

SOUTH AFRICAN REVENUE SERVICE

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CUSTOMS AND EXCISE ACT, 1964 AMENDMENT OF RULES (DAR 172)

Under sections 54F, 54J 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 with effect from 1 April 2018.

**THOMAS SWABIHI MOYANE
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

SCHEDULE

(a) By the insertion after rule 54FC.04 of the following heading and rules:

CHAPTER VB HEALTH PROMOTION LEVIES RULES FOR CHAPTER VB OF THE ACT IN RESPECT OF HEALTH PROMOTION LEVY GOODS

Health promotion levy imposed on sugary beverages

Application of provisions

- 54I.01 (a) Rules 54I.01 to 54I.09 apply to sugary beverages manufactured in or imported into the Republic that are liable to health promotion levy as specified in item 191.00 in Section A of Part 7 of Schedule No.1.
- (b) Except as otherwise provided in these rules, the rules numbered 54F.01 to 54F.14 apply with any necessary changes as the context may require to health promotion levy on sugary beverages.
- (c) For the purposes of Chapter VB, these rules and any form to which these rules relate, unless the context otherwise indicates –

- (i) “commercial manufacturer” means a person manufacturing sugary beverages in the manner contemplated in rule 54I.02;
- (ii) “effective date” means 1 April 2018.
- (iii) “non-commercial manufacturer” means a person manufacturing sugary beverages not in the manner contemplated in rule 54I.02;
- (iv) “related persons” means persons that are deemed to be related as specified in section 66(2)(a);
- (v) “sugar” means both the intrinsic and added sugars and other sweetening matter contained in any sugary beverage;
- (vi) “sugar content” means the sugar content of any sugary beverage that is determined in the manner contemplated in rule 54I.06; and
- (vii) “sugary beverage” means sugary beverages manufactured in or imported into the Republic in terms of item 191.00 in Section A of Part 7 of Schedule No. 1.

Persons classified as commercial manufacturers of sugary beverages

- 54I.02 (a) Any person who manufactures or who expects to manufacture sugary beverages with a sugar content exceeding 500 kilogram per calendar year shall be regarded as a commercial manufacturer.
- (b) Any related persons who manufacture or who expect to manufacture a combined total quantity of sugary beverages with a sugar content exceeding 500 kilogram per calendar year shall be respectively regarded as commercial manufacturers.
- (c) Any persons who manufacture or who expect to manufacture on the same or adjacent manufacturing premises a combined total quantity of sugary beverages with a sugar content exceeding 500 kilogram per calendar year shall be respectively regarded as commercial manufacturers.

Manufacturers of sugary beverages to register or to register and licence

- 54I.03 (a) Any person who manufactures sugary beverages on the date these rules come into operation or intends manufacturing sugary beverages must apply on form DA 185 and the appropriate annexures –
- (i) if he or she qualifies as a non-commercial manufacturer, for registration as a non-commercial manufacturer of sugary beverages in terms of section 59A and the rules thereto; or
 - (ii) if he or she is classified as a commercial manufacturer –

- (aa) for registration as a commercial manufacturer of sugary beverages in terms of section 59A and the rules thereto; and
 - (bb) for licensing of his or her manufacturing premises as a customs and excise manufacturing warehouse for the commercial manufacture of sugary beverages.
- (b) Unless the Commissioner determines otherwise, no security is required to be furnished by a person applying for registration as a non-commercial manufacturer of sugary beverages.
- (c) The provisions of rule 19A.02 shall apply with any necessary changes as the context may require to any licence application contemplated in this rule.

Restrictions on customs and excise warehouses for sugary beverages

54I.04 For the purposes of rule 54F.03, customs and excise warehouses as contemplated in section 19 may be licenced only for the purposes of –

- (a) manufacture of sugary beverages; and
- (b) storage of imported sugary beverages.

Closing and submission of accounts for health promotion levy on sugary beverages and payment thereof

54I.05 For the purposes of rule 54F.07–

- (a) an accounting period shall be a calendar month; and
- (b) an account for payment of health promotion levy on sugary beverages must be completed and submitted monthly on form DA 179.

Determination of sugar content subject to health promotion levy on sugary beverages

54I.06 (a) Any person who manufactures or imports any sugary beverage that is liable to health promotion levy must determine and declare the sugar content of the sugary beverage based on –

- (i) (aa) the sugar content of the sugary beverage as certified on a test report obtained and retained from a testing laboratory accredited with and using methodology recognised by the South African National Accreditation System (SANAS) or the International Laboratory Accreditation Cooperation (ILAC); and
- (bb) the report referred to in item (aa) above must be kept available for inspection for a period of five years from the date the sugary

beverage was manufactured or imported and must be produced or submitted at the request of an officer; or

(ii) the sugar content of the sugary beverage shall be deemed to constitute 20 grams per 100 millilitres; and

(b) In the case of powder and liquid concentrates or preparations for the making of beverages, the sugar content shall be determined based on the total volume of the prepared beverage when mixed or diluted according to the manufacturer's product specifications.

Liability for duty for sugary beverages manufactured in the Republic

54I.07 For the purposes of rule 54F.10, in respect of the liability and the termination of liability for duty, the liability for duty of a licensee for the manufacture of sugary beverages shall cease only—

(a) upon proof of payment of health promotion levy on such sugary beverages and entry for home consumption of such sugary beverages; or

(b) upon proof that the export to any country or removal to any BLNS country of such sugary beverages has been received in such country.

Restrictions on entry of sugary beverages for removal in bond

54I.08 For the purposes of rule 54F.10, rule 54F.11 and rule 54F.12, sugary beverages manufactured in the Republic may only be entered for export or entered for removal in bond from a customs and excise warehouse to any place outside the Republic or any place in any other country in the common customs area.

Implementation provisions

54I.09 For the purposes of rule 54F.14 –

(a) The licensee must when issuing any invoice or delivery note contemplated in rule 54F.05 in respect of sugary beverages manufactured before the date health promotion levy on sugary beverages came into operation, endorse such invoice or note to state that such sugary beverages were manufactured before the effective date.

(b) The implementation accounting period will commence on the effective date, after which the monthly accounting periods will commence on the first day of each calendar month.

(b) By the insertion in item 202.00 of the Schedule to the rules of the following form:

“DA 179 Health Promotion Levy Return for Sugary Beverages”

(c) By the substitution in item 202.00 of the Schedule to the rules for forms DA 63, DA 64, DA 66 and DA 185.4B2 of the following forms:

“DA 63 Application for refund – export for trade purposes of imported duty paid goods (Refund item 522.03)

DA 64 Application for drawback / refund

DA 66 General application for drawback / refund

DA 185.4B2 Licensing client type 4B2 – manufacturing warehouse”