

## GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

### SOUTH AFRICAN RESERVE BANK

NO. R. 1700

23 DECEMBER 2019

#### GENERAL EXPLANATORY NOTE:

[     ] Words that are between square brackets and in bold typeface, indicate deletions from the existing rules

\_\_\_\_\_ Words that are underlined with a solid line, indicate insertions in the existing rules

#### CUSTOMS AND EXCISE ACT, 1964 AMENDMENT OF RULES (DAR/190)

Under sections 54AA, 54F 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.



EDWARD CHRISTIAN KIESWETTER

COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

#### SCHEDULE

##### 1. Insertion of rules 54FD

The following rules are hereby inserted in the Rules to the Customs and Excise Act, 1964 (Act No. 91 of 1964), after rule 54FC.04:

#### Environmental levy in respect of carbon tax imposed in terms of Carbon Tax Act, 2019

##### Application of provisions and definitions

54FD.01 (a) The provisions of these rules apply to –

- (i) the carbon dioxide equivalent of greenhouse gas emissions generated in the Republic liable to environmental levy in terms of item 157.00 in Section F of Part 3 of Schedule No. 1;

- (ii) the consolidated licensing of the emissions facilities of a taxpayer as its customs and excise manufacturing warehouse for the generation of emissions liable to carbon tax;
  - (iii) the calculation of the amount of environmental levy payable by a taxpayer for each tax period in respect of its licensed customs and excise manufacturing warehouse;
  - (iv) the submission of account and payment of environmental levy due by a taxpayer in respect of its licensed customs and excise manufacturing warehouse; and
  - (v) other matters relating to the administration of environmental levy for purposes of Chapter VA.
- (b) For purposes of Chapter VA, these rules and any form to which these rules relate, unless the context otherwise indicates, any reference to –
- "customs and excise manufacturing warehouse" means the combination of each of the emissions facilities of a taxpayer that must be consolidated and licensed as such a warehouse.
  - "emissions facility" means the premises where a taxable activity occurs over which the taxpayer has operational control.
  - "environmental levy" means environmental levy in terms of item 157.00 in Section F of Part 3 of Schedule No. 1.
  - "licensee" means the taxpayer that holds a licence in respect of a customs and excise manufacturing warehouse.
  - "taxable activity" means an activity listed in Schedule 2 of the Carbon Tax Act in respect of which a –
    - (i) taxpayer has an aggregated installed capacity equal to or above the tax threshold; or
    - (ii) tax threshold indicated as 'none' applies.
  - "tax threshold" means the value determined by matching the activity listed in the column 'Activity/Sector' with the corresponding entry in the column 'Threshold' in Schedule 2 of the Carbon Tax Act.
- (c) Except as otherwise provided in Chapter VA and these rules –
- (i) section 60 and the rules thereunder, including the definitions in such rules; and
  - (ii) any provision of this Act relating to a customs and excise manufacturing warehouse; liability for duty; submission of account; payment of duty; keeping of books, accounts and documents; responsibility of the licensee;

and any other requirement prescribed in connection with any such warehouse;  
shall apply with any necessary changes as the context may require to any licensee contemplated in these rules.

**Licensing of emissions facilities**

**54FD.02 (a) Every taxpayer must –**

- (i) obtain a consolidated licence for the combination of each of its emissions facilities as its customs and excise manufacturing warehouse for the generation of emissions liable to carbon tax; and
  - (ii) designate the premises of its operational control in the Republic as the premises for such a consolidated licence.
- (b) Notwithstanding paragraph (a), no taxpayer must apply to license an emissions facility where an activity listed in Schedule 2 of the Carbon Tax Act exclusively occurs in respect of which –
- (i) such taxpayer has a basic tax-free allowance of 100%; or
  - (ii) a tax threshold indicated as 'not applicable' applies.
- (c) The provisions of rule 19A.02 shall apply with any necessary changes as the context may require to any application for a licence or renewal of a licence contemplated in this rule.
- (d) Every licensee must advise the Commissioner in accordance with rule 21A.09 of any change in particulars provided in its application for licensing.

**Calculation of amount of environmental levy payable**

**54FD.03 Every licensee must calculate the amount of environmental levy payable for each tax period in respect of its licensed customs and excise manufacturing warehouse in the following manner –**

- (a) The greenhouse gas emissions liable to environmental levy consists of the carbon dioxide equivalent of fuel combustion, industrial process and fugitive emissions that must be determined in accordance with –
- (i) an emissions determination methodology approved by the Department of Environmental Affairs as contemplated in section 4(1) of the Carbon Tax Act; or
  - (ii) an emissions determination methodology contemplated in section 4(2) of the Carbon Tax Act that employs –

- (aa) readily available statistical data on the intensity of processes (activity data) and emission factors as specified in the 'IPCC Guidelines For National Greenhouse Gas Inventories' (2006); or
- (bb) the statistical data and emission factors as specified in item (aa) including country-specific emission factors.
- (b) The allowances that reduce the emissions contemplated in paragraph (a) must be determined where relevant in accordance with Part 6 of Schedule No. 6 and Part II and Part III of the Carbon Tax Act.
- (c) The rate of environmental levy must be determined in accordance with Section F of Part 3 of Schedule No. 1 and section 5 of the Carbon Tax Act.
- (d) The amount of environmental levy payable must be determined in accordance with Section F of Part 3 of Schedule No. 1 and section 6 of the Carbon Tax Act.

**Submission of carbon tax account and payment**

54FD.04 For the purposes of payment of environmental levy, every licensee must submit for each tax period within the period prescribed in paragraph (b) –

- (a) (i) a consolidated annual account on form DA 180 and its annexures that calculates the environmental levy liability in accordance with rule 54FD.03 in respect of its licensed customs and excise manufacturing warehouse;
- (ii) a consolidated payment for the total environmental levy liability; and
- (iii) any supporting documents the Commissioner may request.
- (b) The documents and payment specified in paragraph (a) must be submitted in the month of July of the year following the tax period, but not later than the penultimate working day of that month.

**Implementation provisions**

54FD.05 (a) For the purposes of rule 54FD.02 –

- (i) The period for licence application commences on 2 January 2020.
- (ii) Every licence application that is approved will be issued with effect from the date the carbon tax liability of that taxpayer arose in terms of the Carbon Tax Act.
- (b) The period for the submission of documents and payment contemplated in paragraph (b) of rule 54FD.04 commences on 1 July 2020.

## 2. Substitution of forms

Item 202.00 of the Schedule to the rules is hereby amended by the substitution of the following forms:

- "DA 185      Application form: Registration/Licensing of Customs and Excise Clients
- DA 185.4B2    Licensing Client type 4B2 – Manufacturing warehouse"

