

OIL POLLUTION

EXTERNAL STANDARD

INTERNATIONAL OIL POLLUTION
COMPENSATION FUND

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1 SUMMARY OF MAIN POINTS

- a) The document will address the responsibilities in relation to the International Oil Pollution Fund (IOPCF) and the entities responsible for the payment of the levy.
- b) This document does not cover:
 - i) Customs and Excise payments as this is dealt with in document BP-02;
 - ii) Prescribed payment terms/periods as these are dealt with in document SE-AM-21;
 - iii) Submission of accounts/returns as this is dealt with in document SE-CL-12; and
 - iv) Registration requirements as these are dealt with in document SE-FS-21.
- a) The 1992 Fund Convention require all Member of States to report to the Director of IOPCF each year the name and address of any company or entity in that State which is liable to pay contributions to the 1992 Fund, as well as the quantity of contributing oil received by each of these companies and entities in the preceding year.

2 STANDARD

2.1 Liability for levy

- a) The Merchant Shipping (Civil Liability Convention) Act, No. 25 of 2013 gives effect to the International Oil Pollution Compensation Fund (IOPCF) conventions of which South Africa is a signatory. The contributions to the IOPCF are raised and administered in terms of the Merchant Shipping (International Oil Pollution Compensation Fund) Contributions Act, No.36 of 2013 (MSCA) and the Merchant Shipping (International Oil Pollution Compensation Fund) Administration Act, No.35 of 2013 (MSAA), both of which came into operation on 1 May 2014.
- b) The MSAA or MSCA are listed in Schedule 1 to the South African Revenue Service Act, No 34 of 1997 and the SARS is therefore authorised to administer and collect the levy.
- c) The Government, in accordance with Article 14 of the 1992 Fund Convention, must pay to the IOPCF the amount of contributions invoiced by the Director of the IOPCF in respect of persons liable to pay the levy for the tax period in terms of Article 10 of the 1992 Fund Convention and any interest on unpaid amounts to the IOPCF.

2.2 Levy

2.2.1 Imposition of levy

- a) In terms of the MSCA a levy is payable to the Commissioner by any person who, during the tax period, has received contributing oil in total quantities exceeding 150 000 metric tons:
 - i) In the ports or terminal installations of South Africa, contributing oil which has been carried by sea to such ports or terminal installations; and
 - ii) In any installations situated in South Africa, contributing oil which has been carried by sea and discharged in a port or terminal installation of a non-Contracting State of the 1992 Fund Convention, provided that contributing oil shall only be taken into account in terms of this paragraph on first receipt in South Africa.
- b) For the purposes of paragraph (a) above, where the quantity of contributing oil received in South Africa by any person in the tax period when aggregated with the quantity of contributing oil received in South Africa by any associated person exceeds 150 000 metric tons, each person must pay contributions in respect of the actual quantity of oil received by that person, despite the fact that the quantity did not exceed 150 000 metric tons.

2.2.2 Determination of levy of the rate of levy and due dates for submission of the return and payment

- a) The Minister of Finance will determine the rate of the levy for the particular tax period, taking into account the following:

- i) The contributions calculated and invoiced by the Director of the IOPCF in terms of Article 12 of the 1992 Fund Convention in respect of the tax period; and
 - ii) The volume of contributing oil imported in the tax period.
- b) The Notice referred to in the paragraph above will also specify the dates by when the levy is due and payable, as well as by when returns must be submitted to the Commissioner.

2.3 Keeping of records

- a) In addition to the records required under Part A of Chapter 4 of the TAA, every person receiving contributing oil must keep the following records and documents:
- i) Complete annual traded volumes on SARS (IOPCF) form.
 - ii) Import declarations (required for customs purposes for contributing oil in respect of which the levy may be payable);
 - iii) Records and books of account that set out the type and quantity of the contributing oil in respect of which the levy may be payable; and

2.4 International Oil Pollution Compensation Fund process

2.4.1 Registration

- a) Any person who becomes liable for the payment of the levy must, within 21 business days, apply to the Commissioner for registration.
- b) If a person is not registered for any tax types with SARS he/she must register with SARS as an importer in terms of the Customs & Excise Act, No. 91 of 1964.

2.4.2 SARS IOPCF return due

- a) A client who is liable for payment of the levy must submit a return by the date specified by the Minister of Finance (which will be published in the Government Gazette) (Refer to the IOPCF form which can be found on the SARS website)).
- b) The client must complete the return, by submitting annual traded volumes on the SARS IOPCF form, substantiated by the supporting documents. These supporting documents must be kept and be available on request by SARS, but should not be submitted with the return.
- c) The return must be completed and manually submitted to the branch office (B/O) (e.g. January 2015).
- d) An acknowledgment of receipt will be sent to the client, once the return is received.

2.4.3 Supporting documents

- a) The following supporting documents are required:
- i) Dipping sheet (P2.01);
 - ii) Bill of lading;
 - iii) Clearance Certificate; and
 - iv) Bill of Entry SAD 500.
- b) Clients must keep supporting documents until requested from SARS in case an audit is required.

2.4.4 Contributing oil

a) The following list of contributing and non-contributing oil is intended as a guide for contributors:

Contributing Oil	Non-Contributing Oil
Crude Oils: All naturally occurring crude oils. Condensate. Topped crudes. Spiked crudes. Reconstituted crudes.	Crude Oils: Natural gas liquids Condensate Casinghead naphtha Natural gasoline Cohasset-panuke
Finished Products: N 4 fuel (ASTM). Navy special fuel. Light fuel oil. N 5 fuel (ASTM) – light. Medium fuel oil. No.5 fuel (ASTM) – heavy. Bunker C fuel oil. Heavy fuel oil. No.6 fuel oil (ASTM). Blended fuel oils by viscosity or sulphur content. Bituminous emulsions and fuel oil emulsions.	Finished Products: LNG and LPG Aviation gasolines (Motor gasoline (petrol, essence)) White spirit Kerosene Aviation Kerosene (Jet 1A and N 1 fuel (ASTM)) Gas oil Heating oil N°2 fuel (ASTM) (Lubricating oil) Marine diesel
Intermediate or Process Stocks: Fuel oil blend stocks	Intermediate or Process Stocks: Straight run naphtha Light cracked naphtha Heavy cracked naphtha Platformate Reformate Steam-cracked naphtha Polymers Isomers Alkylates Catalytics cycle oil Reformer feed Steam cracker feedstock Gas oil blend stocks Catalytic cracker feedstock Visbreaker feedstock Aromatic tar

b) To be considered as “non-contributing oil” if more than 50% by volume distils at a temperature of 340°C and at least 95% by volume distils at a temperature of 370°C, when tested by the ASTM Method D 86/78 or subsequent revision thereof.

c) Quantity of emulsion received should be reported with no allowances for its water content.

2.4.5 Tariff Item disclaimer

a) For administrative purposes, the contributing oil must be entered under one of the three tariff items on the return form.

b) It however remains the client’s responsibility to ensure that only contributing oil products are disclosed.

2.5 Movements reconciliation

- a) After all imports and monthly movements have been declared by the client, an annual summary movements declaration must be provided by the client as a summary of all crude oil movements done during the year.
- b) This summary declaration received from the client will be reconciled by the IOCPF Administrator, with the annual declaration data on the SARS system (as declared by the client).
- c) This process could result in an intervention/audit case, if the return information differs from the information on the SARS system.
- d) The Excise Office will address the anomalies with the relevant client.
- e) Once the returns are accepted by the IOCPF Administrator, they will be verified and consolidated i.e. conduct the verification of information submitted by the contributing client against the relevant information on the SARS system.

2.6 Rates, payment and assessments

- a) The Minister of Finance will announce the rate and payment date in the Government Gazette.
- a) Once the figures have been consolidated and verified for each client, an assessment will be raised on the CEB01 and sent to each client. The assessment will have the amount due and the Payment Reference Number (PRN); the client can then follow the normal payment procedure using the PRN.
- b) The client may query an assessment in terms of the provisions of the TAA, which query must be submitted to the IOCPF Administrator via email (iopcflevy@sars.gov.za) for finalisation.
- c) Payment of the assessed amount must be made by no later than the due date as announced by the Minister of Finance (Refer to the CEB01) (e.g. February 2016)).

3 RELATED INFORMATION

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Tax Administration Act, 2011 (Act No. 28 of 2011)
Other Legislation:	Merchant Shipping (International Oil Pollution Compensation Fund) Administration Act, No. 35 of 2013. Merchant Shipping (International Oil Pollution Compensation Fund) Contributions : Act No. 36 of 2013
International Instruments:	International Convention on Civil Liability for Oil Pollution Damage of 1992 (Civil Liability Convention) International Oil Pollution Compensation Fund Convention of 1992 (Fund Convention)

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
QMS-01	Quality Management System Manual
BP-02	Customs and Excise payments – External policy
SC-CF-04	Completion of Declarations – External Manual
SE-AM-21	Prescribed payment terms/periods – External standard
SE-CL-12	Submission of accounts/returns – External Standard
SE-FS-02	Licensing – External standard
SE-FS-21	Registration – External Standard

3.3 Quality Records

NUMBER	TITLE
CEB01	Customs/Excise Billing
IOPCF-01-A01	International Oil Pollution Compensation Fund Return Form

4 DEFINITIONS AND ACRONYMS

Commissioner	Commissioner for SARS
Contributing oil	Means Crude oil or Fuel oil
Director of the Fund	Means the Director of the Fund referred to in paragraph 2 of Article 2 of the 1992 Fund Convention
Crude oil	Means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation. It also includes crude oils from which certain distillate fractions have been removed (sometimes referred to as "spiked" or "reconstituted" crudes).
Fuel oil	Means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the "American Society for Testing and Materials' Specification for Number four Fuel Oil (Designation D396-69)", or heavier.
1992 Fund Convention	International Oil Pollution Compensation Fund Convention of 1992
IOPCF	International Oil Pollution Compensation Fund
IOPCF Administrator	IOPCF administrator deals with the return queries and the administration of the IOPCF for SARS.
OS	Storage warehouse
SARS	South African Revenue Service
Received contributing oil	Means received as set out in section 2 of the MSCA, and as substantiated by the supporting documents
TAA	Tax Administration Act
VM	Manufacturing warehouse
Tax year	Means a calendar year

5 DOCUMENT MANAGEMENT

Standard Owner	Executive: Process Solutions Customs & Support Services
Detail of change from previous revision	Initial release
Template number and revision	ECS-TM-03 - Rev 8