

EXPLANATORY MEMORANDUM

AMENDMENT TO THE SOUTH AFRICAN HS TARIFF FOR 1 JANUARY 2009

The amendments to the Schedules of the Customs and Excise Act, 1964, are scheduled for implementation **with effect from 1 January 2009**.

The amendments include the following:

1. The phase-down of duties in terms of the free trade agreement with the EU

The phase-down of duties in terms of the EU agreement relates to Annex III List 3, List 4 and List 5 for industrial products and Annex VI List 3 for agricultural products.

It should be noted that the products of Section XI in Schedule No. 1 Part 1 listed in Annex III List 5 of the EU agreement as “textile clothing”, “textile fabrics” and “textile household” have reached a stand-still in their phase-downs provided that the goods listed have a preference margin of 40% if they originate in the EU.

2. The phase-down of duties in terms of the free trade agreement with EFTA

The SACU/EFTA free trade agreement **came into effect on 1 May 2008**.

In terms of Article 4 paragraph 2 to Annex IV and paragraph 6 to Annex VII of the SACU/EFTA trade agreement, the reference date for tariff reduction is **1 January 2006**. This reference date is not affected by the actual entry into force of the Agreement.

The phase-down of duties in terms of the EFTA agreement relates to the following:

- Fish and other marine products in Annex IV, table 3 categorised as List 4;
- Industrial products in Annex VII., table I categorised as List 3, List 4 and List 5;
- Agricultural products in Annex VII, table 2 categorised as List 4 and List 5; and
- Agricultural products in Annex I of the Agricultural agreement between the SACU States and Switzerland, table I categorised as List 3.

2.

3. **The phase-down of duties in terms of the free trade agreement with SADC**

The final phase-downs in terms of the SADC free trade agreement were implemented on 1 January 2008.

4. **The phase-down of duties in terms of MIDP**

The phase-down of duties in terms of the recommendations made by the International Trade Administration Commission in Report No. 35 pertaining to the Motor Industry Development Programme (MIDP) includes the following:

- The general rate of duty on light motor vehicles as listed in Report No. 35 is reduced to 28% **with effect from 1 January 2009**.
- The rates of duty on original equipment components of Chapter 98 are reduced to 23% **with effect from 1 January 2009**.
- In Note 16(v) to rebate item 317.04, the value of import rebate credit certificates shall be restricted to 70 per cent of the certificate **with effect from 1 January 2009**.

5. **Reduction in the rate of duty on paper and paperboard**

The reduction in the general rate of duty on paper and paperboard of Chapter 48 in terms of the recommendations made by the International Trade Administration Commission in Report No. 151.

The reductions of the general rates of duty for 2009 are as follows:

- (i) 4808.20, 4816.10 and 4816.20 are reduced to 3,8%;
- (ii) 4802.54.90, 4802.55.90, 4802.56.90, 4802.57.90, 4802.58.90, 4802.61.90, 4802.62.90, 4802.69.90, 4810.13.20, 4810.14.10, 4810.19.10, 4810.22.10, 4810.29.10, 4810.31.10, 4810.32.10, 4810.39.10, 4810.92.10, 4810.99.10, 4811.10.10, 4811.41.10, 4811.49.10, 4811.51.10, 4811.59.10, 4811.60.10 and 4811.90.10 are reduced to 5,7%
- (iii) 4811.41.90 is reduced to 12%

6. Technical amendments to the Schedules of the Act

- 6.1 Additional Note 1 to Chapter 27 provides for the technical specifications and the common usage of the petroleum products included in the Schedules to the Act.

Specifications pertaining to petroleum products changes with time and since the last revision of these notes were done nearly 10 years ago, as a consequence, SARS undertook the revision of the existing notes.

- 6.2 In terms of the Agricultural agreement between SACU States and Switzerland the rates of duty on dried meat of heading 02.10 and cheese of heading 04.06 shall be eliminated within the limits of an annual quota.

In order for SARS to automate the control of the products subject to quotas applicable to Switzerland it is necessary to create separate subheadings.

Additional subheadings are also inserted for cheddar and Gouda cheese for future administrative purposes.

These amendments have no effect on the rates of duty applicable to the subject products.

- 6.3 Deletion of 8-digit provision for Sweet corn (*Zea mays var. saccharata*) under subheading 0711.59. This subheading was created in 2007 in line with the specific products listed in Annex VII table 2, List 6 of the EFTA agreement.

However, the subheading is technically not under the correct 6-digit category. It should be noted that there is currently no preferential rate of duty applicable to this specific product as listed in the EFTA agreement and as a consequence, subheadings 0711.59.10 and 0711.59.90 are deleted.

- 6.4 Request for amendment of the description of tariff heading 3301.90.80 received from the International Trade Administration Commission (the Commission).

4.

The Commission requested SARS to align the wording of subheading 3301.90.80 with the then Board on Tariffs and Trade's intentions to protect the local producers of the fruits of the genus *Capsicum* as stipulated in Report No. 3895. The subheading should apply to "extracted oleoresins, of a kind used in the food industry, obtained from the extraction of fruits of the genus *Capsicum*".

The botanical reference will reflect the then Board on Tariffs and Trade's intention and will improve the administration of the subheading and SARS, therefore, supports the Commission's request.

- 6.5 Note 8 to Schedule No. 5 stipulates that the provisions of item 534.00 shall not apply in respect of goods provided for in item 412.19 of Schedule No. 4 when intended for the purpose specified in the item.

Item 412.19 in Schedule No. 4 has been deleted in October 1998 and the reference thereto in Note 8 to Schedule No. 5 no longer serves any purpose. As a consequence Note 8 is deleted but the number will be retained for future use.

- 6.7 A typographical error in Note 7(d)(i) is rectified. The reference to paragraph "(b)(iii)(aa)" where it appears in Note 7(d)(i) is substituted with a reference to paragraph "(c)(ii)(aa)".

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**CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 1 (No. 1/1/1367)**

Under section 48 of the Customs and Excise Act, 1964, Part 1 of Schedule No. 1 to the said Act is hereby amended, **with effect from 1 January 2009**, to the extent set out in the Schedule hereto.

**N NENE
DEPUTY MINISTER OF FINANCE**

SCHEDULE

By the substitution for the ADDITIONAL NOTES to CHAPTER 27 of the following:

ADDITIONAL NOTES:

1. Specifications:

In this Chapter the following expressions shall be deemed to refer to hydrocarbon fuels and oils which are liquid at normal temperature and pressure (20°C; one atmosphere) and which comply with all of the specifications hereunder assigned thereto or with any other specifications accepted or determined by the Commissioner (unless otherwise stated, the specification properties will be determined by the methods specified below) provided the intended uses of such fuels and oils are considered by the Commissioner in every case to be as specified hereunder in respect of such fuels and oils.

Methods to determine Specification Properties:

Distillation: ASTM D86/IP123
Density: ASTM D1298/4052
Knock Rating: ASTM D2700/IP236
Smoke Point: ASTM D1322/IP57
Sulphur Content: ASTM D2622/IP336
Kinematic Viscosity: ASTM D445/IP71
Cetane Number: ASTM D613/IP41
Cetane Index: ASTM D976

Note: ASTM means American Society for Testing of Materials, United States of America; IP means the Institute of Petroleum, United Kingdom

- (a) **"Aviation Spirit"**, being products intended for use, advertised for use, put up for use or otherwise marketed or disposed of for use as fuel in aircraft fitted with spark-ignition combustion piston engines
Distillation:
10 Per cent volume fraction evaporated below or at 75°C
40 Per cent volume fraction evaporated at or above 75°C

50 Per cent volume fraction evaporated below or at 105°C

90 Per cent volume fraction below or at 135°C

Knock Rating: Minimum 100

- (b) **"Petrol"**, being products intended for use, advertised for use, put up for use or otherwise marketed or disposed of for use as fuel in spark-ignition, reciprocating or rotary internal combustion piston engines
 Distillation:
 10 Per cent volume fraction evaporated below or at 65°C
 50 Per cent volume fraction evaporated at or above 77°C
 50 Per cent volume fraction evaporated below or at 115°C
 90 Per cent volume fraction evaporated below or at 185°C
 Density at 20°C: Between 0,705 and 0,785 kg/li
 Anti-knock additives: Less than 0,013 g/li of organic compounds of lead.
- (c) Deleted
- (d) **"Aviation kerosene"**, being products intended for use, advertised for use, put up for use or otherwise marketed or disposed of for use as fuel in aircraft fitted with turbo-jets, turbo-propellers and other gas turbines
 Distillation:
 10 per cent recovered below or at 205°C
 End point not exceeding 300°C
 Density at 20°C: Between 0,771 and 0,836 kg/li
 Flash point (IP170): Minimum 38°C
- (e) **"Power kerosene"**, being products intended for use, advertised for use, put up for use or otherwise marketed or disposed of for use as solvents or as fuel in spark-ignition reciprocating or rotary internal combustion piston engines
 Distillation:
 15 Per cent recovered below or at 175°C
 50 Per cent recovered below or at 197°C
 95 Per cent recovered below or at 250°C
 Flash Point (IP170): Minimum 23°C
- (f) **"Illuminating kerosene"**, being products intended for use, advertised for use, put up for use or otherwise marketed or disposed of for use as fuel for illuminating or heating (including "Dual Purpose Kerosene")
 Distillation:
 Final boiling point not exceeding 280°C
 Flash point (IP170): Minimum 43°C
 Smoke Point: Minimum 25 mm
 Sulphur Content (ASTM D1320/D4294/IP107): Maximum 0,0510 per cent of the mass.
- (g) **"Distillate fuel"**, being products intended for use, advertised for use, put up for use or otherwise marketed or disposed of for use as fuel in compression-ignition internal combustion piston engines (diesel or semi-diesel engines)
 (i) Generally used as automotive fuel and known as diesel fuel
 Distillation: 90 Per cent recovered below or at 362°C
 Density at 20°C: Minimum 0,800 kg/li

- Flash Point (ASTM D93): Minimum 55°C
 Kinematic Viscosity at 40°C: Between 2.2 and 5,3 mm²/s
 Sulphur: Maximum 0.050 per cent of the mass
 Cetane Number: Minimum 45
- (ii) Generally used as marine fuel and known as marine gas oil
 Distillation: 90 Per cent recovered below or at 367°C
 Density at 20°C: Between 0,816 and 0,876 kg/li
 Flash point (ASTM D93): Minimum 60°C
 Kinematic Viscosity at 40°C: Between 2.2 and 6,0 mm²/s
 Sulphur: Maximum 1,0 per cent of the mass
 Cetane Index: Minimum 40
- (iii) Generally used as marine fuel and known as marine diesel oil
 Density at 20°C: between 0,836 and 0,896 kg/li
 Flash Point (ASTM D93): Minimum 62°C
 Kinematic Viscosity at 40°C: Between 2.2 and 10,0 mm²/s
 Sulphur: Maximum 2,0 per cent of the mass
 Cetane Index: Minimum 35
- (h) **"Residual fuel oils"**, being products intended for use, advertised for use, put up for use or otherwise marketed or disposed of for use as fuel in furnaces, boilers, ships and boats
 Density at 20°C: Minimum 0,900 kg/li
 Flash Point (ASTM D93): Minimum 55°C
 Kinematic Viscosity at 50°C: Minimum 24 mm²/s
- (i) **"Specified aliphatic hydrocarbon solvents"**, being products intended for use, advertised for use, put up for use or otherwise marketed or disposed of for use as solvents or for other general uses
 Distillation:
 Initial boiling point exceeding 206°C
 Final boiling point not exceeding 290°C
- (k) **"White Spirits"**, being products intended for use, advertised for use, put up for use or otherwise marketed or disposed of for use as solvents or for other general uses
 Distillation:
 10 Per cent volume fraction evaporated below or at 165°C
 90 Per cent evaporated below or at 195°C
 Dry point not exceeding 205°C
2. (a) The volume of any product in this Chapter, and similar hydrocarbons of Chapter 29, not packed, shall be measured at 20°C at sea level.
 (b) Evaporation is defined in per cent by volume.
 (c) "Marked" and "unmarked" goods are defined in section 37A(2).
 (d) The use of goods classified under 2710.11.07, 2710.11.15, 2710.11.26, 2710.11.37 and 2710.11.39 are subject to the provisions of section 37A of the rules.