



24 November 2023

**To: The National Treasury**

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**The South African Revenue Service**

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**VIA EMAIL:**

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Dear Colleagues,

**ANNEXURE C PROPOSALS: SAIT CUSTOMS AND EXCISE TAX TECHNICAL  
WORK GROUP**

We attach the Annexure C proposals from the SAIT Customs and Excise Tax Technical Work Group (the WG), as it pertains to Customs and Excise Tax technical proposals for possible inclusion in Annexure C of the 2024 Budget Review.

We value the opportunity to participate in the legislative process and would welcome further engagement where appropriate. Please do not hesitate to contact us should you need further information.

Yours sincerely,

**SAIT Customs and Excise Tax Technical Work Group**

**Disclaimer**

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**Unless otherwise indicated, all references to sections of the Customs and Excise Act 91 of 1964**

**1. EXTENSION OF DIESEL FUEL LEVY REFUND**

[Applicable provisions: Schedule No 6, Part 3, note 6]

**1.1 Background**

- 1.1.1 The refund system on the RAF levy for diesel used in the manufacturing process (such as for generators) will be extended to the manufacturers of foodstuffs. This will take effect from 1 April 2023, with refund payments taking place once the system is developed and will be in place for two years until 31 March 2025.
- 1.1.2 This relief is implemented to limit the impact of power cuts on food prices.
- 1.1.3 Note 14 of Schedule 6, Part 3: For the purposes of item 670.05, the following applies to the purchase and use of distillate fuel for the manufacture of foodstuffs during the period 1 April 2023 to 31 March 2025.

**1.2 The legal nature of the problem**

- 1.2.1 The extension of the refund system without a direct link to the resolution of power cuts may raise concerns regarding the fairness and effectiveness of such a measure. It could be argued that without a clear objective of resolving the power cuts, the extension of the refund system may become arbitrary and unfair to other industries or individuals affected by the power cuts. Therefore, it is crucial to ensure that any extension of the refund system is directly linked to the resolution of power cuts to maintain legal integrity and avoid potential challenges or disputes.

**1.3 A detailed factual description**

- 1.3.1 There is a possibility that the power cuts may last longer than two years and as a result the proposed refund system, although a temporary measure, should be re-evaluated and extended accordingly to ensure fairness and continuity for affected businesses.

**1.4 The nature of the business / persons impacted.**



1.4.1 Manufactures of foodstuffs.

## **1.5 Proposal**

- 1.5.1 It is proposed that this provision remains in place until load shedding (power cuts) has ceased or to be in place for five years until 31 March 2028.
- 1.5.2 The proposal is based on the following: To ensure that manufacturers of foodstuffs are adequately protected and supported during the resolution of power cuts and the cessation of load shedding, it is proposed to extend the refund system until such time as the power cuts have been completely resolved and no longer have an impact on the manufacturers of foodstuffs. This extension will provide necessary financial relief and stability to the manufacturers, enabling them to continue their operations without undue hardship or disruption caused by the power supply issues.

## **2. EXTENDING THE BENEFITS OF (AEO)**

### **2.1 Background**

- 2.1.1 To extend the authorized economic operations (AEO) benefits to allow for expedited shipments for AEO-accredited traders covering all modalities to accelerate trade facilitation.

### **2.2 The legal nature of the problem**

- 2.2.1 To bring the AEO provision more in line with the Annex to the Protocol amending the Marrakesh Agreement establishing the World Trade Organization (WTO) Agreement on Trade Facilitation; Article 7.7 and paragraph 7.7(3); WT/L/940; Page 11 - AEO benefits should expedite shipments for AEO-accredited traders covering all modalities.

### **2.3 A detailed factual description**

- 2.3.1 It is critical for the South African Revenue Service (SARS) to provide practical AEO benefits to traders and continually extend these benefits to encourage accreditation for several reasons.



Firstly, by providing practical AEO benefits, SARS can enhance trade facilitation and streamline customs procedures. Accredited traders who are recognized as AEOs enjoy a range of benefits, such as reduced inspection and examination requirements, priority processing of goods, and simplified documentation processes. These benefits contribute to faster clearance times, reducing delays and costs associated with customs procedures. This efficiency is crucial for businesses engaged in cross-border trade, as it enables them to meet customer demands in a timely manner, leading to increased competitiveness.

Secondly, extending AEO benefits encourages more traders to become accredited, which ultimately strengthens supply chain security. AEO status is granted to businesses that demonstrate compliance with customs regulations and best practices in the area of security. By encouraging traders to become AEOs, SARS can effectively enhance the security of international trade by partnering with trusted and compliant businesses. This collaboration fosters a secure and reliable supply chain, minimizing the risk of illicit activities, such as smuggling or terrorism. Consequently, providing AEO benefits and continuously extending them incentivizes traders to prioritize security measures and actively participate in efforts to safeguard global trade.

Moreover, the provision of practical AEO benefits and their constant extension demonstrates SARS's commitment to supporting and facilitating the growth of businesses involved in international commerce. Accredited traders receive preferential treatment at the border, which translates into tangible advantages, such as cost reductions and improved operational efficiency. These incentives not only create an enabling environment for existing traders but also attract new participants to engage in cross-border trade. As a result, the overall trading ecosystem expands, stimulating economic growth, job creation, and investment opportunities.

## **2.4 The nature of the business / persons impacted**

### **2.4.1 Accredited clients.**

## **2.5 Proposal**

### **2.5.1 It is proposed that with regard to AEO benefits that the benefits be made more practical and be extended to include the following:**

- It is proposed that removal of goods from storage warehouses are also expedited. This would save time and resources, benefiting traders and improving overall import/export efficiency.



- It is proposed that consolidating customs clearances at the end of each trading month would reduce administrative burdens and simplify procedures.
- It is proposed that, for instance, under the SARS' Authorized Economic Operator (AEO) programme a further benefit be created whereby accredited clients can, prior to import, apply for a NRCS letter of authority (LOA) covering a twelve (12) month period to allow importers to import goods with a view to a rapid release and clearance of goods. Should the SARS and the NRCS require to inspect or audit import shipments, these inspections and/or audits should take place at the importer's premises after the importer has received due notification. In other words, SARS accredited clients will be able to apply for NRCS LOAs that will cover a range of imported goods subject to compulsory specifications, and the LOAs will be valid for a twelve-month period from the date of issue.

### **3. ADVANCE RULINGS**

#### **3.1 Background**

- 3.1.1 Advance ruling programmes is to provide decisions on the classification, origin and valuation of commodities prior to their importation or exportation, thus adding certainty and predictability to international trade and helping traders to make informed business decisions based on legally binding rulings.
- 3.1.2 Customs administrations also benefit from having advance knowledge of future importations which is useful for risk management purposes.

#### **3.2 The legal nature of the problem**

- 3.2.1 To bring the provision of advance rulings in line with the Annex to the Protocol amending the Marrakesh Agreement establishing the WTO Agreement on Trade Facilitation; Article 3; WT/L/940; Page 5.

#### **3.3 A detailed factual description**

- 3.3.1 Currently the SARS Customs is not providing importers and exporters with advance rulings, which has led to a lack of certainty in global trade. Advance rulings are crucial for businesses engaging in international trade as they provide clarity and predictability regarding customs duties, taxes, and other regulatory requirements.



The absence of advance rulings from SARS means that importers and exporters are unable to accurately determine the costs and compliance obligations associated with their cross-border transactions. This uncertainty can lead to delays, additional costs, and potential disputes with customs authorities.

Without advance rulings, businesses are left to interpret and apply complex customs regulations themselves, increasing the risk of non-compliance and potential penalties. This lack of clarity also hampers long-term planning and investment decisions, as companies are unable to accurately assess the financial implications of their trading activities.

Furthermore, the absence of advance rulings affects the competitiveness of South African businesses in the global market. Other countries, such as major trading partners, often provide advance rulings to their importers and exporters, ensuring a more transparent and efficient trading environment. Without this certainty, South African businesses may face disadvantages in terms of cost, time, and overall competitiveness.

Overall, the current situation where SARS is not providing importers and exporters with advance rulings creates uncertainty in global trade, jeopardizing the smooth flow of goods and hindering the growth and development of businesses involved in international commerce.

### **3.4 The nature of the business / persons impacted.**

3.4.1 Importers and exporters.

### **3.5 Proposal**

3.5.1 It is proposed that advance rulings be initiated to underline customs excellence covering tariff classification, customs valuation and origin as a driver for intra African trade and the success of the African Free Trade Area (AfCFTA) initiative.

End.