

EXCISE

EXTERNAL POLICY

MALT BEER

TABLE OF CONTENTS

1	SUMMARY OF MAIN POINTS	3
2	POLICY	3
2.1	Liability for duty	3
2.2	Section 47	3
2.3	Type of warehouse and activities allowed in the malt beer industry	4
2.3.1	Manufacturing Warehouse (VM)	4
2.3.2	Special Storage Warehouse (SOS)	4
2.4	Production of malt beer	5
2.5	Keeping of records	5
2.6	Penalties	5
2.7	Promotion of Administrative Justice Act	6
2.8	Appeal against decisions	6
2.9	Tariff determination in terms of Section 47 and the Rules thereto	7
2.10	Completion of the Excise Account (DA 260)	7
2.11	Assessment of Excise duty	8
2.11.1	Measure of dutiable quantity	8
2.11.2	Rate of duty	9
2.11.3	Excise duty formula for malt beer	9
2.11.4	Duty Paid transactions	9
2.11.5	Non Duty Paid transactions	9
2.12	Duty paid returns from the local market	12
2.12.1	Beer made from malt, which, is off-specification, has become contaminated, or has undergone post-manufacturing deterioration.	12
2.13	Process for reprocessing, destruction or abandonment	13
2.13.1	Application	14
2.13.2	Consideration	14
2.13.3	Allows / disallows	14
2.13.4	Supervision	14
2.13.5	Final report	14
2.14	Set-Off	14
3	RELATED INFORMATION	15
3.1	Legislation	15
3.2	Cross References	15
3.3	Quality Records	16
4	DEFINITIONS AND ACRONYMS	16
5	DOCUMENT MANAGEMENT	18

1 SUMMARY OF MAIN POINTS

- a) The policy applies to role-players in the Malt Beer Industry.
- b) This policy does not cover:
 - i) SARS Payment Rules as this is dealt with in document GEN-PAYM-01-G01;
 - ii) Declaration and Return submission via eFiling as this is dealt with in document SE-ACC-02-M02;
 - iii) Submission of Accounts / Returns as this is dealt with in document SE-ACC-05;
 - iv) Return and submission of HTMLS5 forms via eFiling as this is dealt with in document SE-ACC-06-M01;
 - v) Bonds as this is dealt with in document SE-BON-02;
 - vi) Clearance of bonded / inter-warehouse movements as this is dealt with in document SE-CON-02;
 - vii) Accounting for Duty / Levy as this is dealt with in document SE-GEN-02;
 - viii) Licensing and Registration requirements as these are dealt with in document SE-LR-02;
 - ix) Prescribed Payment Rules as this is dealt with in document SE-PAY-02;
 - x) Refunds as this is dealt with in document SE-REF-02; and
 - xi) Traditional African Beer as this is dealt with in document SE-TAB-02.

2 POLICY

2.1 Liability for duty

- a) Beer manufactured from malt is liable to payment of Excise duty in South Africa (SA) as described in Schedule 1 Part 2A.
- b) The liability for Excise duty in the malt beer industry is assessed and the duty collected on a Duty at Source (DAS) basis.
- c) In terms of the Southern African Customs Union (SACU) agreement the Governments of SA, Botswana, eSwatini (Swaziland), Lesotho and Namibia agreed, amongst other things, to broadly apply the same Excise duty principles in order to reduce trading and compliance costs for businesses within the SACU.
- d) The 'DAS' system of assessing Excise duty and accounting for Excisable products, and its principles, is an example of such a commonly applied system / principle. Many of the procedures described in this document will therefore not only apply to malt beer produced in SA but also to any of The Republic of Botswana, The Kingdom of eSwatini (Swaziland), The Kingdom of Lesotho and The Republic of Namibia and (BELN countries).
- e) Malt beer produced in SA may not legally be sold or disposed of (within or outside SA) unless the brand name and the alcoholic strength have been registered with the South African Revenue Service (SARS).

2.2 Section 47

- a) Every manufacturer or importer of an alcoholic beverage must, irrespective of any existing tariff determination at the time Section 47(9)(a)(iv) came into operation, apply for a tariff determination of that beverage in terms of this Section.
- b) An application for a tariff determination must comply with the provisions of Section 47 and must contain inter alia the following -
 - i) Detailed information of the brand name, process of manufacture, the ingredients used, the proportion in which they are used, the alcoholic strength and such other particulars as the Commissioner may specify; and
 - ii) If applicable, a letter from the administering officer referred to in Section 3 of the Liquor Products Act, 1989 (Act No. 60 of 1989), confirming that the alcoholic beverage complies with that Act.

- c) From 1 April 2015, Section 47(9)(a)(iv) is operational and an application for a tariff determination must be made for an alcoholic beverage –
 - i) Before release of a clearance for home consumption of the first importation; or
 - ii) Before removal from the Excise manufacturing warehouse (VM), for any purpose in terms of this Act, as may be applicable in respect of that alcoholic beverage.
- d) The Commissioner may, for the purposes of implementation of Section 47(9)(a)(iv), by rule -
 - i) Specify a period after the date this Section comes into operation within which and the order in which an application for a tariff determination in respect of any class or kind of alcoholic beverage manufactured or imported shall be submitted; and
 - ii) Prescribe any other matter as contemplated in Section 47(13).
- e) If, for any alcoholic beverage, the brand name, process of manufacture, any ingredient or the proportion in which it is used, or the alcoholic strength changes, application for a new tariff determination shall be made before release of a clearance for home consumption or before removal from the VM for any purpose in terms of the Act, as may be applicable in respect of that alcoholic beverage.
- f) Section 47(9)(a)(iv) may not be read as preventing any officer from performing any function contemplated in Section 106.

2.3 Type of warehouse and activities allowed in the malt beer industry

2.3.1 Manufacturing Warehouse (VM)

- a) The following activities and movements may take place in a malt beer VM:
 - i) Manufacture of beer made from malt;
 - ii) Duty paid removals to the local market;
 - iii) Bonded removals to Special Storage Warehouses (SOS) only (malt beer may not be removed between VMs but only from a VM to a SOS);
 - iv) Exports; and
 - v) Rebated removals.

2.3.2 Special Storage Warehouse (SOS)

- a) Malt beer warehoused in a SOS may not, (without written approval from the Commissioner) be sold / removed to the local SACU market. Products stored in such warehouses are intended solely for export / eventual consumption outside the SACU:
 - i) **SOS licensed for export:**
 - A) Exporters of malt beer may apply for a SOS license for the sole purpose of exporting such products to countries outside the SACU.
 - B) The following activities and movements may take place:
 - I) Exports; and
 - II) Rebated removals.
 - ii) **SOS licensed as a Duty Free Shop and / or Ship / Aircraft Chandler:**
 - A) Owners of Duty Free Shops and Ships / Aircraft Chandlers may apply for a SOS license.
 - B) The following activities and movements may take place:
 - I) Duty free sales to diplomats and other diplomatic personnel; to foreign-going travellers; and, as stores for foreign-going ships and aircraft;
 - II) Bonded removals to other Customs and Excise SOS's licensed as Duty Free Shops and / or Ships / Aircraft Chandlers;
 - III) Exports; and
 - IV) Rebated removals.
 - iii) **SOS licensed as a Duty Free Shop and / or Ship / Aircraft Chandler:**
 - A) Manufacturers of malt beer may apply to license a SOS for the sole purpose of supplying Duty Free Shops and / or ships / aircraft chandlers with malt beer.

- B) The following activities and movements may take place:
- I) Bonded removals to licensed Duty Free Shops and / or Ships / Aircraft Chandlers;
 - II) Exports; and
 - III) Rebated removals.

2.4 Production of malt beer

- a) In terms of Section 44(2), malt beer becomes Excisable when it attains its essential character, which is when the product has fermented naturally to an alcoholic strength of 0.5% A/V or more and is generally accepted as drinkable / fit for human consumption.
- b) The essential character of malt beer is attained when it can be regarded as “bright beer”; i.e. when it is received in the bright beer tank, but before blending or mixing, priming, water dilution and bottling of the product.
- c) **Restriction** - Should the licensee wish to perform other production operations, such as extracting alcohol from malt beer (e.g. distillation of malt beer), he / she must request approval from the Controller / Branch Manager.

2.5 Keeping of records

- a) The licensee of a **VM** must keep records of:
 - i) Raw materials received, used in the production process, and / or removed;
 - ii) Yield from raw materials;
 - iii) Production;
 - iv) Stock on hand;
 - v) Removal of bonded product;
 - vi) Removal of rebated product;
 - vii) Removal for home consumption;
 - viii) Returns of duty paid stock; and
 - ix) Exports.
- b) The licensee of a **SOS** must keep records of:
 - i) Stock on hand;
 - ii) Receipts of bonded product;
 - iii) Removal of bonded product;
 - iv) Removal of rebated product; and
 - v) Exports.
- c) A licensee may keep electronic records if it can be readily converted into paper copies and made available to SARS when required / requested.
- d) For purposes of this Act, the retention period for all Excise related documents (prescribed Customs and Excise documents as well as relevant trader’s commercial and financial records) is five (5) years, subject to the provisions of Rule 60.08(2)(a)(i).

2.6 Penalties

- a) Failure to adhere to the provisions of the Act, as set out in this document, is considered an offence.
- b) Offences may render the client liable to the following, as provided for in the Act:
 - i) Monetary penalties;
 - ii) Criminal prosecution; and / or
 - iii) Suspension or cancellation of registration, license or accreditation.

2.7 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 administration procedure depends on the circumstances of each case.
- c) A person must be given:
- i) Written notice 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) Before administrative action can be taken by Excise, the client 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.
- e) Just administrative action requires Excise Officers 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.
- f) Clients whose rights have been significantly and unfavourably affected by administrative action and who have not been given reasons for the action may, after the date on which the client became aware of the action, request Excise to furnish written reasons for the action.
- g) Excise must after receiving the request, give the client adequate reasons in writing for an administrative action. It must, subject to subsection (4) of the Promotion of Administrative Justice Act 3 of 2000 and in the absence of proof to the contrary, be presumed in any proceedings for judicial review that the administrative action was taken without good reason.

2.8 Appeal against decisions

- a) In cases where clients are not satisfied with any decision taken in terms of the Act, they have a right of appeal to the relevant appeal committee. The policy in this regard, as well as the process to be followed, is contained in document SE-APL-02.
- b) If clients disagree with a decision of any appeal committee, their recourse will be to lodge an application for Alternative Dispute Resolution (ADR) with the relevant appeal committee. The committee will add its comments thereto and forward the application to the ADR Unit for attention. The policy in this regard, as well as the process to be followed is contained in document SC-CC-26.

2.9 Tariff determination in terms of Section 47 and the Rules thereto

- a) Rule 47.01 stipulates that in accordance with Section 47(9)(a)(iv)(ee) any alcoholic beverage that is a **first importation or new manufacture** must be submitted for tariff classification through the office of the Controller / Branch Manager at the place where that beverage is imported or manufactured before the procedures respectively specified in items (A) and (B) of that section are applied.
- b) The rules to Section 47 came into operation on **1 April 2015** and any period specified therein must be calendar months calculated from that date.
- c) Rule 47.03 stipulates that in terms of Section 47(9)(a)(iv)(ff)(A), the order and periods for submissions of applications for tariff determinations in respect of beer made from malt shall be -
 - i) For which no tariff determination was issued prior to 1 April 2015 -
 - A) Entered under subheading 22.03.00.90, after a period of eighteen (18) months, but within a period of 24 months.
 - ii) Alcoholic beverages for which a tariff determination was issued 24 months or more prior to 1 April 2015, after a period of 36 months, but within a period of 48 months.
 - iii) Alcoholic beverages for which a tariff determination was issued within 24 months prior to 1 April 2015, after a period of 48 months, but within a period of sixty (60) months.

2.10 Completion of the Excise Account (DA 260)

- a) The Excise account (DA 260) is the summarising document reflecting all production figures, stock figures and movements of bonded malt beer, as well as the amount of Excise duty payable, in respect of the accounting period.
- b) Excise accounts must be completed in full; i.e. the DA 260 with all the applicable Excise account schedules attached for that specific accounting period and type of warehouse as detailed below.
- c) The quantities of malt beer so declared, up to and including the total quantity on which duty must be paid, must be expressed in litres absolute alcohol (LAA) in the applicable box on the excise account. The actual duty payable will be calculated on the relevant quantity expressed in LAA on the excise account.
- d) All columns and boxes on the Excise account and account schedules must be completed.
- e) If any column is not required for that specific accounting period, the column must be crossed out by drawing a diagonal line across the face thereof, starting from the top left corner of the first box to the bottom right corner of the last box and writing "N/A" (Not Applicable) in the middle thereof.
- f) If there is no figure to be declared for a specific box in a column applicable for that specific accounting period, it must be indicated by declaring "0.00" in that box.
- g) If any schedule is not required for that specific accounting period, the applicable schedule does not have to be completed.
- h) A separate supporting schedule DA 260.04A (Itemised list of Non-Duty Paid Removals) must be used per removal type as indicated on the Excise account schedule DA 260.04 (Summary of Non-Duty Paid Removals).
- i) Provided that the schedule DA 260.04 (Summary of Non-Duty Paid Removals) is completed in full; and, the total for a specific removal type is declared as "0.00"; a supporting schedule DA 260.04A (Itemised list of Non-Duty Paid Removals) for that specific removal type, for that specific accounting period, will not be required.
- j) Each schedule to the Excise account also serves as a continuation sheet for that specific schedule.

- k) Licensees may elect, however, to compile a schedule of receipts/removals, approved by the local Controller / Branch Manager, listing all the relevant receipts / removals and supporting documents pertaining to the specific account schedule and attach that schedule of receipts / removals to the applicable account schedule. In this case, only the total of the schedule of receipts / removals must be reflected in the appropriate box on the prescribed Excise account schedule.
- l) The date of submission will be the date that a licensee submits a fully and properly complete **EXD 262** as described above.
- m) **Manufacturing Warehouse (VM) -**
- i) All licensees of VM warehouses must submit an **EXD 262**, monthly, to the local Controller / Branch Manager in whose area the warehouse is licensed.
 - ii) The malt beer VM Excise account consists of the following:

DA 260	Excise Account	
DA 260.01	Excise Account Schedule	Production
DA 260.03	Excise Account Schedule	Returns of Duty Paid Stock
DA 260.04	Excise Account Schedule	Summary of Non-Duty Paid Removals
DA 260.04A	Excise Account Schedule	Itemised list of Non-Duty Paid Removals. A separate supporting schedule form must be used per removal type.

- n) **Special Storage Warehouse (SOS) -**
- i) All licensees of SOS warehouses licensed, except such SOS warehouse licensed as Duty Free Shops and / or Ships / Aircraft Chandlers, must submit an **EXD 262**, per calendar quarter, to the local Controller / Branch Manager in whose area the warehouse is licensed.
 - ii) The malt beer SOS Excise account consists of the following:

DA 260	Excise Account	
DA 260.02	Excise Account Schedule	Receipts from Customs and Excise Warehouses
DA 260.04	Excise Account Schedule	Summary of Non-Duty Paid Removals
DA 260.04A	Excise Account Schedule	Itemised list of Non-Duty Paid Removals. A separate supporting schedule form must be used per removal type.

2.11 Assessment of Excise duty

2.11.1 Measure of dutiable quantity

- a) The dutiable quantity of and Excise duty on malt beer is assessed on the total alcohol contained in the product, expressed in litres of absolute alcohol (LAA) rounded off to the second decimal point, contained in the total bulk volume of product removed to the local SACU market per accounting period.
- b) For duty purposes:
 - i) The bulk volume of malt beer is rounded to the second decimal point; i.e. where the third decimal point is less than .005 it is rounded down to .00 and where the third decimal point is .005 or more it is rounded up to .01, and
 - ii) The alcoholic strength (i.e. the percentage of alcohol in the malt beer by volume A/V) is rounded to the first decimal point; i.e. where the second decimal point is less than .05 it is rounded down to .0 and where the second decimal point is .05 or more it is rounded up to one (1).
- c) For purposes of assessing the relevant Excise duty, the SARS will accept the alcoholic strength and the indicated quantity per container, declared on the commercial invoice, delivery note or similar document issued in relation to each batch and / or consignment of malt beer removed to the local market.

- d) It is the responsibility of the licensee to monitor and control the filling of packages / containers to ensure that over / under filling is prevented.
- e) If it is established that there is a difference between the declared figures per container and the actual figures, Excise duty will be payable on the actual LAA removed.
- f) In the case of a dispute over the alcoholic strength of the product, the SARS will draw and send a sample or samples to an independent scientific laboratory for final determination.

2.11.2 Rate of duty

- a) The rate of duty to be used for the purpose of calculation of Excise duty for malt beer is the relevant rate of duty in terms of Schedule 1 Part 2A at time of entry for local (SACU) consumption.
- b) This could be the time of removal from the warehouse.

2.11.3 Excise duty formula for malt beer

$$\text{Bulk volume (Litres)} \times \text{alcoholic strength per volume (A/V)} = \text{LAA}$$

$$\text{LAA} \times \text{relevant rate of duty} = \text{Excise duty payable}$$

2.11.4 Duty Paid transactions

- a) Removal of locally manufactured malt beer duty paid for consumption as liquor in the SACU is allowed only from a VM.
- b) No relief of duty (rebate or refund) exists for losses incurred after duty paid malt beer has left the VM.
- c) Excise duty is assessed per the **EXD 262**, as detailed below for the **VM**:
 - i) Excise duty is assessed on the total alcohol (LAA) contained in the total bulk volume of malt beer removed from the warehouse to the local SACU market during the accounting period.
 - ii) The relevant Excise duty is calculated by multiplying the dutiable total LAA by the relevant rate of Excise duty.
 - iii) Removals from the VM to the local SACU market are made per commercial invoice, delivery note or similar document, issued in relation to each batch and / or consignment and must be accounted for per the **EXD 262**.
 - iv) The total dutiable quantity of malt beer so removed during the accounting period must be entered and submitted as per the **EXD 262** to the local Controller / Branch Manager.

2.11.5 Non Duty Paid transactions

- a) Malt beer may be removed ex warehouse without payment of Excise duty in the following instances:
 - i) When malt beer is removed in bond to other licensed warehouses within the SACU;
 - ii) When malt beer is entered under full rebate of duty; and / or
 - iii) When malt beer is exported to countries outside the SACU.
- b) **Bonded movements -**
 - i) Malt beer may be removed ex a licensed warehouse in bond without payment of duty (i.e. duty suspension) to another licensed malt beer SOS in the SACU.
 - ii) Movement of bonded (non-duty paid) malt beer between licensed VMs is not allowed.
- c) **Movements between VM and SOS -** Bonded movements of malt beer between a VM and SOS will only be allowed for the following specified purposes:
 - i) Supply to Duty Free Shops and Ships / Aircraft Chandlers;
 - ii) Storage for supply to Duty Free Shops and Ship / Aircraft Chandlers; and
 - iii) Storage for export of such malt beer.

- d) **Movements between SOS's** - Bonded movements of malt beer between SOS's will only be allowed for the following specified purposes:
- i) Supply of malt beer to Duty Free Shops and Ships / Aircraft Chandlers; and
 - ii) Storage for export of such malt beer.
- e) **Movements to BELN countries** -
- i) Bonded movements of malt beer will be allowed from licensed warehouses in SA to a licensed SOS within the BELN countries.
 - ii) The consignor must submit a duly completed clearance declaration with procedure code E 45-47 to the Controller / Branch Manager prior to removal of the consignment of bonded products from his / her premises.
 - iii) All other non-rebated movements of malt beer from SA to the BELN countries will be on a duty paid basis.
- f) **Movements from BELN countries** -
- i) Bonded movements of malt beer will be allowed from licensed warehouses within the BELN countries to a licensed SOS in SA.
 - ii) For all other movements of malt beer from these countries, proof of payment of Excise duty must be submitted at the port of entry into SA.
- g) **Rebated movements** -
- i) Malt beer entered under rebate of duty must be used for the purpose described in the provisions of the specific Rebate Item under which it is entered.
 - ii) A detailed list of all such rebates applicable to the malt beer industry is found in Schedule 6. The most common rebates applicable to the malt beer industry are for:
 - A) **Manufacturing losses:**
 - I) Rebate Item 624.30 stipulates that Excisable goods in a VM and Excisable goods in the process of manufacture and removed from one (1) VM to another such warehouse, unavoidably lost in the manufacturing process or through working, pumping, handling and similar causes or through natural causes, to such extent as the Commissioner deems reasonable, may be entered under rebate of duty subject to production of proof that such goods did not enter into consumption.
 - II) The manufacturer must be able to show the actual volume of malt beer lost during the normal manufacturing processes from his / her normal commercial records. In considering the reasonableness of the loss applied for, regard should be had to the level of manufacturing losses ordinarily incurred by the client (e.g. manufacturing, bottling and packaging operations) and, where appropriate, to industry norms.
 - B) **Vis Major losses:** Incurred in a licensed warehouse or in transit between licensed warehouses or for export, may be allowed under rebate of duty (Rebate Item 624.50), but not before each individual application in writing for such rebate of duty has been approved by the Commissioner.
 - C) **Destructions:** Licensees may apply (in terms of Rebate Item 624.40) to the Controller / Branch Manager for the destruction of Excisable bonded malt beer in instances where a specific consignment of malt beer has lost all commercial value or sale of the specific consignment could be harmful to the industry.
- h) **Alcohol extraction procedure** –
- i) Malt beer is manufactured or received in the VM.
 - ii) The beer is subjected to the alcohol extraction process, which renders a low alcohol beer or a non-alcoholic beverage.
 - iii) The manufacturer of the non-alcoholic beverage must register in terms of Rebate Item 619.07 for beer made from malt used in the manufacturing of non-alcoholic beverages.
 - iv) The entire activity of the alcohol extraction process must take place in the facility of the VM.
 - v) Rule 75(24) sets out the requirements with regard to the keeping of a register by registered rebate users of excisable goods used in the manufacture of, inter alia, non-alcoholic beverages.
 - vi) The ethanol by-product rendered from the alcohol extraction process is regarded as a spirit classifiable under tariff heading 22.08.

- vii) On completion of the alcohol extraction process, the ethanol by-product must be removed to one of the following spirits warehouses:
 - A) A VMP for re-distillation;
 - B) A VMS for blending into spirituous beverage; or
 - C) A SOS for export or for supply to registered rebate users.
- viii) Accounting procedure for the manufacturing of a non-alcoholic beverage is as follows:
 - A) The beer to be used in the manufacturing of a non-alcoholic beverage is rebated out of the VM in terms of Rebate Item 619.07 on the DA 260.04 schedule of the DA 260 Excise account;
 - B) The manufacturer of the non-alcoholic beverage who is registered in terms of Rebate Item 619.07 receives the beer made from malt under rebate of duty;
 - C) On completion of the alcohol extraction process, the ethanol by-product of tariff items 104.21.01 (more than 80% A/V) or 104.23.28 (less than 80% A/V), must be removed to either to a VMP, VMS or SOS;
 - D) The CEB 01, with purpose code ZGR must be completed by the rebate registrant to move the ethanol by-product into the VMP, VMS or SOS.
 - E) Movement of ethanol by-product to the VMP or VMS:
 - I) The CEB 01, with purpose code ZGR in terms of Rebate Item 621.23 / 104.21.01 for fermented ethyl alcohol of an alcoholic strength by volume of 80% or higher, undenatured.
 - II) The CEB 01, with purpose code ZGR in terms of Rebate Item 621.33 / 104.23.28 for fermented ethyl alcohol being the by-product from a process of extraction.
 - F) Movement of ethanol by-product to the SOS:
 - I) The CEB 01, with purpose code ZGR in terms of Rebate Item 621.27 / 104.21.01 for fermented ethyl alcohol of an alcoholic strength by volume of 80% or higher, undenatured.
 - II) The CEB 01, with purpose code ZGR in terms of Rebate Item 621.37 / 104.23.28 for fermented ethyl alcohol being the by-product from a process of extraction.
 - G) The conversion of litres into litres absolute alcohol (AA) is indicated on the CEB 01 clearance declaration with purpose code ZGR.
 - H) Receipt of ethanol by-product into VMP or VMS [refer to the Spirits External Policy (SE-SP-02)].
- ix) Accounting procedure for the manufacture of low –alcohol beer is as follows:
 - A) On completion of the alcohol extraction process, the ethanol by-product must be removed to the VMP, VMS or SOS.
 - B) The ethanol by-product is rebated out of the SVM in terms of Rebate Item 619.09 / 104.10.20 on the DA 260.04 schedule of the DA 260 Excise account.
 - C) Receipt of ethanol by-product into the VMP, VMS or SOS [refer to the Spirits External Policy (SE-SP-02)].

i) **Exports -**

- i) Export of malt beer to destinations outside the SACU, will be allowed under rebate of duty and will be deemed to be duly exported / acquitted only if the prescribed proof of export [original Customs endorsed copy of the processed export Customs Clearance Declaration (CCD) with procedure code H 68-47 / F 52-47, original signed bill of lading, airway bill, rail note or road manifest] is obtained by the licensee and submitted to the Controller / Branch Manager within thirty (30) days after the export CCD was entered.
- ii) Failure by the licensee to submit such proof of export, within thirty (30) days after the date of processing of the export CCD, will render the licensee liable for payment of the relevant Excise duty.
- iii) Locally manufactured malt beer exported ex a Customs and Excise warehouse and thereafter brought back (re-imported) by the exporter and re-entered into that warehouse, without having been subjected to any process of manufacture or manipulation and without a permanent change in ownership having taken place, may be allowed free of Customs duty in terms of the conditions set out in Rebate Item 409.06.

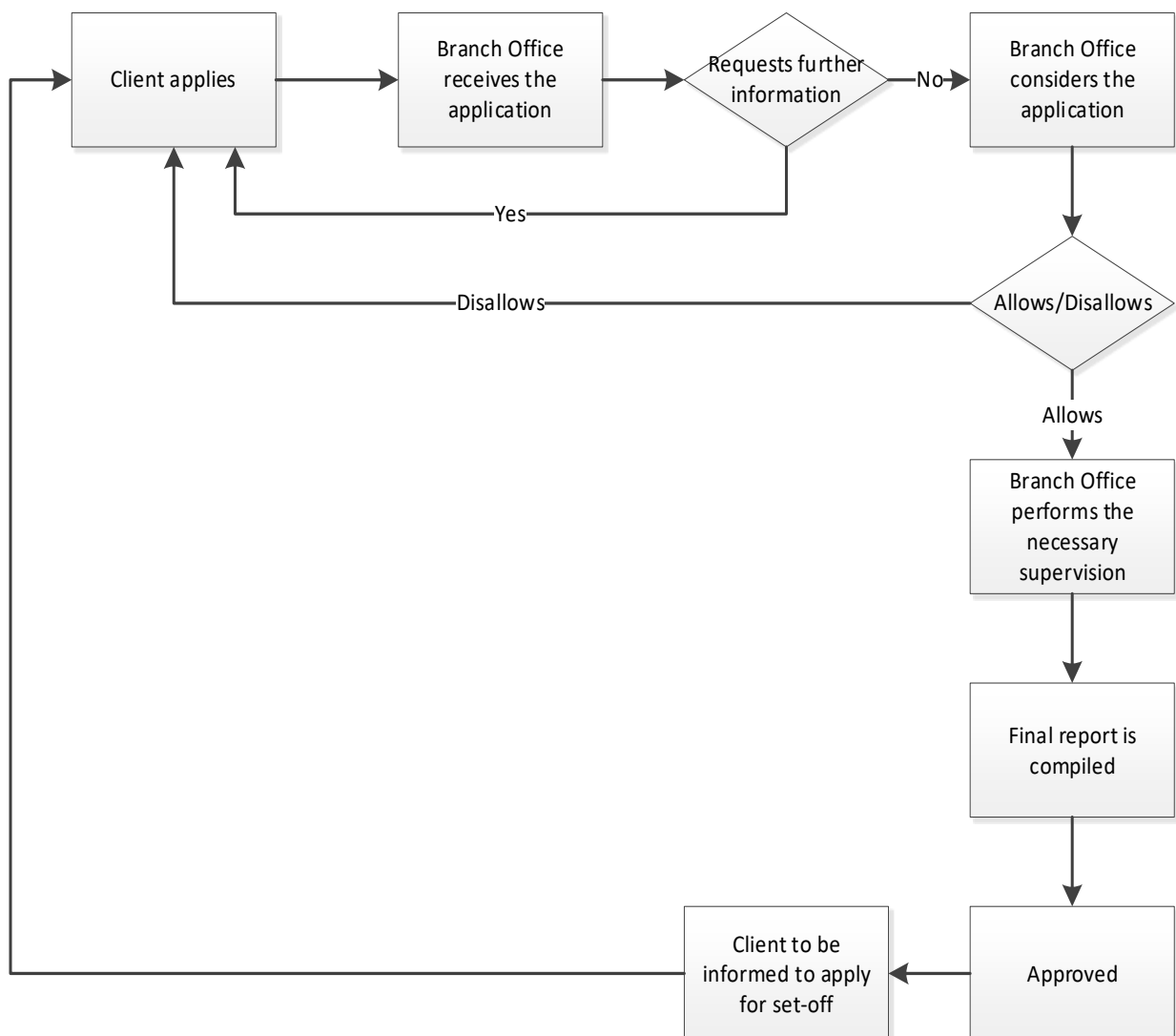
2.12 Duty paid returns from the local market

2.12.1 Beer made from malt, which, is off-specification, has become contaminated, or has undergone post-manufacturing deterioration.

- a) Beer made from malt which, is off-specification or has become contaminated or has undergone post-manufacturing deterioration may be returned to a Customs and Excise manufacturing warehouse for destruction only if such products are found to be off-specification, contaminated or have undergone post-manufacturing deterioration within a period of twelve (12) months after removal from a Customs and Excise warehouse and that the goods are returned to such warehouse within this period.
- b) The provisions of Rebate Item 619.03 shall apply in respect of beer made from malt –
 - i) In the case of beer made from malt under the control of the manufacturer;
 - ii) In the case of beer made from malt returned as produced from the same batch(es);
 - iii) In the case of beer made from malt returned in the originally sealed containers for wholesale or similar packaging.
- c) If the Commissioner approves the application, any beer made from malt returned in terms of Rebate Item 619.03 shall be –
 - i) Kept intact and entirely separate from any other goods or materials until it has been examined and identified by an Excise Officer (EO); and
 - ii) Unpacked, where applicable, and transferred to and mixed with stocks of materials for processing, under supervision of an EO; or
 - iii) Destroyed under supervision of an EO.
- d) The licensee of a VM to which such products are returned for destruction must keep a record which includes at least the following –
 - i) A detailed description of the goods received including the applicable tariff item;
 - ii) The quantity received;
 - iii) The date of receipt;
 - iv) The name or registered business name (if any) and the physical address of the person from whose premises the products concerned were returned; and
 - v) The delivery note under cover of which such products were returned.
- e) A licensed manufacturer of goods contemplated in Rebate Item 619.03 may, if circumstances arise that impede the return of the goods to that licensee's Customs and Excise manufacturing warehouse (VM) for destruction as contemplated in that item, apply to the Commissioner to have the goods destroyed at the manufacturer's own distribution centre or a specialised destruction facility, provided:
 - i) The return to the approved premises takes place within a period of twelve **(12) months** prescribed in Note 3(a)(i);
 - ii) The destruction and location of such destruction is requested and prior approval is obtained from the Commissioner before the beer is removed for destruction;
 - iii) The destruction shall otherwise remain subject to the provisions of Rebate Item 619.03, the Notes thereto, the Act and its rules;
 - iv) The destruction is to be done under Customs supervision if required by the Commissioner; and
 - v) Any other requirement as the Commissioner may specify, in writing, is complied with.
- f) The following is a list of information required to accompany the application in terms of item 619.03. This list is not exhaustive and the Controller / Branch Manager may request additional information as needed.
 - i) The application must be made by the VM that manufactured the product and be submitted on an official company letterhead to the nearest relevant Customs and Excise office in the area in which the licensee is licensed;
 - ii) The reason for the application for destruction must be provided together with a quality / laboratory analysis report / certificate of the product(s) in question;
 - iii) The quantity / volume of the product to be destroyed, including the brand name and packaging size and type;

- iv) Location and details of the place where the goods are currently stored and will be returned from;
- v) Location and details of the place where the goods will be destroyed;
- vi) The licensee to state how long the destruction process of the volumes applied for will take;
- vii) If permission for the destruction in terms of Rebate Item 619.03 is granted, the licensee must inform the Controller / Branch Manager of the date and time when the destruction will take place;
- viii) The licensee to provide a report indicating where the stock originated and to where it was removed.
- ix) Proof that the duty was paid and the rate of duty that was paid at time of clearance (financial year's) per product;
- x) Proof that the goods were removed from the VM and returned within a period of twelve (12) months after it was found to be off-specification, contaminated or to have undergone post-manufacturing deterioration;
- xi) After destruction of the malt beer, a destruction certificate will be issued for the destruction done under supervision. The destruction certificate must be utilised for the application for permission to conduct the set-off on the Excise account as agreed by the Commissioner;
- xii) The licensee must, at the end of the destruction, provide the Controller / Branch Manager with a report from the specialised destruction facility confirming the quantity of product that was destroyed;
- xiii) The licensee of such warehouse where the malt beer was manufactured may, after destruction of the product and the destruction certificate has been issued, set-off as contemplated in Section 77, the amount duly refundable against the amount payable on the excise account over a period of two (2) years, as approved by the Commissioner.

2.13 Process for reprocessing, destruction or abandonment



2.13.1 Application

- a) The client must apply in writing to the Controller / Branch Manager for the reprocessing, destruction or abandonment of product of which application must at least contain the following information:
 - i) Must be on a company letter head;
 - ii) Power of attorney (if applicable);
 - iii) Which Rebate Item is applied for;
 - iv) Product applicable;
 - v) Quantity / litres;
 - vi) Indemnity letter (indemnifying SARS of any civil claim) (if applicable);
 - vii) Rate of duty applicable;
 - viii) The reason why the application is made;
 - ix) The method that will be used to destroy the product (if applicable);
 - x) The date on which the product will be reprocessed or destroyed;
 - xi) State the location of the goods; and
 - xii) All relevant supporting documentation.
- b) If necessary, the Excise Branch Office can request further information.

2.13.2 Consideration

- a) The Excise Officer (EO) must ensure that:
 - i) The client has met the conditions of the notes to the relevant Rebate Item; and
 - ii) That all supporting documents have been submitted.
- b) If necessary, the said EO can request further information from the client.
- c) The relevant EO must compile a report for the Operations Manager (OPS Manager), indicating whether the application can be considered or not.

2.13.3 Allows / disallows

- a) When the OPS Manager allows the application, two (2) EOs' must be tasked to attend the reprocessing, destruction or abandonment. If needed, the application can be verified by these EOs'.
- b) Should the application be unsuccessful, the client must be informed in writing of the reasons thereof taking PAJA into account.

2.13.4 Supervision

- a) Once the two (2) appointed EO's have viewed the reprocessing or destruction, a P 2.08 must be completed in duplicate, verifying that such destruction has taken place.
- b) A copy thereof must be handed to the client.

2.13.5 Final report

- a) A final report must be compiled by the EO's, attaching all relevant supporting documentation, and submit it to the OPS Manager.
- b) The OPS Manager must inform the client in writing to apply for a set-off on their Excise account / return.

2.14 Set-Off

- a) For the purpose of Section 75(11A), the licensee of the Customs and Excise warehouse must produce proof of the rate of Excise duty paid or payable on the products for destruction in accordance with the provisions of Rebate Item 619.03.

- b) If the licensee is unable to produce such proof, the duty on any quantity so returned, shall be calculated for refund purposes at the lowest rate of Excise duty levied in terms of this Act on such products during a period of twelve (12) months prior to the date of the examination contemplated.
- c) The licensee of such warehouse may, after destruction of the products concerned, and on accounting for the goods destroyed in the monthly account (**EXD 262**), prescribed in the rules for Section 19A, set-off as contemplated in Section 77, any amount duly refundable against the amount payable on any such account during a period of two (2) years after receipt of the goods for destruction, as the case may be.
- d) The rand amount to be set-off shall be calculated in the following manner:
- | |
|---|
| Quantity returned (number, kilograms or litres absolute alcohol X rate of Excise duty (as determined above) = Duty to be set-off. |
|---|
- e) This amount must then be subtracted from the duty due on the applicable **EXD 262**.

3 RELATED INFORMATION'

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: 18A, 19A, 20, 21, 27, 36, 47, 64D, 75, 101, 101A, 116 and 119A Customs and Excise Rules: 18.01 to 18.14, 18A.01 to 18A.08, 19.01 to 19.07, 19A, 20.14, 20.17, 27.01 to 27.13, 36.01 to 36.06, 47.01, 47.03, 59A.01(a), 60.08(2)(a)(i) , 64D.01 to 64D.19, 75(24), 101.01 to 101.03, 101A.01 to 101A.12 and 119A.R101A(10)(d) Customs and Excise Tariff: Schedule 1 Part 2A Tax Administration Act No. 28 of 2011: Sections 215 to 220 and 224 Tax Administration Laws Amendment Act, 2014: Section 15
Other Legislation:	Liquor Products Act, 1989 (Act No. 60 of 1989): Section 3 Promotion of Administrative Justice Act (PAJA) No. 3 of 2000: Subsection 4
International Instruments:	None

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
EA-01-M01	Account on eFiling – External Manual
GEN-PAYM-01-G01	SARS Payment Rules – External Guide
SC-CC-26	Alternative Dispute Resolution – External Policy
SC-CF-04	Completion of Declarations – External Manual
SE-ACC-02-M01	eFiling Registration – External Manual
SE-ACC-02-M02	Declaration and Return submission via eFiling – External manual
SE-ACC-05	Submission of Accounts / Returns – External Policy
SE-ACC-06-M01	Return and Submission of HTML5 forms via eFiling – External Manual
SE-APL-02	Internal Administrative Appeal – External Policy
SE-BON-02	Bonds – External Policy
SE-CON-02	Clearance of bonded / inter-warehouse movements – External Policy
SE-GEN-02	Accounting for Duty / Levy – External Policy
SE-LR-02	Licensing and Registration – External Policy
SE-PAY-02	Prescribed Payment Rules – External Policy
SE-REF-02	Refunds – External Directive
SE-TAB-02	Traditional African Beer – External Policy

3.3 Quality Records

NUMBER	TITLE
CEB 01	Customs and Excise Billing
DA 260	Excise Account - Malt Beer (VM and SOS) Summarising Page of all movements of Malt Beer Products during the accounting period
DA 260.01	Excise Account Schedule - Malt Beer (VM) Schedule of Production during the accounting period
DA 260.02	Excise Account Schedule - Malt Beer (VM and SOS) Schedule of Receipts From C&E Warehouses during the accounting period
DA 260.03	Returns of Duty Paid Stock
DA 260.04	Excise Account Schedule - Malt Beer (VM) Schedule of Returns of Duty Paid Stock during the accounting period
DA 260.04A	Excise Account Schedule - Malt Beer (VM and SOS) Itemised list, per removal type, of Non-Duty Paid Removals during the accounting period
EXD 262	Malt Beer (MLT)

4 DEFINITIONS AND ACRONYMS

Act	Customs and Excise Act, No. 91 of 1964
A/V	Alcohol per Volume
A D R	Alternative Dispute Resolution
Alcoholic beverages	Means alcoholic beverages as contemplated in Chapter 22 of Part 1 of Schedule 1
Bright beer	Filtered clear malt beer.
Bright beer tank	The tank or collecting vessel in which bright beer is collected and stored after the fermentation and filtration processes are completed.
CCD	Customs Clearance Declaration
Commissioner	Commissioner of SARS
Controller / Branch Manager	The officer designated by the Commissioner to be the Controller / Branch Manager of Customs and Excise in respect of that area or matter and includes an officer acting under the control or direction of any officer so designated by the Commissioner.
Customs Clearance Declaration	Applicable SAD form (e.g. SAD 500, 501, 502, 503, 504, 505, 506, etc.) or CD 1 (Customs Declaration).
DAS	Duty At Source – Assessment of duty and levies at the time when fuel and other excisable products except wine are removed from the manufacturing warehouse.
Distillation	The process of extracting alcohol from a base product (e.g. malt beer, wine, sugar cane, etc.) by heating such base product in a still.
Duty suspension	Refers to the storage, holding or movement of goods liable to excise duty without payment of duty.
EO	Excise Officer
E 45-47	Clearance for Removal in Bond of excise goods from one Excise Warehouse to another Excise Warehouse in SA or BELN, where the goods were previously subject to a change of ownership.
e-Filing	A free, online process for the submission of returns and declarations and other related services. This free service allows taxpayers, tax practitioners, businesses to register free of charge and submit returns and declarations, make payment and perform a number of interactions with the SARS in a secure online environment.
Excisable Goods	Any goods specified in Part 2 of Schedule 1, locally manufactured or imported.
F 52-47	Supply of Stores of Excise goods ex a "Storage Warehouse", previously subject to a change of ownership.
H 68-47	Clearance for Outright Export of Excise goods from an Excise Warehouse, previously having undergone a change of ownership.
LAA	Litres Absolute Alcohol
Licensee	Any person licensed under any provision of the Act.
Malt	Grain, usually barley, that has been allowed to sprout, used chiefly in brewing and distilling.

Malt Beer	Alcoholic beverage produced by the natural fermentation of sugars derived from malt.
Manufacturing	<p>a) In the discretion of the Commissioner, any process –</p> <ul style="list-style-type: none"> i) in the manufacture or assembly of any excisable goods, environmental levy goods, fuel levy goods or Road Accident Fund (RAF) levy goods; ii) in the conversion of any goods into excisable goods, environmental levy goods, fuel levy goods or RAF levy goods; iii) whereby the dutiable quantity or value of any imported goods specified in Section B of Part 2 of Schedule 1, excisable goods, environmental levy goods, fuel levy goods or RAF levy goods is increased in any manner; iv) in the recovery of excisable goods, environmental levy goods, fuel levy goods or RAF levy goods from excisable goods or any other goods; v) In the packing or measuring off of any imported goods specified in Section B of Part 2 of Schedule 1, excisable goods, environmental levy goods or RAF levy goods, or vi) in the generation of electricity liable to environmental levy; or <p>b) Any process as may be prescribed in any Part of Schedule 1, wherein such duty or levy is specified; or</p> <p>c) Any other process in respect of goods contemplated in paragraph (a) that the Commissioner may prescribe by rule.</p>
OPS Manager	Operations Manager
PAJA	Promotion of Administrative Justice Act
Production of malt beer	The production of malt beer for commercial sale may include production processes and operations such as fermentation, secondary fermentation (reconditioning), blending or mixing of different batches of beers, priming (adding of sugar solutions), water dilution, addition of fruit or fruit flavourings, filtration and bottling of the product.
SA	South Africa
SACU	The South African Customs Union, consisting of: <ul style="list-style-type: none"> a) The Republic of South Africa; b) The Republic of Botswana; c) The Kingdom of eSwatini (Swaziland); d) The Kingdom of Lesotho; and e) The Republic of Namibia.
SARS	South African Revenue Service
Schedule 1 Part 2A	Specific Excise Duties on locally manufactured or on imported goods of the same class or kind.
Schedule 6	Rebates and Refunds of Excise Duties, Fuel Levy and Environmental Levy.
SOS	Special Storage Warehouse
SVM	Manufacturing warehouse for wine and OFB
Vis Major	A natural and unavoidable catastrophe that interrupts the expected course of events, normally caused by forces of nature.
VM	Manufacturing warehouse
VMP	Primary Manufacturing Warehouse for Spirits
VMS	Secondary Manufacturing Warehouse for Spirits
ZGR	Specific rebates of Excise duties (Schedule 6)

5 DOCUMENT MANAGEMENT

Policy Owner	Executive: Excise.
Detail of change from previous revision	<p>Paragraph 1(b) has been updated; Where applicable the reference to EXD 01 has been amended to the new HTML5 reference number, namely EXD 262; Two new paragraphs 2.12.1(e) and (f) have been inserted to make provision for a licensed manufacturer of goods contemplated in Rebate Item 619.03, if circumstances arise that impede the return of the goods to that licensee's Customs and Excise manufacturing warehouse (VM) for destruction as contemplated in that item, apply to the Commissioner to have the goods destroyed at the <u>manufacturer's own distribution</u> centre or a specialised destruction facility, 'Legislation' under paragraph 3.1 has been updated; 'Cross References' under paragraph 3.2 has been updated; 'Quality Records' under paragraph 3.3 has been updated; 'Definitions and Acronyms' under paragraph 4 has been updated; and Policy owner changed.</p>
Template number and revision	GC-TM-03 - Rev 9