

# Welcome to Session 2 of the SAIT CPD Webinar - 25 May 2023



## The potential unfortunate implications of SARS Interpretation Note 30: Forced Sales, transport, & VAT

**YOUR KEY TO THE TAX & CUSTOMS COMMUNITY**

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### YOUR HOST & GUEST TODAY



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**JASON BLACKMAN (Guest Speaker)**

- International Certificate in Customs Management (Canberra University)
- Bachelor of Commerce Degree in Economics, Marketing and Commercial Law (KZN)
- Bachelor of Biblical Studies and Community Outreach (US)

Jason has more than 28 years of experience in the logistics industry; and is a logistics and express industry veteran with over 30 years' experience within the courier and logistics industry. He started working at DHL in South Africa in 1994 and has held various roles including Claims and Risk Management, Export Management, Head of Customer Operations for Sub Saharan Africa, Head of Customs for DHL Global Forwarding Sub Saharan Africa and formerly the Senior Director of Customs, Compliance and Regulatory Affairs for DHL Express Sub Sahara Africa. He is currently the Global Head of Customs Compliance for DHL Supply Chain.



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## Administrative Changes:

- 1. **AEO Coffee Sessions:**
  - a) AEO Application Questionnaires
  - b) Benefits of AEO programme
- 2. **VAT Registration Process will be changed:**
  - a) Detection of suspicious or fraudulent VAT Registrations



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## Legislative Changes:

### a) Extension of the Diesel Fuel Levy Refund to food manufacturers.

- Amendments made in the Customs Act to facilitate claiming of the diesel refund levy.
- SARS has published a Guide for claiming of refunds.
- Application for registration to be made on DA 185 Form & Annexure DA 185.4 A3.
- Refund claims to be submitted on prescribed DA 66 Form.
- Refund Item 670.05 / 00.00.01.00.
- Note 14 (b).

### b) No new Court Cases were published between 11 & 17 May 2023.

### c) Border Management Authority Act No 2 of 2020 – came into effect on 15 August 2022.

- Independent from Department of Home Affairs.
- Chapter 2 and section 11(f) of the BM Act makes mention of a risk management centre, which implies that a risk management process be followed. As a result, the land borders have been divided into ten (10) segments and the BMA has identified five (5) high risk segments that focuses on improving border control.



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## Legislative Updates (continued)

### d) Amending the Processes and Procedures for Provisional Payment.

### e) Deferment of Customs Duties.

### f) Anti-Dumping tariff heading 72.10.49.10.

- Schedule 2 Notice R3413 – frozen potato chips imported from Belgium, Germany, and the Netherlands.

### g) Amendments to Rules under Section 77 H and Section 120 of the Act.

### h) Part 4 of Schedule No 2 – Rebate Item 460.16 / 8415.10.10 – air-conditioning machines ITAC Report 681.

### h) Comments on the Schedule to be recorded on the Customs & Excise Tariff Amendments Comment Sheet:

- DA 185 – Application forms: Registration / Licensing of Customs and Excise clients.
- DA 185.4A3) – Registration client type 4A3 – Rebate/refund user (Schedule No's 3, 4 and 6.



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## SARS / Customs Global News

### a) Trade Facilitation

- On 9 March 2023, SARS thanked traders for participating in the Trade Facilitation Indicator Survey.
- Trade facilitation is defined as: in the WCO context, means the avoidance of unnecessary trade restrictiveness. This can be achieved by applying modern techniques and technologies while improving the quality of controls in an internationally harmonized manner
- Advance Rulings
- Article 2 AEO Programme

### b) AfCFTA-EU-WCO Rules of Origin Africa Programme, funded by the European Union, WCO in partnership with the Ethiopian Customs Commission (ECC), held a national training workshop on rules of origin in Addis Ababa, Ethiopia, from 6 to 10 March 2023.



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## AfCFTA News:

### AfCFTA Workshop ends with renewed resolve to accelerate implementation: 23 May 2023

The Parliamentarians' comments now form part of the final 24 recommendations derived from the workshop. They include:

- Establish legislative framework and institutional mechanism to accelerate the domestication and implementation of the Agreement establishing the AfCFTA;
- Engage in robust advocacy in Member States to achieve full ratification of the AfCFTA;
- Establish a platform to articulate coherent guidelines for implementation of the operational instruments that will govern AfCFTA such as Pan-African Payments and Settlements System (PAPSS) and adjustment Facility to respond to the challenges of short-term negative impact of the liberalization process on State Parties' fiscal capacities;
- Mobilise institutional processes in Member States for the ratification of the Protocols that are critical to the implementation of the AfCFTA and more particularly the Protocol on the Free Movement of Persons, Right of Residence and Right of Establishment;
- Sensitize Member States on the benefits of accelerating the implementation of African Continental Free Trade Area (AfCFTA), emphasise the long-term recovery and growth in member states, the impact on deeper integration in boosting incomes, increasing job creation and expedite investments;
- Establish institutional mechanisms in Member States on value addition and encourage the development of an integrated and complementary African value chains to support the commitment to transform Africa from a raw materials exporter to a producer of market-competitive value added products;



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## SARS Letter to Trade on VAT

- a) **The Customs - VAT NUMBER VALIDATION ON CUSTOMS CLEARANCE DECLARATION** dated 8 May 2023
  - One of SARS' key Strategic Objectives (SO5) is to increase and expand the use of data within a comprehensive knowledge management framework to ensure integrity, derive insight and improve outcomes. The Customs External Policy on the Completion of Declarations Manual (SCCF-55 A01) requires that VAT registered entities populate their VAT registration numbers on all customs declarations submitted to SARS.
- a) **Vat Numbers** – declared on customs declarations will be monitored over the next 30 days and a further communication will be issued thereafter, including advising taxpayers of further steps to be taken to ensure compliance.

## SAIT Updates

- a) **ICASA**
  - **Electronic Communications Act No 28743 Vol 490, dated 18 April 2006 Section 35, Chapter 6 - TECHNICAL EQUIPMENT AND STANDARDS - Approval of type.**

(1) No person may use, supply, sell, offer for sale or lease or hire any type of electronic communications equipment or electronic communications facility, including radio apparatus, used or to be used in connection with the provision of electronic communications, unless such equipment, electronic communications facility or radio apparatus has, subject to subsection (2), been approved by the Authority. (2)The Authority may prescribe— (a) the types of equipment, electronic communications facilities and radio apparatus, the use of which does not require approval where such equipment, electronic communications facilities and radio apparatus has been approved for use by the European Telecommunications Standards Associations or other competent standards body where the equipment complies with type approval standards prescribed by the Authority; and (b) circumstances under which the use of equipment, electronic communications facilities, radio apparatus and subscriber equipment does not require approval, including uses for research and development, demonstrations of prototypes and testing.



SAIT Updates

b) Non-Tariff Barriers

- **Government Gazette No 40733 311 Notice 248 of 2017 - REGULATORY POSITION ON EQUIPMENT TYPE APPROVAL**
  1. On the 28<sup>th</sup> of September 2016, the Independent Communications Authority of South Africa (“the Authority”), published a Discussion Document on Equipment Type Approval Exemption, General Notice 621 of 2016 (Government Gazette No 40309) (“the Discussion Document”), in terms of Section 4B of the Independent Communications Authority of South Africa Act, 2000, as amended.
  2. The purpose of the Discussion Document was to solicit input from interested parties on prescribing the types and circumstances of equipment etc.



Forthcoming Attractions: CPD Event Topics to look forward to in 2023...

	<b>The benefits of being an Authorised Economic Operator (AEO), and how to unlock the application roadmap &amp; benefits</b>
<b>June</b>	
<b>July</b>	Customs penalties and dispute resolution: Practical tips and tricks
<b>August</b>	Common pitfalls in International Contracts of Sale and delivery terms for best trade practice
<b>September</b>	SARS eFiling specifically for Customs traders: What you should know to operate effectively
<b>October</b>	The African Continental Free Trade Agreement AfCFTA: The Rules of Origin and updated application thereof
<b>November</b>	WCO e-learning topics: The technical essentials for Custom legal compliance (and how to secure WCO e-learning access)



## SAIT CUSTOMS AND EXCISE UPDATE

Updated on 8 February 2023 - This document is compiled based on a rolling 4-weeks.

### Useful Links

- ITAC: <http://www.itac.org.za/>
- SARS: <https://www.sars.gov.za/customs-and-excise/>
- National Treasury: <http://www.treasury.gov.za/>
- DTIC: <http://www.thedtic.gov.za/>
- DALRRD: <https://www.dalrrd.gov.za/>
- SAAFF: <https://www.saaft.org.za/>
- SAEPA: <https://www.saepa.org.za/>
- XA International Traders: <https://xa.co.za/>
- Tralac: <https://www.tralac.org>

### Today's CPD Webinar Topic:

The potential unfortunate implications  
of SARS Interpretation Note 30:

Forced Export costs in Sales,  
Transport, & VAT

## VAT & EXPORTS

Section 11 and terms of Section 7(1)(a) may be viewed

Section 11(1) deals with goods and Section 11 (2) deals with services –Very stringent documentary requirements.

In order for a vendor to supply movable goods (excluding second-hand movable goods on which notional input tax was deducted on the acquisition of such goods) under a sale or instalment credit agreement and levy VAT at the zero rate, the vendor must:

We will also discuss the VAT implications on services for Cross-Border Trade today.

- consign or deliver the movable goods to the recipient at an address in an export country; and
- obtain and retain the required documentary proof as is acceptable to the Commissioner.



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- **Direct exports** – the requirements are set out in Interpretation Note 30 (Issue 3) dated 5 May 2014 (IN 30); and
- **Indirect exports** – under Part Two of the Export Regulation (published in Government Gazette (GG) 37580 on 2 May 2014) a vendor may, under certain conditions, elect to supply goods at the zero rate if those goods are contractually delivered in South Africa to the recipient or the agent of the recipient, but are ultimately destined for export.



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- Interpretation Note 30 (issue 3)
- Destination-based
- The definition of “exported” – 2 Conditions
- Direct Exports versus indirect
- Consigned to Importer’s Agent?
- Prescribed Periods

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#### 2. Responsibilities of the Vendor

- (1) The vendor must levy tax at the standard rate on the supply of movable goods to a qualifying purchaser.
- (2) The vendor must issue a tax invoice to the qualifying purchaser and should advise the qualifying purchaser of the entitlement to a refund of the tax from the VRA.

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Any person (whether local or foreign) wishing to export goods from South Africa, must register as an exporter under the Customs and Excise Act, and make the relevant export declarations. In the case of a foreign exporter, that person must register as an exporter and nominate a registered agent in South Africa. Limited exceptions for formal registration include a traveller who exports goods (other than scrap metal) where the value required to be declared is less than R150 000 during any calendar year, regardless of the number of consignments during that year. The following persons must register as an exporter and make the relevant declarations in respect of the export:

- Direct exports – the vendor that consigns or delivers the goods to an export country
- Indirect exports – the qualifying purchaser

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The correct person must accordingly be reflected as the “exporter” on the SAD 500, in order to comply with the provisions of the Customs and Excise Act, and the relevant documentary requirements contained in IN 30 and the Export Regulation.

VAT Rulings can only be issued in respect of the application of the VAT Act in respect of a specific set of facts. On that basis, no VAT Rulings will be issued on whether the provisions of the Customs and Excise Act are met, or to confirm the documentation required under that Act.



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### Questions for CPD Points:

1. Which main SARS interpretation note can be consulted for VAT Zero-rating on Exports?  
Options: 5, 4, 105, or 30?
2. Is the RSA VAT System destination based? [YES/NO]
3. VAT can be zero-rated if a Vendor is responsible for consigning or delivering goods to an address in an Export country? [YES/NO]
4. SARS Time periods/deadlines apply to conduct the export from date of issue of Export Invoice? [YES/NO]
5. Refunds for standard rated Export Invoices may be claimed from SARS? [YES/NO]

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