) OR Tambo International Airport building; and
 - (bb) Cape Town International Airport building; or
 - (ii) in respect of an outbound duty and tax free shop at any other place than those referred to in subparagraph (i), as the Commissioner may determine,
at each place operating in a location and in premises approved by the Commissioner.
 - (b) In a licence for a special customs and excise storage warehouse contemplated in these rules may be included –
 - (i) the premises where bonded goods or goods in free circulation for sale are stored; and
 - (ii) the separate premises where those goods are sold.

Storage of, and marking and ticketing, labelling or otherwise marking of, duty and tax free goods

- 21.04.05**
- (a) Bonded goods in the storage section of a duty and tax free shop must be stored separately from other goods.
 - (b) All goods displayed for sale and sold must be ticketed, labelled or otherwise marked to indicate that the selling price does not include duty and VAT is zero rated.