

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

SOUTH AFRICAN RESERVE BANK

NO. R. 1700

23 DECEMBER 2019

GENERAL EXPLANATORY NOTE:

[] Words that are between square brackets and in bold typeface, indicate deletions from the existing rules

_____ Words that are underlined with a solid line, indicate insertions in the existing rules

**CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES (DAR/190)**

Under sections 54AA, 54F and 120 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.



EDWARD CHRISTIAN KIESWETTER

COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

1. Insertion of rules 54FD

The following rules are hereby inserted in the Rules to the Customs and Excise Act, 1964 (Act No. 91 of 1964), after rule 54FC.04:

Environmental levy in respect of carbon tax imposed in terms of Carbon Tax Act, 2019**Application of provisions and definitions**

54FD.01 (a) The provisions of these rules apply to –

- (i) the carbon dioxide equivalent of greenhouse gas emissions generated in the Republic liable to environmental levy in terms of item 157.00 in Section F of Part 3 of Schedule No. 1;

- (ii) the consolidated licensing of the emissions facilities of a taxpayer as its customs and excise manufacturing warehouse for the generation of emissions liable to carbon tax;
 - (iii) the calculation of the amount of environmental levy payable by a taxpayer for each tax period in respect of its licensed customs and excise manufacturing warehouse;
 - (iv) the submission of account and payment of environmental levy due by a taxpayer in respect of its licensed customs and excise manufacturing warehouse; and
 - (v) other matters relating to the administration of environmental levy for purposes of Chapter VA.
- (b) For purposes of Chapter VA, these rules and any form to which these rules relate, unless the context otherwise indicates, any reference to –
- "customs and excise manufacturing warehouse" means the combination of each of the emissions facilities of a taxpayer that must be consolidated and licensed as such a warehouse.
 - "emissions facility" means the premises where a taxable activity occurs over which the taxpayer has operational control.
 - "environmental levy" means environmental levy in terms of item 157.00 in Section F of Part 3 of Schedule No. 1.
 - "licensee" means the taxpayer that holds a licence in respect of a customs and excise manufacturing warehouse.
 - "taxable activity" means an activity listed in Schedule 2 of the Carbon Tax Act in respect of which a –
 - (i) taxpayer has an aggregated installed capacity equal to or above the tax threshold; or
 - (ii) tax threshold indicated as 'none' applies.
 - "tax threshold" means the value determined by matching the activity listed in the column 'Activity/Sector' with the corresponding entry in the column 'Threshold' in Schedule 2 of the Carbon Tax Act.
- (c) Except as otherwise provided in Chapter VA and these rules –
- (i) section 60 and the rules thereunder, including the definitions in such rules; and
 - (ii) any provision of this Act relating to a customs and excise manufacturing warehouse; liability for duty; submission of account; payment of duty; keeping of books, accounts and documents; responsibility of the licensee;

and any other requirement prescribed in connection with any such warehouse;
shall apply with any necessary changes as the context may require to any licensee contemplated in these rules.

Licensing of emissions facilities

54FD.02 (a) Every taxpayer must –

- (i) obtain a consolidated licence for the combination of each of its emissions facilities as its customs and excise manufacturing warehouse for the generation of emissions liable to carbon tax; and
 - (ii) designate the premises of its operational control in the Republic as the premises for such a consolidated licence.
- (b) Notwithstanding paragraph (a), no taxpayer must apply to license an emissions facility where an activity listed in Schedule 2 of the Carbon Tax Act exclusively occurs in respect of which –
- (i) such taxpayer has a basic tax-free allowance of 100%; or
 - (ii) a tax threshold indicated as 'not applicable' applies.
- (c) The provisions of rule 19A.02 shall apply with any necessary changes as the context may require to any application for a licence or renewal of a licence contemplated in this rule.
- (d) Every licensee must advise the Commissioner in accordance with rule 21A.09 of any change in particulars provided in its application for licensing.

Calculation of amount of environmental levy payable

54FD.03 Every licensee must calculate the amount of environmental levy payable for each tax period in respect of its licensed customs and excise manufacturing warehouse in the following manner –

- (a) The greenhouse gas emissions liable to environmental levy consists of the carbon dioxide equivalent of fuel combustion, industrial process and fugitive emissions that must be determined in accordance with –
- (i) an emissions determination methodology approved by the Department of Environmental Affairs as contemplated in section 4(1) of the Carbon Tax Act; or
 - (ii) an emissions determination methodology contemplated in section 4(2) of the Carbon Tax Act that employs –

- (aa) readily available statistical data on the intensity of processes (activity data) and emission factors as specified in the 'IPCC Guidelines For National Greenhouse Gas Inventories' (2006); or
- (bb) the statistical data and emission factors as specified in item (aa) including country-specific emission factors.
- (b) The allowances that reduce the emissions contemplated in paragraph (a) must be determined where relevant in accordance with Part 6 of Schedule No. 6 and Part II and Part III of the Carbon Tax Act.
- (c) The rate of environmental levy must be determined in accordance with Section F of Part 3 of Schedule No. 1 and section 5 of the Carbon Tax Act.
- (d) The amount of environmental levy payable must be determined in accordance with Section F of Part 3 of Schedule No. 1 and section 6 of the Carbon Tax Act.

Submission of carbon tax account and payment

54FD.04 For the purposes of payment of environmental levy, every licensee must submit for each tax period within the period prescribed in paragraph (b) –

- (a) (i) a consolidated annual account on form DA 180 and its annexures that calculates the environmental levy liability in accordance with rule 54FD.03 in respect of its licensed customs and excise manufacturing warehouse;
- (ii) a consolidated payment for the total environmental levy liability; and
- (iii) any supporting documents the Commissioner may request.
- (b) The documents and payment specified in paragraph (a) must be submitted in the month of July of the year following the tax period, but not later than the penultimate working day of that month.

Implementation provisions

54FD.05 (a) For the purposes of rule 54FD.02 –

- (i) The period for licence application commences on 2 January 2020.
- (ii) Every licence application that is approved will be issued with effect from the date the carbon tax liability of that taxpayer arose in terms of the Carbon Tax Act.
- (b) The period for the submission of documents and payment contemplated in paragraph (b) of rule 54FD.04 commences on 1 July 2020.

2. Substitution of forms

Item 202.00 of the Schedule to the rules is hereby amended by the substitution of the following forms:

“DA 185 Application form: Registration/Licensing of Customs and Excise Clients
DA 185.4B2 Licensing Client type 4B2 – Manufacturing warehouse”

8. SARS REVENUE IDENTIFICATION NUMBERS (if applicable)																						
i. VAT Registration Number:	4											ii. Income Tax Reference Number:										
iii. PAYE Reference Number:	7											iv. SDL Reference Number:	L									
v. UIF Reference Number:	U																					

9. NATURE OF BUSINESS											
Company		Close Corporation		Trust		Sole Proprietor / Individual		Partnership			
Co-op		Public Authority		Foreign Individual		Foreign / External Company		Sole Proprietor			
Company / Close Corporation / Trust* Registration Number:											

10. PARTICULARS OF SOLE PROPRIETOR / INDIVIDUAL / DIRECTORS AND / OR PARTNERS														
i. Initials:						First Name/s:								
Surname:														
Capacity:														
ID / Passport No:												Passport Country (e.g. South Africa = ZAF)		
ii. Initials:						First Name/s:								
Surname:														
Capacity:														
ID / Passport No:												Passport Country (e.g. South Africa = ZAF)		
iii. Initials:						First Name/s:								
Surname:														
Capacity:														
ID / Passport No:												Passport Country (e.g. South Africa = ZAF)		

11. PUBLIC OFFICER / REPRESENTATIVE											
Surname:											
First Name:											
Telephone (including code):		Code: ()	Tel. ()	Fax number (including code):		Code: ()	Fax: ()				
E-mail address:							Cellular Phone Number:		()		
Public Officer:	<input type="checkbox"/>	Curator/Trustee:	<input type="checkbox"/>	Partner:	<input type="checkbox"/>	Accounting officer / Treasurer / Financial Officer:	<input type="checkbox"/>	Other, please specify:			

12. INFORMATION REGARDING CONTRAVENTIONS AND OTHER MATTERS												
Please indicate whether during the preceding five years, any person contemplated in the rules for section 59A or 60:-												
(a) Has contravened or failed to comply with the provisions of the Act.	Yes:		No:									
(b) Has failed to comply with any condition, obligation or other requirement imposed by the Commissioner.	Yes:		No:									
(c) Has been convicted of any offence under the Act.	Yes:		No:									
(d) Has been convicted of any offence involving dishonesty.	Yes:		No:									
(e) Has made any false or misleading statement in any material respect or omitted to state any material fact which was required to be stated in any application for registration or for any other purpose under the Act.	Yes:		No:									
(f) Has ever been insolvent or in liquidation.	Yes:		No:									
Note: • If the answer is "yes" to any of the above questions, full details must be furnished on a separate page and attached to the application. • Any applicant may, where it is contended in respect of paragraphs (a) and (b) that the contravention or failure was inadvertent, without fraudulent intent or gross negligence, a submission to this effect should be furnished on a separate page and attached to the application.												

13. DOCUMENTS IN SUPPORT OF APPLICATION
<p>The following information / documents not older than 3 months must be submitted with this application form.</p> <p>Natural person or juristic person located in the RSA</p> <ul style="list-style-type: none"> • One of the following documents to prove bank details i.e. the account holder's name, bank account number and bank branch code: <ul style="list-style-type: none"> - An original bank statement or a legible certified copy of an original bank statement; - An original letter from the bank; or - An original auto bank statement. • Original or certified copies of the following documents (whichever is relevant): <ul style="list-style-type: none"> - Registration certificate of business (as issued by the Companies and Intellectual Property Commission or Master of the Supreme Court in the case of a Trust); - Resolution/consent or other authority to apply, as applicable; - Municipal account to confirm the address details; - Detailed site plan in the case of a warehouse or a rebate store; - Agency Contract between agent and foreign principal; - DA 185.D to prove nomination by a foreign principal in the case of an application for a registered agent; - VAT, IT, PAYE, SDL, UIF letters from SARS to confirm revenue registration details; - A fixed telephone line operator's and/or cell phone account to confirm contact details; - In the case of Annexures DA 185.4B9 and DA 185.4B10, a letter to the applicant signed by the SEZ Operator on his or her own letter-headed paper approving the allocation of land in the CCA; - Identity/passport documents of – <ul style="list-style-type: none"> - Individual - Partnership, Close Corporation and Trust (All Members / Partners / Trustees) - Company (All Directors, including Managing Director and Financial Director) - Court order in the case of an emancipated minor • Any other information as the Commissioner for SARS may require. <p>Natural person or juristic person not located in the RSA</p> <ul style="list-style-type: none"> • Original or certified copies of the following documents (whichever is relevant): <ul style="list-style-type: none"> - Agency Contract between applicant and agent (with an established place of business in the RSA) other than clearing agent; - VAT letters from SARS to confirm revenue registration details (if applicable); - Proof of company registration from the relevant competent authority in the foreign country; - Identity document or passport; and - Court order in the case of an emancipated minor • Any other information as the Commissioner for SARS may require.
14. DECLARATION:
<p>I hereby-</p> <p>(a) declare that the particulars in the application and all enclosures are true and correct; and</p> <p>(b) undertake to-</p> <p>(i) inform the SARS immediately of any changes in the particulars furnished in the application;</p> <p>(ii) comply with the customs and excise laws and procedures.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">(Initials and Surname) _____ (Status / Capacity, e.g. Director)</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">(Signature) _____ (Date & Place)</p>
15. FOR OFFICIAL USE ONLY
<p>i, _____ Team Member, at _____ Office hereby certify / confirm</p> <p style="text-align: center;"><i>Full name and surname</i> <i>Branch Office name</i></p> <p>that the applicant / representative*:</p> <ul style="list-style-type: none"> • Visited this office in person; • Is in fact the person reflected on his/her identification document/passport*; and • Is the person as is reflected on the letter of authority (where applicable). <p>_____</p> <p style="text-align: center;"><i>Team Member: SID</i> <i>Team Member: Signature</i> <i>Date</i></p> <p>i, _____ Team Leader, at _____ Office hereby certify / confirm</p> <p style="text-align: center;"><i>Full name and surname</i> <i>Office name</i></p> <p>that the applicant / representative*:</p> <ul style="list-style-type: none"> • Visited this office in person; • Is in fact the person reflected on his/her identification document/passport*; and • Is the person as is reflected on the letter of authority (where applicable). <p>_____</p> <p style="text-align: center;"><i>Team Leader: SID</i> <i>Team Leader: Signature</i> <i>Date</i></p>



ANNEXURE DA 185.4B2

LICENSING CLIENT TYPE 4B2 – MANUFACTURING WAREHOUSE

Trading Particulars:
 Please supply all trade names and physical addresses if the business is conducted from a different address or under a different name as that stated in Block 6 of the application form (DA 185).

Trade name of business: _____

Physical address: Street name and number: _____
 Building name and floor number: _____
 Suburb: _____
 City/Town: _____
 Street code: _____

Authority to apply:
 I/We, _____ herein presented by:

 (name of applicant)

(1) _____ (Capacity) (2) _____ (Capacity)
 being duly authorised thereto by virtue of –

(a) *a resolution passed at a meeting of the Board of Directors, held at _____ on the _____ day of _____ (CCYY) _____; or
 (b) *express consent in writing of all the members of the close corporation /* partners of the partnership /* trustees of the trust; or
 (c) * being a person having the management of any other association; or
 (d) * delegated officer of an organ of State,
 hereby apply for licensing of a Manufacturing Warehouse.

Warehouse Particulars:

(a) Indicate with an X what the warehouse will be used for:

(i) Manufacture of tobacco products (warehouse business type 32 - VM)	<input type="checkbox"/>
(ii) Manufacture of malt beer (warehouse business type 33 - VM)	<input type="checkbox"/>
(iii) Manufacture of spirits	
(aa) Primary (warehouse business type 34 - VMP)	<input type="checkbox"/>
(bb) Secondary (warehouse business type 35 - VMS)	<input type="checkbox"/>
(iv) Manufacture of petroleum products – excluding biodiesel (warehouse business type 38 - VM)	<input type="checkbox"/>
(v) Manufacture of (commercial) biodiesel (warehouse business type 39 - VM)	<input type="checkbox"/>
(vi) Manufacture of plastic carrier and flat bags (warehouse business type 42 - VM)	<input type="checkbox"/>
(vii) Manufacture of electric filament lamps (warehouse business type 43 - VM)	<input type="checkbox"/>
(viii) Production of electricity (warehouse business type 44 - VM)	<input type="checkbox"/>
(ix) Manufacture of tyres (warehouse business type 56 - VM)	<input type="checkbox"/>
(x) Manufacture of sugary beverages (warehouse business type 57 - VM)	<input type="checkbox"/>
(xi) Generation of emissions liable to carbon tax (warehouse business type 58 - VM)	<input type="checkbox"/>

(b) Please state the rebate item(s), tariff subheading(s) / item(s) (if applicable), and describe the goods that will be manufactured or stored in the warehouse.

Rebate item(s)	Tariff subheading(s) / item(s)	Rebate Code	Description of goods manufactured / stored
(1)			
(2)			
(3)			
(4)			
(5)			
(6)			
(7)			
(8)			
(9)			

Completion by electricity producers only	
Installed capacity of electricity generation plant:	
Number of electricity generation units:	
Non-renewable energy source used:	Coal <input type="checkbox"/> Petroleum based liquid fuels <input type="checkbox"/> Natural gas <input type="checkbox"/> Nuclear <input type="checkbox"/> Other <input type="checkbox"/> Specify:
If electricity generated from co-generation, indicate type: (Rule 54FA.10(c)(ii))	Waste heat or energy from waste Combined heat and power <input type="checkbox"/> Renewable <input type="checkbox"/> Solar power <input type="checkbox"/>

Completion by tyre producers only	
Indicate tyre levy client type:	New tyre manufacturer Re-tread tyre manufacturer <input type="checkbox"/>

Completion by carbon taxpayers only	
Date carbon tax liability arose in terms of Carbon Tax Act, 2019	
Reporting method for carbon tax	Section 4(1) of Carbon Tax Act, 2019 <input type="checkbox"/> Section 4(2) of Carbon Tax Act, 2019 <input type="checkbox"/>
Details of registration as data provider in terms of the National Greenhouse Gas Emission Reporting Regulations under the National Environmental Management: Air Quality Act, 2004	
(a) Data provider name:	
(b) Data provider ID:	
Facility details (If more than one facility is registered, provide such details for each facility on a separate annexure).	
(c) Facility name:	
(d) Facility ID:	
(e) Physical address:	
(f) List the relevant IPCC code(s) for each activity conducted at the facility:	
(g) List the total installed capacity of the facility per each relevant IPCC code:	

Continues overleaf

Declaration:	
I hereby -	
(a) declare that the particulars in the application and all enclosures are true and correct; and	
(b) undertake to-	
(i) inform the South African Revenue Service immediately of any changes in the particulars furnished in the application;	
(ii) comply with the customs and excise laws and procedures.	
..... (Initials and Surname) (Status / Capacity, e.g. Director)
..... (Signature) (Date & Place)

FOR OFFICIAL USE												
File Number:												
Type of Warehouse:	VM	VMP	VMS									
Warehouse Number:												
Licence Number:												
Licence Date:												
District Office:												