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Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 325

Cape Town

3 July 1992

No. 14095

THE PRESIDENCY

No. 1788

3 July 1992

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 105 of 1992: Customs and Excise Second Amendment Act, 1992.



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GENERAL EXPLANATORY NOTE:

[**]** Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Customs and Excise Act, 1964, so as to further regulate the disclosure of certain information and the acceptable sufficient evidence of the tabling in the House of Assembly by the Minister of Finance of taxation proposals; to make other provision regarding the calculation of the value for excise duty purposes of certain goods manufactured in the Republic; to provide further for determining the value for duty purposes of motor vehicles, used outside the Republic, being imported into the Republic; to further regulate the refund of duty; to extend the penal provisions; to exclude the importation of certain publications or objects from the provisions of the said Act; to amend Schedule No. 1 to the said Act; to provide for the continuation of certain amendments of Schedules Nos. 1 to 6 to the said Act; and to effect certain textual alterations; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 18 June 1992.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 4 of Act 91 of 1964, as amended by section 2 of Act 105 of 1969, section 2 of Act 110 of 1979, sections 3 and 15 of Act 98 of 1980, section 2 of Act 84 of 1987 and section 4 of Act 59 of 1990

1. Section 4 of the Customs and Excise Act, 1964 (hereinafter referred to as the principal Act), is hereby amended by the insertion after subsection (3) of the following subsection:

10 “(3A) Notwithstanding the provisions of subsection (3) the Commissioner may, in accordance with any convention or agreement in respect of customs co-operation to which the Republic is a party, disclose or authorize any officer to disclose any information relating to any person, firm or business acquired by that officer in the performance of his duties.”.

15 **Amendment of section 58 of Act 91 of 1964, as amended by section 19 of Act 33 of 1974, section 1 of Act 64 of 1974, section 10 of Act 86 of 1982 and section 21 of Act 84 of 1987**

2. Section 58 of the principal Act is hereby amended—

20 (a) by the deletion of the proviso to subsection (1); and
 (b) by the substitution for subsection (7) of the following subsection:

5 “(7) Whenever in any legal proceedings any question arises as to whether the Minister has in fact tabled a taxation proposal as described in this section, or as to the time when such proposal was tabled or the particulars contained in such proposal, a copy of **[a document, printed by order of the Speaker of the House of Assembly, containing]** such proposal, **[and]** certified by the Secretary to Parliament to be a true copy, shall be accepted as sufficient evidence that such proposal was tabled and of the time when it was tabled and of the particulars contained therein.”

10 **Amendment of section 69 of Act 91 of 1964, as substituted by section 12 of Act 68 of 1989 and amended by section 1 of Act 111 of 1991**

3. Section 69 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding the proviso to paragraph (a) of the following words:

15 “For the purpose of assessing the excise duty on any goods manufactured in the Republic and specified in Section B of Part 2 of Schedule No. 1 **[(other than goods specified in items 122.10 to 122.40)]**, the value thereof shall, subject to the provisions of this section, be taken to be the full and final market price (before deduction of any discounts other than cash discounts) at which, at the time of sale, such or similar goods are freely offered for sale, for consumption in the Republic, for purposes of trade in the principal markets of the Republic in the ordinary course of trade, in the usual wholesale quantities and in the condition and the usual packing ready for sale in the retail trade, to any **[independent]** merchant wholesaler in the Republic not deemed to be related as specified in section 66(2)(a) under fully competitive conditions, plus the cost of packing and packages and all other expenses incidental to placing the goods on rail for delivery to the purchaser, plus any non-rebated excise duty payable in terms of Section A of Part 2 of Schedule No. 1 on such goods, but excluding the non-rebated excise duty payable in terms of Section B of Part 2 of Schedule No. 1 or any value-added tax payable on such goods:”;

35 (b) by the deletion in subsection (1) of paragraph (b); and

(c) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

40 “(a) (i) For the purpose of assessing the excise duty on any goods specified in Section A of Part 2 of Schedule No. 1 (other than goods specified in items 117.01.10 and 117.05 to 117.30), the value thereof shall be the price paid or payable for such goods when sold for home consumption in the ordinary course of trade, in the usual trade packing, where applicable, to any buyers not deemed to be related as specified in section 66(2)(a), plus any non-rebated excise duty payable in terms of Section B of Part 2 of Schedule No. 1, but excluding the non-rebated excise duty payable in terms of Section A of Part 2 of Schedule No. 1, **[or] fuel levy or any value-added tax payable on such goods.**

50 (ii) For the purpose of assessing the excise duty on any goods specified in items 117.01.10 and 117.05 to 117.30 of Section A of Part 2 of Schedule No. 1, the value thereof shall be the price paid or payable for such goods when sold for home consumption in the ordinary course of trade to any buyers not deemed to be related as specified in section 66(2)(a), plus any non-rebated excise duty payable in terms of Section B of Part 2 of Schedule No. 1, but excluding any value-added tax payable on such goods.”

55 **Amendment of section 71 of Act 91 of 1964, as amended by section 10 of Act 105 of 1976 and section 5 of Act 89 of 1984**

4. Section 71 of the principal Act is hereby amended by the deletion in subsection (2) of the second proviso.

Amendment of section 76 of Act 91 of 1964, as substituted by section 30 of Act 59 of 1990

5. Section 76 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (g) of the following paragraph:

- 5 “(g) the duty having been reduced or withdrawn as provided for in section 48(2) or (2A), 56(2), 56A(2) or 57(2).”.

Amendment of section 78 of Act 91 of 1964, as amended by section 10 of Act 52 of 1986

6. Section 78 of the principal Act is hereby amended—

- 10 (a) by the substitution in subsection (2) for the expressions “one thousand rand” and “six months” of the expressions “R8 000” and “two years”, respectively; and
15 (b) by the substitution in subsection (3) for the expressions “one thousand five hundred rand” and “nine months” of the expressions “R16 000” and “four years”, respectively.

Amendment of section 79 of Act 91 of 1964, as amended by section 2 of Act 64 of 1974 and section 11 of Act 52 of 1986

7. Section 79 of the principal Act is hereby amended—

- 20 (a) by the substitution in subsection (1) for the expressions “one thousand rand” and “six months” of the expressions “R8 000” and “two years”, respectively; and
 (b) by the substitution in subsection (2) for the expressions “one thousand five hundred rand” and “nine months” of the expressions “R16 000” and “four years”, respectively.

25 **Amendment of section 80 of Act 91 of 1964, as amended by section 10 of Act 85 of 1968, section 27 of Act 105 of 1969, section 28 of Act 112 of 1977, section 22 of Act 86 of 1982, section 7 of Act 89 of 1984, section 12 of Act 52 of 1986, section 27 of Act 84 of 1987 and section 32 of Act 59 of 1990**

30 8. Section 80 of the principal Act is hereby amended by the substitution in subsection (1) for the expressions “two thousand five hundred rand” and “twelve months” of the expressions “R20 000” and “five years”, respectively.

Amendment of section 81 of Act 91 of 1964, as substituted by section 33 of Act 59 of 1990

35 9. Section 81 of the principal Act is hereby amended by the substitution for the expression “R5 000” of the expression “R8 000”.

Amendment of section 83 of Act 91 of 1964, as amended by section 14 of Act 52 of 1986

40 10. Section 83 of the principal Act is hereby amended by the substitution for the expressions “five thousand rand” and “two years” of the expressions “R20 000” and “five years”, respectively.

Amendment of section 84 of Act 91 of 1964, as amended by section 11 of Act 57 of 1966, section 28 of Act 105 of 1969, section 29 of Act 112 of 1977, section 15 of Act 52 of 1986 and section 14 of Act 61 of 1992

45 11. Section 84 of the principal Act is hereby amended by the substitution in subsection (1) for the expressions “five thousand rand” and “two years” of the expressions “R40 000” and “ten years”, respectively.

Amendment of section 85 of Act 91 of 1964, as substituted by section 4 of Act 68 of 1973 and amended by section 16 of Act 52 of 1986

50 12. Section 85 of the principal Act is hereby amended by the substitution for the expression “five thousand rand” of the expression “R8 000”.

Amendment of section 86 of Act 91 of 1964, as substituted by section 11 of Act 85 of 1968 and amended by section 17 of Act 52 of 1986

13. Section 86 of the principal Act is hereby amended by the substitution for the expressions "five thousand rand" and "two years" of the expressions "R40 000" and "ten years", respectively.

Amendment of section 113 of Act 91 of 1964, as amended by section 17 of Act 95 of 1965, section 14 of Act 57 of 1966, section 11 of Act 103 of 1972, section 5 of Act 68 of 1973, section 49 of Act 42 of 1974, section 25 of Act 86 of 1982, section 7 of Act 89 of 1983, section 31 of Act 84 of 1987 and section 17 of Act 68 of 1989

10 14. Section 113 of the principal Act is hereby amended by the deletion—
(a) in subsection (1) of paragraph (f); and
(b) of subsection (3).

Amendment of Schedule No. 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988, section 19 of Act 68 of 1989, section 40 of Act 59 of 1990 and section 3 of Act 111 of 1991

15 15. (1) Schedule No. 1 to the principal Act is hereby amended to the extent set out in the Schedule to this Act.

(2) Subject to the provisions of section 58(1) of the principal Act, this section shall be deemed to have come into operation on 18 March 1992.

Continuation of certain amendments of Schedules Nos. 1 to 6 to Act 91 of 1964

16. (1) Every amendment of Schedules Nos. 1 to 6 to the principal Act made under section 48(1) and (2), section 48A(1), section 56(1) and (1A) or section 75(15) of the principal Act prior to 24 January 1992 shall not lapse by virtue of the provisions of section 48(6), 48A(2), 56(7) or 75(16) of the principal Act.

(2) The amendment of Part 5 of Schedule No. 1 to the principal Act made under section 48(1) and (2) of the principal Act by Government Notice No. R.919 of 20 March 1992, shall not lapse by virtue of the provisions of section 48(6) of the principal Act.

35 (3) The amendments of Part 4 of Schedule No. 5 and Schedule No. 6 to the principal Act made under section 75(15) of the principal Act by Government Notices Nos. R.920 and R.921, respectively, of 20 March 1992, shall not lapse by virtue of the provisions of section 75(16) of the principal Act.

Short title

40 17. This Act shall be called the Customs and Excise Second Amendment Act, 1992.

CUSTOMS AND EXCISE SECOND AMENDMENT ACT, 1992

Act No. 105, 1992

SCHEDULE
AMENDMENTS TO SCHEDULE NO. 1 TO THE CUSTOMS AND EXCISE
ACT, 1964

Tariff item	Tariff heading	Description	Rate of duty	
			Excise	Customs
104.00		By the substitution for tariff item 104.00 of the following:		
"104.00		PREPARED FOODSTUFFS; BEVERAGES, SPIRITS AND VINEGAR; TOBACCO		
104.01	19.01	MALT EXTRACT; FOOD PREPARATIONS OF FLOUR, MEAL, STARCH OR MALT EXTRACT, NOT CONTAINING COCOA POWDER OR CONTAINING COCOA POWDER IN A PROPORTION, BY MASS, OF LESS THAN 50 PER CENT, NOT ELSEWHERE SPECIFIED OR INCLUDED; FOOD PREPARATIONS OF GOODS OF HEADINGS NOS. 04.01 TO 04.04, NOT CONTAINING COCOA POWDER OR CONTAINING COCOA POWDER IN A PROPORTION, BY MASS, OF LESS THAN 10 PER CENT, NOT ELSEWHERE SPECIFIED OR INCLUDED:		
.10		Preparations based on sorghum flour, put up for making beverages	10c/kg	10c/kg
104.05	22.01	WATERS, INCLUDING NATURAL OR ARTIFICIAL MINERAL WATERS AND AERATED WATERS, NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER NOR FLAVOURED; ICE AND SNOW;		
	22.02	WATERS, INCLUDING MINERAL WATERS AND AERATED WATERS, CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR FLAVOURED, AND OTHER NON-ALCOHOLIC BEVERAGES (EXCLUDING FRUIT OR VEGETABLE JUICES OF HEADING NO. 20.09):		
.10		Mineral waters, including spa waters and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	10,36c/ℓ	11,42c/ℓ
.20		Lemonade and flavoured mineral waters, including flavoured spa and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	10,36c/ℓ	11,42c/ℓ
.30		Non-alcoholic beverages not elsewhere specified or included in this tariff item, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	10,36c/ℓ	11,42c/ℓ
104.10	22.03	BEER MADE FROM MALT:		
.10		Of a relative density before fermentation not exceeding 1 040°	5 769c/ 100ℓ	5 768c/ 100ℓ
		Plus a suspended duty of:		
		(i) In operation	Nil	Nil
		(ii) Maximum rate	275c/100ℓ	275c/100ℓ
.20		Of a relative density before fermentation exceeding 1 040° but not exceeding 1 050°, which is cleared ex any customs and excise manufacturing warehouse during any financial year, or which is imported into the Republic, or which is illicit beer:		
		(1) On the first 4 500 000ℓ or any quantity less than 4 500 000ℓ so cleared during a financial year	6 044c/ 100ℓ	—
		(2) On the quantity so cleared during a financial year which is more than 4 500 000ℓ but not exceeding 9 000 000ℓ	6 176c/ 100ℓ	—
		(3) On the quantity so cleared during a financial year which is more than 9 000 000ℓ but not exceeding 18 000 000ℓ	6 308c/ 100ℓ	—
		(4) On the quantity so cleared during a financial year which is more than 18 000 000ℓ but not exceeding 27 000 000ℓ	6 440c/ 100ℓ	—

CUSTOMS AND EXCISE SECOND AMENDMENT ACT, 1992

Act No. 105, 1992

Tariff item	Tariff heading	Description	Rate of duty	
			Excise	Customs
		(5) On the quantity so cleared during a financial year which is more than 27 000 000ℓ but not exceeding 36 000 000ℓ	6 572c/ 100ℓ	—
		(6) On the quantity so cleared during a financial year which is more than 36 000 000ℓ	6 704c/ 100ℓ	—
		(7) If duty is paid on illicit beer	6 704c/ 100ℓ	—
		(8) If imported	—	6 022c/ 100ℓ
.30		Of a relative density before fermentation exceeding 1 050°	6 803c/ 100ℓ	6 242c/ 100ℓ
		Plus, for every degree of relative density before fermentation exceeding 1 080°	22c/100ℓ	22c/100ℓ
104.15	22.04	WINE OF FRESH GRAPES, INCLUDING FORTIFIED WINES; GRAPE MUST OTHER THAN THAT OF HEADING NO. 20.09;		
	22.05	VERMOUTHS AND OTHER WINE OF FRESH GRAPES FLAVOURED WITH PLANTS OR AROMATIC SUBSTANCES;		
	22.06	OTHER FERMENTED BEVERAGES (FOR EXAMPLE, CIDER, PERRY AND MEAD):		
.05		Sorghum beer (excluding beer made from preparations based on sorghum flour)	200c/100ℓ	200c/100ℓ
.10		Unfortified still wine	1 700c/ 100ℓ	1 700c/ 100ℓ
.40		Fortified still wine	5 568c/ 100ℓ	5 568c/ 100ℓ
.50		Other still fermented beverages, unfortified	1 700c/ 100ℓ	1 700c/ 100ℓ
.60		Other still fermented beverages, fortified	5 702c/ 100ℓ	5 702c/ 100ℓ
.70		Sparkling wine	7 174c/ 100ℓ	7 174c/ 100ℓ
.80		Other fermented beverages (excluding sorghum beer)	7 404c/ 100ℓ	7 404c/ 100ℓ
104.20	22.07	UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF 80 PER CENT VOLUME OR HIGHER; ETHYL ALCOHOL AND OTHER SPIRITS, DENATURED, OF ANY STRENGTH;		
	22.08	UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF LESS THAN 80 PER CENT VOLUME; SPIRITS, LIQUEURS AND OTHER SPIRITUOUS BEVERAGES; COMPOUND ALCOHOLIC PREPARATIONS OF A KIND USED FOR THE MANUFACTURE OF BEVERAGES:		
.10		Wine spirits, manufactured in the Republic by the distillation of wine	152 135c/ 100ℓ of absolute alcohol	—
.15		Spirits, manufactured in the Republic by the distillation of any sugar cane product	162 098c/ 100ℓ of absolute alcohol	—
.25		Spirits, manufactured in the Republic by the distillation of any grain product	166 605c/ 100ℓ of absolute alcohol	—
.29		Other spirits, manufactured in the Republic	156 572c/ 100ℓ of absolute alcohol	—

CUSTOMS AND EXCISE SECOND AMENDMENT ACT, 1992

Act No. 105, 1992

Tariff item	Tariff heading	Description	Rate of duty	
			Excise	Customs
.60		Imported spirits of any nature, including spirits in imported spirituous beverages (excluding liqueurs, cordials and similar spirituous beverages containing added sugar) and in compound alcoholic preparations of an alcoholic strength exceeding 1,713 per cent alcohol by volume	—	142 522c/100ℓ of absolute alcohol or 62 142c/100ℓ
.70		Spirits of any nature in imported liqueurs, cordials and similar spirituous beverages containing added sugar, with or without flavouring substances	—	142 522c/100ℓ of absolute alcohol
104.30	24.02	CIGARS, CHERROOTS, CIGARILLOS AND CIGARETTES, OF TOBACCO OR OF TOBACCO SUBSTITUTES;		
	24.03	OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES, "HOMOGENISED" OR "RECONSTITUTED" TOBACCO EXTRACTS AND ESSENCES:		
.10		Cigars	225c/kg net	247c/kg net
.20		Cigarettes	26c/10 cigarettes	26c/10 cigarettes
		Plus in respect of cigarettes the mass of the tobacco of which exceeds 1.5kg/1 000 cigarettes	1 156c/kg tobacco content	1 156c/kg tobacco content
.30		Cigarette tobacco	30,5c/50g or fraction thereof plus 213c/kg tobacco	30,5c/50g or fraction thereof plus 213c/kg tobacco
		Plus a suspended duty of:		
		(i) In operation	Nil	Nil
		(ii) Maximum rate	73c/kg tobacco	73c/kg tobacco
.40		Pipe tobacco in immediate packings of a content of less than 5kg	255c/kg net	255c/kg net
.50		Pipe tobacco in immediate packings of a content of not less than 5kg	237c/kg net	237c/kg net"