



*South African Revenue Service*

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# UNCERTAINTY REGARDING VAT DEFERMENT AND APPLICATIONS FOR NEW DEFERMENT BENEFIT

- **Clarity in respect of deferment of VAT**
  - Many commentators requested clarification regarding the deferment of VAT, as the deferment rules do not refer to VAT
    - Section 13(6) of the VAT Act makes the CDA duty deferment provisions applicable to the deferment of VAT on imported goods
    - In terms of that section import VAT may be deferred as though the import VAT were an import duty, and import VAT may be deferred even where import duty is not payable
    - A footnote will be added to the Part heading for purposes of clarification
- **Approval of new deferment benefit**
  - All deferments granted in terms of the Customs and Excise Act, 1964 (i.e. duty and VAT), expire on the “effective date”. Application for a duty deferment benefit under the CDA (which will be considered to be an application in relation to **both duty and import VAT**), must be made before the effective date, at any time after a date to be determined by the Commissioner by Notice in the Government Gazette
  - The gazetted date will be determined with due consideration of the time period required for the submission of applications and consideration thereof by the customs authority

# LIMITATION OF THE DEFERMENT BENEFIT

- **Limiting the deferment benefit to clearances for home use upon importation - Rules 3.11B(2)(a) and 3.13(a)**

Objections were raised regarding the fact that utilisation of the deferment benefit is limited to payments in respect of goods cleared for **home use upon importation**. In particular commentators objected against the exclusion of the benefit in relation to clearances for home use processing procedure and clearances ex customs warehouses

- The policy was reconsidered and adapted with due regard to Government's commitment to industrialisation. The relevant rules will be amended to reflect that a deferment benefit may be utilised in respect of duty due on **all clearances except home use clearances ex customs warehouses**
  - Clearances for **home use processing** (3<sup>rd</sup> schedule industrial rebates) are therefore no longer excluded
  - Deferment may be utilised for **any** clearance **ex warehouse, except home use clearance**

# LIMITATION OF THE DEFERMENT BENEFIT

- **Exclusion of clearances for home use ex warehouse from deferment benefit - Rule 3.11(2)(a)**
  - The policy in relation to the **exclusion of ex warehouse home use clearances** from the deferment benefit is informed by the following considerations:
    - Clearing non-dutiable goods for warehousing procedure will essentially “defer” VAT on this category of goods for a period of up to two years
    - The CCA provides for the storage of non-dutiable goods (VAT only) under the warehousing procedure and this will have a substantial impact on the national fiscus
    - Any additional deferment on such goods cleared for home use ex warehouse will compound this impact
    - Deferment in relation to other ex warehouse clearances (e.g. home use processing and excise warehouse transit clearances) is allowed because the impact on the fiscus is mitigated by the fact that such procedures support industrial development

# DEFERMENT PERIOD

- **Clarity in respect of deferment period**

- Commentators requested clarification regarding the deferment cycles applicable to the different payment dates

- A definition for “deferment period” will be inserted in rule 3.11A:

**“deferment period”** in relation to a payment date falling on –

(a) the 7<sup>th</sup> of a calendar month, means the period from the first day until the last day of the month preceding the month in which that payment date falls;

(b) the 14<sup>th</sup> of a calendar month, means the period from the 8<sup>th</sup> day of the preceding month until the 7<sup>th</sup> day of the month in which that payment date falls; and

(c) the 21<sup>st</sup> of a calendar month , means the period from the 15<sup>th</sup> day of the preceding month until the 14<sup>th</sup> of the month in which that payment date falls

# APPLICANTS QUALIFICATION CRITERIA AND SECURITY

- **Record of compliance - Rule 3.11B(2)**

- Commentators submitted that the requirement that an applicant for a deferment benefit must have a “record of compliance” to qualify for the benefit was too onerous
  - Rule 3.11B(2) will be amended to only refer to material breaches which is consistent with the qualification criteria used for registration and licensing

- **Quantum of security to be lodged for VAT**

- Comments were received requiring clarity in respect of the quantum of security to be lodged in relation to VAT deferments
  - Security will be based on risk
  - Currently the VAT non-payment risk is **mitigated** by the fact that the vendor cannot claim VAT as input tax unless the deferred VAT is paid to SARS- sections 16(2)(d) and 16(3)(a) of the VAT Act

# TRANSITIONAL ARRANGEMENTS

- **Settlement of 1964 Act deferment account - Rule 3.15A**
  - Commentators requested clarification regarding the settlement of the 1964 Act deferment account
    - Rule 3.15A will be amended to clarify the settlement of the account
    - Because a deferment in terms of the 1964 Act expires on the effective date, no payments can as from the effective date be deferred in terms of the 1964 regime
    - The amount outstanding as at the effective date on the 1964 Act deferment account must be paid on or before the payment date determined under the 1964 Act
- **Commencement of first CDA deferment period - Rule 3.15A**
  - Commentators requested clarification regarding the first deferment period after the effective date
    - Rule 3.15A will be amended to clarify that the first CDA deferment period starts on the effective date and ends on the last date of the deferment period associated with the payment date selected and approved for the new deferment benefit under the Customs Duty Act



# OTHER COMMENTS

COMMENT	RESPONSE
Rule 3.13(b) - Proposal to delete the three year renewal period	Not accepted. A new application every three years allows the customs authority to reassess the applicant's compliance and risk
Clarity required – will a PRN be generated for each MRN?	Only cash declarations will receive a unique PRN Deferments are consolidated on a deferment statement that receives an overall PRN
The Rules do not indicate the payment cut-off date which is currently 15:00	Payment cut-off times are determined by the banking industry, not SARS. A deferment benefit holder is therefore required to consult with respective banks to ensure SARS receives payment on time. This is no different to how it occurs currently
Applications must be submitted to customs authority via eFiling. When will eFiling be available?	The system is currently being developed to receive such applications via eFiling and it will be available by the time applications must be submitted
If a broker utilises an importer's deferment account, does the importer as well the broker need to be an electronic user for eFiling?	Only the importer

# OTHER COMMENTS

COMMENT	RESPONSE
If the customs broker has the deferment account, and that account is used for numerous persons, would each person have to register for eFiling?	Only the customs broker
Rule 3.11A - Apart from the 7 <sup>th</sup> ,14 <sup>th</sup> and 21 <sup>st</sup> it is requested that an additional payment date of the 28 <sup>th</sup> be considered	Not accepted
Clarification regarding FAN and places of entry	An applicant can consolidate multiple places of entry under one FAN
Clarification requested whether all deferment accounts must be paid on the same date, or may an applicant select different payment dates for different accounts?	The applicant may select different payment dates, however the applicant may have only one deferment account per place of entry
The 12:00 cut-off time for the payment on 29 March should be reconsidered and changed to 15:00	The 12:00 cut-off time is due to the banks generating their statements after 12:00 for the day, which SARS receives and processes for financial year end purposes

# WAY FORWARD

- Deferment Rules will be published

**THANK YOU**  
**Questions?**