No. R. 1246

SOUTH AFRICAN REVENUE SERVICE

23 December 2005

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CUSTOMS AND EXCISE ACT, 1964 AMENDMENT OF RULES (NO. DAR/10)

Under sections 17 and 120 of the Customs and Excise Act, 1964, the rules published in Government NEtice R.1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto with effect from 1 February 2006.

PRAVIN JAMNADAS GORDHAN COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

(a) By the substitution for rule 17.01 of the following rules:

- **"17.01 (a) (i)** These rules apply to goods taken to and secured in a State warehouse **or** goods removed to **or** allowed to remain in any place deemed to be a State warehouse as contemplated in section **43(2)**.
 - (ii) In these rules and any form to which the rules relate, any meaning ascribed to any word **ar** expression in the Act, shall bear the meaning so ascribed and, unless the context otherwise indicates -

"carrier" shall have the meaning assigned thereto in the rules for section 8;

"*cleared* goods" means goods which have been, entered or declared in terms of applicable customs and excise laws and procedures relating to those goods, whether or not they have been validly so entered or declared;

"customs and excise laws and procedures" shall have the meaning assigned thereto in rule 59A.01(a);

"delivery order" means any document issued by a carrier authorizing delivery of goods to the person named therein;

"freight ton" means the greater of either the mass or measurement of goods where one freight ton is equal to a metric ton (1 000 kg) or one cubic metre;

"rate" means the rate specified in rule 17.02 for the calculation of rent;

"**rent**" means the amount charged in respect of the period *goods* remain in a State warehouse as contemplated in section **17**;

"rent-freeperiod" means a period contemplated in rule 17.04;

- "**sold in** terms of section 43(3)," referred to in rule 17.02 includes goods to which sections 41(2) and 107(1)(b) relate;
- "the Ad" means "this Ad" as defined in section 1 of the Customs and Excise Act, 1964 (Act 91 of 1964);

"traveller" means -

- (aa) any person who does not normally reside in the Republic and who temporarily enters or who leaves the Republic; or
- (bb) any person who normally resides in the Republic and who leaves or returns to the Republic;

"uncleared **goods**" includes **goods** that must be entered or declared in terms of customs and excise laws and procedures and have **not** been so entered or **declared** or in the **case** of **goods** to which section 114 relate, any **goods** that are detained in terms of that section and are not required to be **so** entered or declared.

- (iii) For the purposes $\boldsymbol{\alpha}$ the definition $\boldsymbol{\sigma}$ "freight ton" any fraction $\boldsymbol{\alpha}$ a metric ton $\boldsymbol{\alpha}$ a cubic metre must be regarded as a whole metric ton or cubic metre, as the case may be.
- (iv) (aa) Any number of days or which rent is charged **must** be calculated inclusive of the day the goods are received into, and the day they are removed from the State warehouse and any part of such a day must be regarded as a full day.
 - (bb) The rent-free number of days for removal of goods in respect of which rent has been paid must be calculated as contemplated in rule 17.04.
- (b) (i) A person who may obtain delivery of **goods** in a State warehouse must apply on form **DA** 68 and pay rent due to the Controller in whose area of control the State warehouse is situated.
 - (ii) Except if the Controller authorizes delivery of **goods** in terms of any other document, goods in a State warehouse shall not be taken by, or delivered to, any person **unless** delivery is authorized by the Controller on form DA 68.
 - (iii) Goods may only be received into or taken from a State warehouse **during** the hours of attendance prescribed for the office of the Controller.
- 17.02 (a) Rent shall be charged on **goods** for the period the goods remain in a State warehouse in the circumstances and at the rate specified in paragraphs (b), (c) and (d) of this rule.

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Rate at which and the circumstances in which rent is charged on goods imported or exported by travellers

(b)	Subject to ches 17.03 and 17.04, the rate at which, and the circumstances in which, rent is charged on cleared or uncleared goods imported or exported by travellers shall be in the <i>case</i> of goods which are -	Rate per kilogram or part thereof per day or part thereof
(i)	detained, seized or forfeited and subsequently delivered in terms of section 93;	R1,00
(ii)	sold in terms of section 43(3);	R 1,00
(iii)	detained for the purposes of any other law as contemplated in section 113(8);	R1,0 0
(iv)	any goods to which subparagraphs(i) to (iii) do not apply.	R1,00

Rate at which and the circumstances in which rent is charged on uncleared goods (excluding goods imported or exported by travellers)

(c)	circun unclea	ct to rules 17.03 and 17.04, the rate at which, and the instances in which, rent is charged on uncleared imported goods or ured goods for export (excluding goods imported or exported by	Rate per freight ton or part thereof per day or part thereof
(i)		ers) shall be in the case of <i>goods</i> which are . I at a place to which they were not consigned and are in the State	
.,		iouse -	
	(aa)	up to and including the 14" day from the date of receipt in the	R10,00
		State Warehouse; and	
	(bb)	for any further period after the 14" day;	R 33,00
(ii)	detain	ed, seized or forfeited and subsequently delivered in terms of	
	sectio	n 93 -	
	(ua)	up to and including the 90" day from the date of receipt; and	R10,00
	(bb)	any further period after the 90 th day;	R33,00
(iii)	sold in	terms of section 43(3)	R10,00
(iv)	any go	ods to which subparagraphs(i) to (iii) do not apply.	R 10,00

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Rate at which and the circumstances in which rent is charged on cleared goods (excluding goods imported or exported by travellers)

(d)		Subje	ct to rules 17.03 and 17.04, the rate at which, and the	Rate per freight ton or part						
		circun	nstances in which, rent is charged on cleared imported goods or	thereof per day or part						
		goods	cleared for export (excluding goods imported or exported by	thereof						
		travel	lers) shall be in the case of goods which arc -							
	(î)	landed	at a place to which they were not consigned and are in the State							
		Warehouse -								
		(a a)	up to and including the 14 th day from the date of receipt in the	R10,00						
			State Warehouse;							
		(bb)	for any further pericd after the 14 day;	R33,00						
	(ii)	not su	bject to compliance with any customs and excise laws and							
		procee	lures and are removed from the State Warehouse -							
		(aa)	up to and including the 14' day from the date of receipt in the	R10,00						
			State Warehouse;							
		(bb)	during any further period after the 14' day up to and including	R21,00						
			the 28 th day,							
		(cc)	during any further period after the 28 th day up to and including	R33,00						
			the date of removal,							
	(iii)	any go	any goods to which any of the circumstances contemplated in R10,00							
		subpa	ragraphs(i) to (ii) da not apply.							

Goods on which rent is not charged

17.03 (a) Rent is not charged -

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and a stranger

(i) for the period goods remain in a State warehouse where the goods are -

- (aa) detained or seized and subsequently released by the Controller without requiring compliance with any customs and excise laws and procedures as a condition of such release (including goods released as entered);
- (bb) taken to and secured in the State warehouse in error; or
- (cc) subject to a **lien** in terms of section 114 which are not disposed of as provided in that section and are released **to** the importer, exporter, owner or other person **from** whose control the **goods** were removed to the State warehouse;
- (ii) during the time of removal from one **State** warehouse **to** another by or with the permission of **h**e Commissioner.
- (b) Except where the Commissioner undertakes delivery of any goods contemplated in subparagraphs (i)(aa) to (i)(cc), delivery thereof met be taken within a period of three official working days after processing of the relevant form DA 68, failing which, rent will be charged from the day commencing after that period.

(c) Notwithstanding any charge for rent specified in these rules on any goods, the Commissioner may, for the purposes of application of section 93, exempt the goods concerned from payment of such rent.

Rent-free period for removal of goods from a State warehouse

- 17.04 (a) For the purposes of section 17(4), a rent-free period is allowed for removal of goods from a State warehouse, which shall be -
 - (i) in the case of payment of State warehouse rent, three official working days after the date the form **DA 68** is processed and **a** receipt is issued by the Controller;
 - (ii) where the goods have been sold on a State warehouse auction or by tender -
 - (aa) three official working days from the date after delivery is granted on form DA 68; or
 - (bb) in the case of goods sold subject to a condition as contemplated in section 43(4)(b) three months after the date of sale of goods.
 - (b) For the purposes of this rule a working day means the hours of attendance prescribed in the Schedule to the Rules in respect of the relevant State warehouse or if not so prescribed, the hours of attendance prescribed for the office of the Controller.

Date of implementation

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17.05 These rules shall come into operation on 3 January 2006 in respect of all goods in, or received into, any State warehouse or a place deemed to be a State warehouse as contemplated in section 43(2)."

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(b) By the substitution for the form DA 68 in the Schedule to the Rules of the following form:
 "DA 68 Application for Delivery of Goods Ex State Warehouse"

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	 To be completed in triplicate. Where the asterisk* appears, delete whichever is not applicable and sign in full. Where the asterisk* appears, delete whichever is not applicable and sign in full. The endorsement field may be used for the reflecting of the UG or CG numbers. Form DA68 must be completed for the delivery of goods from a State warehouse or a place deemed to be a state warehouse as contemplated in section 43(2). 	Goods in a State warehouse are subject to applicable customs and excise laws and procedures, which include the State warehouse Policy and Procedure Manual.	Documents to be submitted as required in Part 3 of this form (declaration by the applicant) must include where – a goods have been bought on an auction of goods in a State warehouse, a copy of the auctioneer's sale slip; or b the goods are a consignment or part consignment of imported goods – (i) a copy of the delivery order issued by the carrier, date-stamped by the Controller (ii) proof that freight and other charges, for example, the container operator's, landing and wharfage charges, have been paid as required in terms of section 17(2)(c)	a traveller applies for delivery, the original of form DA 322. The amount of rent must be endorsed in the column for "Total rent calculated for the period" whether or not rent is paid or the goods are delivered without the payment of rent. A rent-free period of three official working days is allowed to take delivery of the goods in the circumstances stated is rule 17.04	
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