

EXCISE

EXTERNAL POLICY

AIR PASSENGER TAX

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1 SUMMARY OF MAIN POINTS

- a) The policy identifies the persons who are liable and who are exempted from the payment of Air Passenger Tax (APT).
- b) The APT Officers at Oliver Reginald Tambo International Airport (ORTIA) administer and manage APT.
- c) This policy does not cover:
 - i) Introduction to Excise duties, levies and APT as this is dealt with in document SE-GEN-04-G01;
 - ii) Licensing & Registration as this is dealt with in document SE-LR-02; and
 - iii) SARS Payment Rules as this is dealt with in GEN-PAYM-01 G01.

2 POLICY

- a) This policy must be read together with the Constitution, the South African Revenue Service Act No. 34 of 1997 ("SARS Act") and any other applicable legislation.
- b) Unless the Commissioner determines otherwise, no security is required, by an operator, applying for the registration of APT.
- c) All operators / agents must be registered for eFiling as the submission of the payments can only be made via eFiling. Payments must be submitted as prescribed in the rules in the format and in accordance with the procedures specified in the eFiling service [Rule 119A.R101A(d)]. Other payment methods may only be used if the eFiling service is not available (refer to GEN-PAYM-01-G01). Operators / agents can register for eFiling on the SARS Website (www@sars.gov.za).
- d) If operators / agents are unable to access the eFiling service, they must contact the ORTIA office for assistance.

2.1 Liability for APT

- a) Any registration shall be effective from the date of liability to register for APT.
- b) In accordance with Section 47B of the Customs and Excise Act, No. 91 of 1964 (the Act) and the rules thereto, APT is charged on any chargeable passenger departing on a flight from an airport in South Africa to a destination in a territory outside South Africa.
- c) The operator of a chargeable aircraft used for the carriage of any chargeable passenger must be registered for APT within seven (7) days of the time of becoming so liable. The operator may however register before any chargeable flight commences.
- d) If an operator has no business establishment, other fixed establishment or residency in South Africa who intends to carry chargeable passengers on a chargeable aircraft from a South African airport must appoint an agent whose place of business is in South Africa. The agent will be the operator's representative in South Africa and must complete an APT 101.
- e) The operator or his / her appointed agent must submit a completed APT 101 together with the letter of appointment from the operator. Furthermore, the Commissioner may also require a copy of the agreement between the operator and the agent.
- f) The duly appointed agent of the operator will be registered and act on behalf of the operator for the purposes of the Act. Further, the provisions of Sections 44A (joint and several liabilities for duty), 98 (liability of agent for obligations imposed on principal) and 99 (liability of agent for obligations imposed on principal) apply mutatis mutandis to an operator and his / her agent.
- g) An operator can only have one (1) agent acting on his / her behalf at any given stage. However, an agent can act on behalf of any number of operators.
- h) Every operator, who owns or hires an aircraft, must complete an APT 102.

- i) Operators who have a business establishment or other fixed establishment and are a resident in South Africa cannot appoint an agent to act on their her behalf.
- j) The chargeable passenger is liable for the tax that must be collected by the operator or the agent.
- k) Section 47B provides that the tax must be charged at the **applicable** rate on the carriage of each chargeable passenger departing South Africa.
- l) Complimentary or free tickets issued do not fall within the exemptions from APT. Therefore, where complimentary or free tickets are issued, the applicable rate must apply.
- m) All correspondence and documentation for the operator will be sent to the agent's postal address.
- n) In the case of **chartered flights**, where no tickets are issued, each passenger on the chartered flight shall be liable for APT at the applicable rate. It is the responsibility of the operator or agent to collect and pay the tax.
- o) In the instance of a person operating a once-off chargeable flight, carrying chargeable passengers he / she must still register and account for APT due on that flight. The normal application procedure must be followed. Once the APT has been accounted for the person may apply for the cancellation of the registration, if he / she is certain that no further chargeable flights will occur.

2.2 Not liability for APT

- a) Children below the age of two (2) years, **who are not allocated a separate seat** before boarding the aircraft, are not liable for APT. However, if a **seat is purchased for a child below the age of two (2) years**, APT is chargeable.
- b) A passenger is not a chargeable passenger if **not carried for reward** in pursuance of any requirement imposed under any law and / or for the purposes only of inspecting matters relating to the aircraft or the flight crew.
- c) A passenger **whether or not carried for reward** is not a chargeable passenger if he / she is carrying out a duty in terms of an international agreement, convention or obligation, subject to the approval of the Commissioner and such conditions as he / she may impose in each case.
- d) Any passenger, who is in transit through South Africa and departs from the transit area of the airport on a flight without entering South Africa by passing through immigration, is not a chargeable passenger.
- e) Employees of an operator / airport:
 - i) Some categories of airline / airport employees are not regarded as passengers for APT purposes when they are engaged in duties on a flight. APT is not charged on the carriage of the following personnel:
 - A) Flight crew;
 - B) Cabin attendants;
 - C) Employees escorting a passenger or goods;
 - D) Employees undertaking repair, maintenance, safety or security work;
 - E) Employees ensuring the hygienic preparation and handling of food and drink;
 - F) Airport aircraft handling, airport passenger handling and cargo handling; and
 - G) Airline business support services including passenger services, sales, marketing, finance, administration, information technology and human resources functions.
 - ii) These employees are also exempt if they carry out the above duties within 72 hours of the flight ending;
 - iii) The exemption also applies to employees who begin a return journey within 72 hours after performing any of the above duties provided that they are returning to base, that is the place where they are normally stationed or from where they normally operate; and
 - iv) When the above employees are travelling as passengers, if they are not working, they are liable for APT.

2.3 Accounting purposes

- a) The accounting period for APT is a calendar month. A calendar month commences on the first day and end on the last day of the month.
- b) The APT 201 (APT Account) must be completed, submitted and paid by the operator / agent on a monthly basis.
- c) **Operators / agents must also be registered as an Excise client for the remittance of any other payments that might become due e.g. penalties.**
- d) **Only APT and interest payments can be accommodated on the APT system.**

2.4 Keeping of records

- a) Every client must keep for record purposes for a period of five (5) years:
 - i) Books, accounts and documents in respect of all transactions relating to the Rules for the purpose of any acquittal procedure; and
 - ii) Any data related to such documents created by means of a computer.
- b) The five (5) year period is calculated from the end of the calendar year in which the document was created, lodged or required. (Sections 101 and 101A).
- c) Every client must produce such books, accounts and documents on demand.

2.5 Penalties

- a) Failure to adhere to the provisions of the Act, as set out in this document, is considered an offence.
- b) Offences may render the client liable to, as provided for in the Act:
 - i) Monetary penalties;
 - ii) Criminal prosecution; and / or
 - iii) Suspension or cancellation of registration and / or license.

2.6 Appeal against decision

- a) In cases where clients are not satisfied with any decision taken in terms of the Customs and Excise Act, they have a right of appeal to the relevant appeal committee. The policy in this regard, as well as the process to be followed, is contained in document SC-CC-23.
- b) Should clients be unhappy with a decision of any appeal committee their recourse will be to lodge an application for Alternative Dispute Resolution (ADR) with the relevant appeal committee. The committee will add its comments thereto and forward the application to the ADR Unit for attention. The policy in this regard, as well as the process to be followed is contained in document SC-CC-25.

2.7 Registration / change / cancellation of registered particulars

- a) Forms **APT 101 and APT 102 must be utilised for the registration / cancellation or changes to registered particulars.** The forms can be obtained from the SARS office at ORTIA or online from the South African Revenue Service (SARS) Website at www.sars.gov.za. Any questions can be send to airtax@sars.gov.za.

2.7.1 Registration

- a) **Operator -**
 - i) **Every operator must register for APT whether they are liable or not for the payment of APT.**
 - ii) **The APT 102 must be completed by the operator; and**
 - iii) **Supporting documents must be attached.**

- b) Operators who are not liable for the payment of APT must make application on the APT 102 for a non-liability certificate.
- c) An operator who has no business establishment, other fixed establishment or residency in South Africa and who intends to carry or is likely to carry chargeable passengers from a South African airport on a chargeable aircraft, must appoint an **agent** whose place of business is in South Africa as his / her South African representative.
- d) **Agent -**
 - i) The APT 101 must be completed by the agent who will represent the operator in South Africa;
 - ii) Supporting documents; and if required by the Commissioner:
 - A) The agent's letter of appointment; and
 - B) A copy of the agreement between the operator and the agent.
- e) If an agent applies for registration on behalf of more than one (1) operator (i.e. an **operator** who has no business establishment or other fixed establishment and is not a resident in South Africa), a separate APT 102 must be completed for each operator.
- f) The completed forms and attachments must be delivered to the ORTIA office for processing.
- g) **If the application is incomplete, it must be returned to the applicant for completion or if more documents are required, the applicant must supply the necessary documents to the APT Officer.**
- h) The operator or agent will be issued with a numbered registration or a non-liability certificate of registration i.e. the APT 103 or APT 103a, respectively). A non-liability certificate will be issued to an operator with a chargeable aircraft that will not be used for the carriage of chargeable passengers, for example:
 - i) The aircraft is used for the carriage of cargo only; or
 - ii) The operation of the aircraft ceased.
- i) The certificate number must always be quoted on all correspondence or any document required to be completed by the SARS.
- j) Where an agent applies for registration on behalf of more than one (1) operator, a separate APT 103 or APT 103a certificate will be issued for each operator.

2.8 Change of registered particulars

- a) The Commissioner must be notified of any changes to the registered particulars within seven (7) days of the particulars changing.
- b) Agents must complete an APT 101 and operators must complete an APT 102 informing the Commissioner of any changes to the registered particulars.
- c) Only the particulars that have changed must be completed in the applicable **boxes**.
- d) **Supporting documents must be attached to substantiate the changes where applicable (proof of address, banking details, director's information, etc.).**
- e) A new APT 103 or APT 103a (as the case may be) will be issued.
- f) If the liability changes from liable to non-liable or vice versa, the date of change in liability must be completed on the APT 102. Depending on the liability either an APT 103, certificate of registration or an APT 103a certificate of non-liability will be issued.

2.9 Cancellation

2.9.1 Operator -

- a) When an operator applies for cancellation of registration he / she must:
- i) Complete an APT 102 requesting cancellation;
 - ii) In writing, state fully, the reasons for cancellation;
 - iii) Produce proof that the operation of chargeable aircraft has ceased or that any chargeable aircraft will not be used for the carriage of chargeable passengers as the case may be; and
 - iv) Pay any tax due or certify that no chargeable passengers were carried between the period of the last account and payment of any tax due and the application for cancellation.

2.9.2 Agent –

- a) When an agent applies for cancellation of registration he / she must:
- v) In writing, apply for cancellation; and
 - vi) Complete an APT 101 requesting cancellation.
 - vii) The agent must fulfil all the obligations imposed on him / her in terms of the Act or the Rules prior to the date from which he / she ceases to be an agent.
- b) If outstanding returns, payments and / or refunds are identified the case will be pending / de-activated on the APT system.
- c) Once all the outstanding issues have been resolved, the operator / agent will be cancelled on the APT system.
- d) **The operator / agent must return the numbered certificate to the SARS, on cancellation of the registration.**
- e) If the operator is required as per the Act to appoint an agent and the agent ceases to be the operators' agent, the operator must appoint an agent within seven (7) days from the date the agent ceases to act. The operator or agent can submit the new APT 101 to the SARS [refer to paragraph 2.7.1(a)].

2.10 Change of flight details or aircraft

- a) If, due to bad weather or mechanical failure the flight details change, the liability of the passenger and the responsibility of the operator or agent to collect and pay the tax remains as it would have been for the originally planned flight.
- b) If passengers are transferred to another aircraft, the tax shall be collected and paid by the operator or the agent of such operator of the aircraft to which the passengers are transferred.

2.11 Submission of accounts and payments

- a) **The accounting period for APT is one calendar month and commences on the first day and ends on the last day of the month.**
- b) **Operators / Agents who are liable to submit a monthly account, must not later than 21 days following the end of each accounting period, render an account for Air Passenger Tax (APT 201) and make payment.**
- c) **Where the last day for rendering the account and payment falls on a Saturday, Sunday or public holiday, the account and payment must be rendered on the last official working day before that day.**
- d) **The account must be submitted to the office at ORTIA and payments must be made using the eFiling service.**
- e) **The account and payment information will reflect on the operators' monthly statement (refer to paragraph 2.12).**

2.12 Statement of Account (SOA)

- a) The operator / agent will receive a SOA (APT 301) on a monthly basis.
- b) This SOA indicates any movement on the account such as:
 - i) Return received or outstanding;
 - ii) Amounts received or amounts outstanding; and
 - iii) Revised assessments.
- c) An APT 301 also serves as a letter of demand when amounts are outstanding.

2.13 Passenger manifest

- a) Every operator must attach a completed passenger manifest to the completed DA 2, whether or not any chargeable passengers are carried on the flight. The operator / agent for audit purposes must keep the documents.
- b) The **Senior** Manager: Audit may allow any operator to keep or deliver passenger manifests at such time and at such place and on such conditions as the **Senior** Manager: Audit may determine.
- c) The passenger manifest must reflect separately, the number of chargeable and non-chargeable passengers and in addition the category of non-chargeable passengers.

2.14 Bonds

- a) A person applying for registration in terms of Section 47B for the purposes of APT will not be requested to furnish security at the time of application for registration.
- b) However, a **bond** may be requested if an agent or operator fails to submit accounts on or before the due date or falls in arrears with the payment of APT when due.

3 RELATED INFORMATION

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: Sections 1, 44A, 47B, 48(6), 98, 99(1) and 105 Customs and Excise Rules: 47B
Other Legislation:	Promotion of Administrative Justice Act No. 3 of 2000: Section 3 Aviation Act No. 74 of 1962: Section 22
International Instruments:	None

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
GEN-PAYM-01-G01	SARS Payment Rules – External Guide
QMS-01	Quality Management System Manual
SC-CC-24	Administrative Appeal – External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy
SE-GEN-04-G01	Introduction to Excise Duties Levies and Air Passenger Tax – External Guide

3.3 Quality Records

Number	Title
APT 101	Agents application for registration/cancellation or changing of registered particulars
APT 102	Operator's application for registration/cancellation or changing of registered particulars
APT 103	Notice of Registration
APT 103(a)	Certificate for Non-Liability
APT 201	Return for Air Passengers Tax
APT 301	Statement of Account
DA 2	Report Inwards / Outwards for Aircraft

4 DEFINITIONS AND ACRONYMS

Act	Customs and Excise Act, No. 91 of 1964
Agent	An agent contemplated in Section 47B(5)(c) of the Act.
Airline	Any airport transport enterprise offering or operating an international air service.
Airport	A Customs and Excise airport specified in Rule 200.04 of the Act.
APT	Air Passenger Tax
Carriage	Carriage by air.
Chargeable aircraft	A chargeable aircraft is an aircraft designed or adapted to carry any person in addition to the flight crew. A charter operator falls into the category of a chargeable aircraft.
Chargeable passenger	A chargeable passenger is every passenger with the exception of the exemptions mentioned in paragraph 2.2, on a chargeable aircraft departing from an airport in the South Africa to a destination in a territory outside the South Africa.
Flight	In relation to any chargeable passenger, means the carriage of such passenger from an airport in South Africa on a chargeable aircraft to any destination in a territory outside South Africa.
Operator	In relation to a chargeable aircraft, means the person having the management of the aircraft for the time being, and includes any airline or any person who owns or hires such aircraft or in whose name the aircraft is registered in terms of the regulations made under the Aviation Act No. 74 of 1962.
Passenger	In relation to any chargeable aircraft, means – <ul style="list-style-type: none"> a) Where the operator is an air transport undertaking, any person carried on the aircraft other than – <ul style="list-style-type: none"> i) A member of the flight crew; ii) A cabin attendant; or iii) A person not carried for reward who is an employee of the operator and who satisfies such other requirements as may be prescribed by rule; and b) In any other case, any person carried for reward.
Policy	Used to convey the policy mandated by legislation and the sequential steps to be followed.
Reward	In relation to the carriage of any person, includes any form of consideration received or to be received wholly or partly in connection with the carriage, irrespective of the person by whom or to whom the consideration has been given or is to be given.

5 DOCUMENT MANAGEMENT

Policy Owner	Executive: Governance
Detail of change from previous revision	<p>Amended paragraph 1 regarding document names and Q-codes; Amended paragraph 2 by inserting the Legislative, eFiling payment and other requirements; Updated paragraph 2.7 with the content of the Registration and Changes to Registered Particulars; Inserted the submission of accounts and payments and revised assessments procedures; Updated the Q-codes and document names under 'Cross References'; Template update; Changed nomenclature from standard to policy; Document Q-code changed from SE-APT-02 to APT-02; and Q-code changed from ECS-TM-03 to GC-TM-03.</p>
Template number and revision	GC-TM-03 - Rev 9