

SOUTH AFRICAN REVENUE SERVICE

NO. R. 583

22 MAY 2020

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

Under sections 107, 110 and 120 of the Customs and Excise Act, 1964 (Act No. 91 of 1964), the rules published in Government Notice R.1874 of 8 December 1995, are herewith amended to the extent set out in the Schedule hereto. This amendment will take effect 30 days after publication of this Notice.



EDWARD CHRISTIAN KIESWETTER
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE**1. Insertion of rule 107A**

The following rule is hereby inserted after the rules for section 106:

“RULES FOR SECTION 107A OF THE ACT**Requirements in respect of tobacco growers and tobacco leaf dealers**

107A.01 (a) For the purposes of this rule –

“tobacco grower” means any person who engages in the farming of tobacco leaf product;

“tobacco leaf dealer” means any person who engages in the storing, processing or transacting of tobacco leaf product, excluding the farming thereof;

“tobacco leaf processing” means any preliminary, intermediate or supplementary process in connection with tobacco leaf product, including the drying and threshing thereof.

“tobacco leaf product” means tobacco not stemmed or stripped, tobacco partly or wholly stemmed or stripped, or tobacco refuse;

“tobacco not stemmed or stripped” means tobacco classified under tariff subheading 2401.10 of Section IV of Part 1 of Schedule No. 1;

“tobacco partly or wholly stemmed or stripped” means tobacco classified under tariff subheading 2401.20 of Section IV of Part 1 of Schedule No. 1; and

“tobacco refuse” means tobacco classified under tariff subheading 2401.30 of Section IV of Part 1 of Schedule No. 1.

(b) Every tobacco leaf dealer shall register for that purpose with the Commissioner on form DA 185 and the appropriate annexure in terms of section 59A and the rules thereto.

(c) Every tobacco grower and tobacco leaf dealer shall –

(i) keep records in respect of –

(aa) each receipt of tobacco leaf product, including the name, address and customs and excise client number of the supplier;

(bb) the date, volume, value and detailed description of each such receipt of tobacco leaf product;

(cc) the tobacco leaf processing carried out in respect of each such receipt of tobacco leaf product;

(dd) 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;

(ee) each supply of tobacco leaf product, including the name, address and customs and excise client number of the recipient;

and

- (ff) the date, volume, value and detailed description of each such supply of tobacco leaf product; and
- (ii) retain such records and the documents in support thereof available for inspection by the Commissioner for a period of five years calculated from the end of the calendar year in which any such record was created.”

2. Insertion of rule 110

The following rule is hereby inserted after the rules for section 107A:

RULES FOR SECTION 110 OF THE ACT

Product counters on cigarette production lines

110.01 For the purposes of these rules -

- (a) “cigarette packaging machine” means any machine used in the packing of any cigarettes.
- (b) “cigarette production line” means any sequence or combination of machines used in the manufacture of cigarettes.

110.02 The licensee of a customs and excise manufacturing 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.

110.03 For the purposes of rule 110.02, the licensee shall -

- (a) 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;
- (b) ensure that a device is installed and maintained for the recording of data for each product counter on the quantities of all cigarettes manufactured;

- (c) seal any inoperative cigarette packaging machine or cigarette production line with a tamper-proof security seal under the supervision of an officer;
- (d) conserve any security seal and only allow the seal to be removed and replaced under the supervision of an officer;
- (e) bear the cost of installing and maintaining any product counter and data recording device; and
- (f) bear the cost of installing and conserving any security seal.

110.04 The licensee shall comply with the provisions of rule 110.03 -

- (a) within 30 days after the commencement of these rules;
- (b) within 30 days after the acquisition of any operative cigarette packaging machine after the commencement of these rules; or
- (c) within an alternative period the Commissioner may allow upon a request in writing from such licensee.

110.05 The licensee shall record and report to the Commissioner –

- (a) annually the layout in the warehouse of each product counter and its data recording device per cigarette packaging machine per cigarette production line;
- (b) 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;
- (c) immediately upon occurrence the –
 - (i) resetting, deactivation or malfunction of any product counter or data recording device;
 - (ii) deactivation or malfunction of any operative cigarette packaging machine or cigarette production line;
 - (iii) breach or malfunction of any security seal
 - (iv) activation of any inoperative cigarette packaging machine or cigarette production line;
 - (v) alteration of any cigarette packaging machine or cigarette production line that impacts on any product counter or data recording device; or
 - (vi) acquisition, installation, sale or removal of any cigarette packaging machine or cigarette production line; and

(d) retain the records available for inspection by the Commissioner for a period of five years calculated from the end of the calendar year in which any such record was created.

110.06 If for any reason the quantities of all cigarettes manufactured cannot be determined as prescribed in rule 110.02, the licensee may request approval in writing from the Commissioner for an alternative methodology to be used.

3. Substitution of form

Item 202.00 of the Schedule to the rules is hereby amended by the substitution for form DA 185 of the following form:

“DA 185 Application form: Registration/Licensing of Customs and Excise Clients”

4. Insertion of form

Item 202.00 of the Schedule to the rules is hereby amended by the insertion for form DA 185.4A17 of the following form:

“DA 185.4A17 Registration client type 4A17 – Registered tobacco leaf dealer”



DA 185

APPLICATION FORM: REGISTRATION / LICENSING OF CUSTOMS AND EXCISE CLIENTS

For official use

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1. NOTES FOR COMPLETION OF THE DA 185 AND ITS ANNEXURES																									
<p>1. Where the asterisk (*) appears, delete whichever is not applicable.</p> <p>2. Indicate with an "X" in the appropriate block(s) whichever is applicable.</p> <p>3. Complete the appropriate annexure.</p> <p>4. If the space provided on form DA185 and applicable annexure(s) is insufficient, the information must be furnished on a separate page, which must be attached to the form DA185 and the annexures.</p> <p>5. Reflect the relevant customs and excise client number, customs and excise warehouse number or rebate user number when applying for the amendment of existing information or for a total cancellation per client type.</p> <p>6. Where security must be furnished, complete and submit annexure DA 185.C.</p> <p>7. A foreign principal must complete and submit annexure DA 185.D.</p> <p>8. Complete and submit (if applicable) the appropriate prescribed agreement.</p> <p>9. All references to sections and rules pertain to the Customs and Excise Act, 1964 (the Act).</p> <p>10. All Customs and Excise forms are available on the SARS website (www.sars.gov.za) or at any SARS branch office.</p>																									
2. EXISTING REGISTRANT/LICENSEE PARTICULARS																									
If currently registered/licensed with SARS, please state allocated customs client number.																									
<table border="1" style="width: 100%; height: 20px;"> <tr> <td style="width: 20px;"></td> </tr> </table>																									
3. NATIONALITY																									
Natural person, who is:			Juristic person, that is:																						
Located in the RSA:		Yes <input type="checkbox"/> No <input type="checkbox"/>	Located in the RSA:		Yes <input type="checkbox"/> No <input type="checkbox"/>																				
4. PURPOSE OF APPLICATION																									
New Registration/Licensee or renewal:		<input type="checkbox"/>	Amendment of existing information:		<input type="checkbox"/>																				
			Cancellation:		<input type="checkbox"/>																				
5. ANNEXURES																									
Annexure	Registration	Tick box	Annexure	Licensing	Tick box																				
DA 185 4A1	Importer (Local or Foreign)	<input type="checkbox"/>	DA 185 4B1	Special Manufacturing Warehouse – (Section 21 and the rules thereto)	<input type="checkbox"/>																				
DA 185 4A2	Exporter (Local or Foreign)	<input type="checkbox"/>	DA 185 4B2	Manufacturing Warehouse – (Sections 19A, 27, 54E, 54J, 54AA and the rules thereto)	<input type="checkbox"/>																				
DA 185 4A2	Exporter for SADC, SADC-EPA, SACU/EFTA and SACU/MERCOSUR – (rule 59A.01, rules 49A, 49B, 49D and 49E)	<input type="checkbox"/>	DA 185 4B3	Storage Warehouse	<input type="checkbox"/>																				
DA 185 4A2 (Section A) & Form DA 46A1.02	Exporter for AGOA – (rules 46A1.02)	<input type="checkbox"/>	DA 185 4B4	Special Storage Warehouse (Sections 19A and 21 and the rules thereto)	<input type="checkbox"/>																				
DA 185 4A2 (Section B) & Form DA 49A.02	Approved Exporter – SADC-EPA or SACU/EFTA – (rules 49A.18 (19), (20) and 49D.18(19)(20))	<input type="checkbox"/>	DA 185 4B5	Clearing Agent – (Section 64B and the rules thereto)	<input type="checkbox"/>																				
DA 185 4A2 (Section C) & Form DA 46A.01	Exporter for GSP (various countries) – (relevant rules for section 46A)	<input type="checkbox"/>	DA 185 4B6	Remover of goods in Bond (Local or Foreign) – (Section 64D and the rule thereto)	<input type="checkbox"/>																				
DA 185 4A3	Rebate User (Schedule Nos. 3, 4 and 6) – (Section 75 and the rules thereto)	<input type="checkbox"/>	DA 185 4B7	Distributor of Fuel – (Section 64F and the rules thereto)	<input type="checkbox"/>																				
DA 185 4A4 & DA46A1.03	Manufacturer – (Section 46)	<input type="checkbox"/>	DA 185 4B8	Special Ad Valorem Manufacturing Warehouse – (Section 36A and the rules thereto)	<input type="checkbox"/>																				
DA 185 4A5	Special Manufacturing Warehouse: APDP	<input type="checkbox"/>	DA 185 4B9	Storage Warehouse (Customs Controlled Area Enterprise) – (Sections 19A, 21, 21A and Rule 21A.10)	<input type="checkbox"/>																				
5. ANNEXURES (continued)																									

The following information / documents not older than 3 months must be submitted with this application form.

Natural person or juristic person located in the RSA

- One of the following documents to prove bank details i.e. the account holder's name, bank account number and bank branch code:
 - 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):
 - 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 –
 - 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.

Natural person or juristic person not located in the RSA

- Original or certified copies of the following documents (whichever is relevant):
 - 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:

I hereby-

- (a) declare that the particulars in the application and all enclosures are true and correct; and
- (b) undertake to-
 - (i) inform the SARS 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)

15. FOR OFFICIAL USE ONLY

I, _____ Team Member, at _____ Office hereby certify / confirm
Full name and surname *Branch Office name*

that the applicant / representative*:

- 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).

_____ Team Member: SID _____ Team Member: Signature _____ Date

I, _____ Team Leader, at _____ Office hereby certify / confirm
Full name and surname *Office name*

that the applicant / representative*:

- 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).

_____ Team Leader: SID _____ Team Leader: Signature _____ Date



ANNEXURE DA 185.4A17

REGISTRATION CLIENT TYPE 4A17 – TOBACCO LEAF DEALER

Notes:

1. A separate application form must be submitted in respect of each tobacco leaf dealer.
2. Properly representative photographs that indicate the size, layout and other general identifying features of the facility for dealing with tobacco leaf products should accompany each application.

Details of applicant:

Full name/Company name:	Postal Address:
Identity Number / Company Registration Number:	Income tax reference number:
Physical address:	Cellular phone number:
Email address:	

Details of tobacco leaf dealer:

Describe the nature of tobacco processing or transactions carried out:	Volume of tobacco processed or transacted per year in tons:
	Size of facility for dealing with tobacco leaf products in square metres:
	Number of employees:
If you have failed to comply with the Customs and Excise Act, 1964 or any law relating to the illicit manufacture, conveyance, supply or possession of excisable tobacco products during the past two years, state the nature of the offence and penalty imposed:	

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 ONLY:		
Approved: <hr style="width: 80%; margin: 0 auto;"/> Controller <hr style="width: 80%; margin: 0 auto;"/> Date	Licence No.	Office Stamp