



3 October 2025

**To: The South African Revenue Service**

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**Via email:** **SARS:** ([C&E\\_Legislativecomments@sars.gov.za](mailto:C&E_Legislativecomments@sars.gov.za))

**RE: DRAFT AMENDMENTS TO SCHEDULES: SECTIONS 40, 41 and 120**

**Background**

We understand that the insertion of rules under sections 40 and 41 is intended to clarify the procedure for making adjustments to bills of entry in cases where the declared customs value is affected by transfer pricing adjustments.

The draft rules set out the manner in which importers may revise the customs value by submitting amended invoices or debit/credit notes to the Commissioner, along with the prescribed documentation. These draft rules also outline the process for payment of any additional duty and VAT arising from such adjustments, as well as the mechanism for claiming refunds where excess duty has been paid. We proceed to set our commentary out below.

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 Tax Technical**

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 <i>South African Revenue Service</i>		<b>Customs &amp; Excise Rule Amendments Comment Sheet</b>
<b>Email</b>	<a href="mailto:C&amp;E_Legislativecomments@sars.gov.za">C&amp;E_Legislativecomments@sars.gov.za</a>	

Number of pages of comments (including this page)	12
Date	3 October 2025
Comments from	Keitumetse Sesana
Company / Institution / Department	South African Institute of Taxation



Rule	Comment	Recommendation
41A.01(a)	<p>The definition of the CVAC indicates the recalculation of the customs value, customs duties and value added tax.</p> <p>The CEA 91 of 1964 defines <u>Customs Duty</u> as “any duty leviable under Part 1 of Schedule No. 1 or Schedule No. 2 on goods imported into the Republic”, while the definition of <u>Duty</u> is defined as “means any duty leviable under this Act and, subject to—</p> <ul style="list-style-type: none"> <li>(a) section 47B, any passenger tax leviable under that section;</li> <li>(b) Chapter VA, any environmental levy leviable under that Chapter; and</li> <li>(c) Chapter VB, any health promotion levy leviable under that Chapter”</li> </ul> <p>The definition of CVAC for transfer pricing purposes would therefore seem to exclude for example ad valorem in terms of Schedule 1 Part 2B</p>	<p>We recommend that the CVAC definition be amended to expressly include <b>all forms of “duty” as defined in the Act</b>, not only “customs duties.”</p> <p>Suggested wording is as follows: “... <i>recalculation of the customs value, all duties leviable under this Act (including ad valorem duties under Part 2B, environmental levies and health promotion levy), and value-added tax.</i>” This ensures consistency with the Act’s definitions and avoids unintended exclusions</p>
41A.01(b)&(c)	<p>The legislative time period to notify SARS of the transfer pricing adjustment is one month. The rule requirement is</p>	<p>To be read with the comments to Rule 41A.01(e)</p>



	<p>that the full circumstances of the change need to be disclosed – considering 30 days to do all this is an extremely short time span especially if paragraph (c) is taken into consideration.</p> <p>Paragraph (c) requires the importer to obtain all the latest data in relation to affected bills of entry from SARS' Trade Statistic unit – no consideration is given that such a request may be subjected to the SARS turn around times, which by itself may result in the importer not having sufficient time to collate and reflect the full circumstances in time considering the extensive requirements stipulated in paragraph (d) that must be adhered to by the importer or its authorised representative.</p>	<p>It is recommended to extend the notification period to 90 days for adjustments requiring SARS-issued data, or provide for an automatic extension where the declarant can demonstrate reliance on SARS' turnaround.</p> <p>Alternatively, to insert a condonation clause allowing SARS to accept late notifications if delays are attributable to SARS data provision or complex transfer pricing reconciliations.</p>
41A.01(d)	<p>Consideration should be given that all documents listed in paragraph (d) may not be relevant, applicable or ever available – the Rule should therefore not insist on a document which a trader may not have, such as purchase or sales</p>	<p>Administrative Burden – The draft requires extensive documentation, including segmented financials and full agreements, to accompany every notification. We suggest limiting mandatory attachments to the</p>



	agreements – many transactions are not based on such an agreement but merely on an order.	CVAC, amended invoices/notes, and transfer pricing policy, with supporting documents provided only on request or audit
41A.01(e)	The provision for extension, as outlined in paragraph (e), is subject to approval from Customs; therefore, the reviewer may decline the request for a valid extension. Such a declination will render a trader, non-compliant for reasons outside its control	<p>The Rule must be expanded to include a turnaround period within which SARS must respond to a request.</p> <p>A definite consequence is required to be incorporated in instances where the (i) time period is not met or (ii) where an extension is declined without providing proper reasons, as described in PAJA.</p>
41A.01(f)	Reference to the pro forma customs value adjustment calculation spreadsheet was not provided for comment, it is therefore not possible to accurately comment on documents/guidance and spreadsheets that are not made available, hence creating the perception that the draft rules may be premature in the absence of a complete document set.	It is recommended that the pro forma customs value adjustment calculation spreadsheet which serves as guidance for the completion of the CVAC and the CVAC be provided for comment before finalising the Rules



41A.01(g)(i)	This rule creates a negative perception among traders desirous to be compliant – surely any subsequent finding, fine penalty should not relate to transfer pricing.	Rewording to rather reflect misstated or gross misstated data may result in penalties.
41A.02	The time period to make payment of seven days may in many instances be too short to make payment, especially if such amounts are substantial.	Tight Timelines – The 7-day payment requirement following SARS acceptance of the CVAC may not be practical, particularly for significant adjustments. We propose extending this period to align with deferment account practices.
41A.03	<p>The request that correction must be done on a declaration-by-declaration basis is imposing massive administrative burden on the importer, its authorised clearing agent to lodge the VOCs as well as on SARS resources who need to deal with the refunds. Recent stakeholder meetings repeatedly raised concerns on the backlogs experienced with refund cases.</p> <p>The CEB 01 mechanism to collect revenue is a one-sided approach to the benefit of SARS, i.e. revenue collection and</p>	Dual Mechanism for Corrections – The use of CEB01 for additional duties/VAT and VOCs for refunds creates asymmetry and administrative duplication. It is recommended to have a single consolidated mechanism for both upward and downward adjustments



	<p>by insisting on VOCs per declaration is more akin to SO3 – making it difficult to trade as well as more costly. Clearing agents of refund houses are not performing this service for free, hence, traders will be required to pay for the service per bill of entry, while the CEB 01 is a single payment.</p> <p>If an adjustment is approved as per 41A.01(g)(iii) use the CVAC, which was already completed as the source document, to effect the refund</p>	
<p><u>General comments:</u></p> <p>System Readiness – Many importers may not have systems capable of linking MRNs and LRNs across multiple declarations. It is recommended that SARS provide downloadable datasets or system outputs to facilitate completion of the CVAC</p>		
Form	Comment	Recommendation
<p><u>General comments:</u></p>		

End.