

CUSTOMS

EXTERNAL POLICY

VALUATION OF EXPORTS

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1 SUMMARY OF MAIN POINTS

- a) The export value declared for Customs purposes is the price of the goods free on board (FOB) at the place of dispatch from South Africa.
- b) If the invoice is not on an FOB terms of sale, the appropriate costs and charges must be added or subtracted to calculate an FOB price in Rand.
- c) Where the value of goods exported **or to be exported** is in a foreign currency the amount must be converted to South African Rand. The selling rate published by the Commissioner on the date prior to the submission of the export declaration **must be** used.

2 POLICY

2.1 Determining the Export Value

- a) According to Section 72 the value that must be declared for any goods exported from South Africa is the price of those goods free on board (FOB) at the place of dispatch from South Africa. **The FOB price includes:**
 - i) All profits, costs, charges and expenses incidental to placing the goods on board a ship (vessel), aircraft, train or vehicle in which the goods are to be transported across the border of South Africa; or
 - ii) If those goods consist of a vessel, aircraft, train or vehicle moving under its own power or on its own wheels: all profits, costs, charges and expenses up to the place where the goods leave South Africa.
- b) The **client** determines:
 - i) The point of dispatch; and
 - ii) **Whether the term of sale on which the goods were sold is free on board (FOB). If not a calculation must be done to determine the FOB value:**
 - A) The cost, charges and expenses incidental to placing the goods on board the ship must be calculated to reflect the value as close as possible to the FOB point of sale; and
 - B) The profit made on the consignment must also be apportioned for inclusion in the value; however
 - C) The amount must not yet be rounded off to the nearest Rand.
- c) When the export value is expressed in a foreign currency, it must for the purpose of calculating the Customs value thereof be converted to South African Rand in terms of Rule 120.09A. The client checks if the invoice is expressed in a foreign currency.
 - i) If "yes" the client checks **in what foreign currency** payment was or will be made.
 - ii) The client converts the foreign amount into the Rand amount by:
 - A) Determining which foreign currency must be converted, for example United States Dollars.
 - B) Confirming the rate of exchange applicable published on the South African Revenue Service's website <http://www.sars.gov.za>:
 - I) The date for the conversion is the **last day** prior to the submission of the export declaration to Customs (MRN date). For example if the goods were entered for export on 2020-01-22 the exchange rate published on the SARS website on 2020-01-21 must be used.
 - II) **Where no conversion rate was published for a specific day the latest published rate before that day must be used.**
- d) The client rounds of the FOB price to the nearest Rand as stipulated in Section 72(c), **namely:**
 - i) If the value of any **exported** goods of a single denomination is in excess of one (1) Rand, the Customs value must be calculated to the nearest Rand, an amount of fifty (50) cents being regarded as less than one (1) half of one (1) Rand; and/or
 - ii) If the Customs value is less than one (1) Rand, the value must be calculated as one (1) Rand.

- e) The client ensures that all the provisions as stipulated above, are adhered to before submitting the Customs declaration (CCD) to Customs.

2.2 Customs Interaction

- a) After receiving the CCD from the client, the CCD may be stopped for supporting documentation. Records must be kept of all the transaction documentation as explained in paragraph 2.3 of this document.
- b) The mechanism through which notifications will be communicated depends on the clients' method of declaration submission as explained in SC-CF-55:
- i) EDI enabled clients will receive electronic notifications; and
 - ii) Clients submitting manual declarations will receive notification at the office where the declaration was submitted.
- c) The supporting documents that may be required in addition to the standard set of documents mentioned in SC-CF-55, paragraph 2.7.2 is the following, but is not limited to:
- i) Invoices (which are describe in SC-CF-30);
 - ii) Calculations done to determine the value;
 - iii) A breakdown of the cost, charges and expenses used in the calculation the value as close as possible to the FOB point of sale;
 - iv) Transport documents;
 - v) Agreements;
 - vi) Proof of payment, if any; and/or
 - vii) Any other documentation that will confirm the calculations of the client's declared export value.
- d) The DI will review the case and based on the information provided, the CCD may be:
- i) Stopped for further supporting documentation;
 - ii) Stopped for a physical inspection;
 - iii) Rejected;
 - iv) Release; or
 - v) An amendment requested.
- e) When an accredited client consignment is stopped, in order to facilitate the prioritising of the case as stipulated in Rule 64E.14(d) the client:
- i) Notifies the Customs Relationship Manager (CRM); and
 - ii) Uploads a copy of the accreditation certificate as part of the supporting documents.
- f) The accredited client's case must be prioritised if all supporting documents are submitted with the application.
- g) In the event of delays, accredited clients may request the CRM to follow up on their behalf.

2.3 Record keeping

- a) The exporter 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 the 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 the books, accounts and documents on demand.

2.4 Penalties

- a) Failure to adhere to the provisions of the Act, is considered an offence.
- b) Offences may render the **exporter** liable to, as provided for in the Act:
 - i) Monetary penalties (SC-CO-01-02);
 - ii) Criminal prosecution; and/or
 - iii) Suspension, cancellation of registration, license or accreditation.

2.5 Promotion of Administrative Justice Act

- a) The Promotion of Administrative Justice Act (PAJA) No. 3 of 2000 gives effect to everyone's right to administrative action that is lawful, reasonable and procedurally fair. Any person whose rights have been adversely affected by administrative action has the right to be given written reasons, as contemplated in Section 33 of the Constitution of the Republic of South Africa, 1996. PAJA:
 - i) Provides for the review of administrative action by a court or where appropriate, an independent and impartial tribunal;
 - ii) Imposes a duty on the State to give effect to those rights;
 - iii) Promotes an efficient administration as well as good governance; and
 - iv) Creates a culture of accountability, openness and transparency in the Public Administration or in the exercise of a public power or the performance of a public function, by giving effect to the right to just administrative action.
- b) Administrative action which significantly and unfavourably affects the rights or valid expectations of any person must be procedurally fair. A fair administrative procedure depends on the circumstances of each case.
- c) A person must be given:
 - i) Written reasons of the nature and purpose of the proposed administrative action;
 - ii) A reasonable opportunity to make representations;
 - iii) A clear statement of the administrative action; and
 - iv) Adequate notice of any right of review or internal appeal, where applicable.
- d) Just administrative action requires the Customs Officer to consider all the facts presented and obtained in addition to affording the client the opportunity to be heard, prior to instituting any administrative action.
- e) Before administrative action can be taken by Customs the declarant must be allowed the opportunity to:
 - i) Obtain assistance and, in serious or complex cases, legal representation;
 - ii) Present and dispute information and arguments; and
 - iii) Appear in person.
- f) Declarants whose rights have been significantly and unfavourably affected by administrative action and who have not been given reasons for the action may, within thirty (30) days after the date on which the declarant became aware of the action, request Customs to furnish written reasons for the action.
- g) Customs must within forty five (45) days after receiving the request, give the declarant adequate reasons in writing for the administrative action. If Customs fails to furnish adequate reasons for the administrative action, it is presumed in any proceedings for judicial review that the administrative action was taken without good reason.

2.6 Appeals against decisions

- 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 directive in this regard, as well as the process to be followed is contained in document **SC-CA-02**.

- b) Should clients be unhappy with a decision of any appeal committee their recourse will be to lodge an application for ADR (Alternative Dispute Resolution) with the relevant appeal committee. The committee will add its comments thereto and forward the application to the ADR Unit for attention. The directive in this regard, as well as the process to be followed is contained in document SC-CC-26.

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 72 Customs and Excise Rules: Rule 64E.14(d) ; 120.09A.
Other Legislation:	Promotion of Administrative Justice Act No. 3 of 2000: Section 3 and 5 Promotion Of Access To Information Act No. 2 of 2000: All
International Instruments:	None

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
SC-CA-02	Internal Administrative Appeal - External Policy
SC-CC-26	Alternative Dispute Resolution - External Policy
SC-CF-30	Invoice Requirements for Customs – External Policy
SC-CF-55	Clearance Declaration – External Policy
SC-CO-01-02	Penalties – External Policy

3.3 Quality Records

NUMBER	TITLE
SAD 500	Customs Declaration form (Export)
SAD 501	Customs Declaration form (Continuation Sheet)

4 DEFINITIONS AND ACRONYMS

ADR	Alternative Dispute Resolution
CRM	Customs Relationship Manager
Dispatch from	The place in South Africa where the goods in question are placed on board a ship or on any vehicle which conveys them from or across the border of South Africa.
EDI	Electronic Data Interchange
FOB	Free on Board - the supplier undertakes to deliver the goods on board a ship or other vehicle at a named port
MRN	Movement Reference Number
PAJA	Promotion of Administrative Justice Act

5 DOCUMENT MANAGEMENT

Policy Owner	Senior Manager: Leveraged Legal Products (Tax, Customs and Excise)
Detail of change from previous revision	<ul style="list-style-type: none"> a) Amended the document from a Standard to a Policy. b) Inserted the charges and expenses that must be included when determining the FOB value of exported goods. c) Changed importer to exporter as this document deals with exported goods. d) Inserted the requirements when accredited clients may: <ul style="list-style-type: none"> i) Request priority treatment when applying for a VDN by notifying the CRM of their case; and ii) Upload a copy of the accreditation certificate to facilitate in the prioritisation of the case. e) Replaced q-code number SC-CC-24 with the new document q-code number SC-CA-02. f) Replaced references to SC-EX-01-02 with SC-CF-55 – Clearance Declaration – External Policy.

	<p>g) Deleted the VAT penalties under the Tax Administrations Act, referred to in the appeals against decisions paragraph. All appeals are dealt with under the Customs and Excise Act.</p> <p>h) Added the Promotion of Administrative Justice Act (PAJA) paragraph.</p> <p>i) Updated the Policy Owner from Executive: Process Solutions Customs & Support Services to Senior Manager: Leveraged Legal Products (Tax, Customs and Excise) to align with the new SARS structure.</p>
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