

## 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

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### DRAFT AMENDMENT OF RULES in terms of the Customs and Excise Act, 1964

The following amendments are proposed in terms of sections 54AA and 120:

#### Insertion of rule 54FD

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

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

#### Application of provisions

- 54FD.01 (a) The provisions of these rules apply to –
- (i) the carbon dioxide (CO<sub>2</sub>) equivalent of greenhouse gas emissions generated in the Republic that is liable to environmental levy in terms of item 157.00 of Section F of Part 3 of Schedule No. 1;
  - (ii) the licensing of an emissions generation facility as a customs and excise manufacturing warehouse;
  - (iii) the registration of a person who operates emissions generation facilities at a capacity prescribed in these rules;
  - (iv) the calculation of the amount of environmental levy payable in respect of a licensed emissions generation facility for each tax period;
  - (v) the submission of account and payment of environmental levy in respect of emissions generated in a licensed emissions generation facility; and
  - (vi) other matters relating to the administration of environmental levy for the purposes of Chapter VA.

(b) For the purposes of Chapter VA, these rules and any form to which these rules relate, unless the context otherwise indicates, any reference to –

“Carbon Tax Act” means the Carbon Tax Act, 2019 (No.15 of 2019);

“carbon tax threshold” means the number determined by matching the activity listed in the column ‘Activity/Sector’ with the value reflected in the corresponding line of the column ‘Threshold’ in Schedule 2 of the Carbon Tax Act;

“customs and excise manufacturing warehouse” means the locality of an emissions generation facility that must be licensed as such a warehouse;

“emissions generation facility” means one or more emissions generation points where the source category activity of the same IPCC code occurs;

“emissions generation point” means the place where emissions liable to environmental levy is generated;

“environmental levy” means environmental levy determined in terms of item 157.00 in Section F of Part 3 of Schedule No. 1;

“licensed emissions generation facility” means an emissions generation facility that is licensed as a customs and excise manufacturing warehouse;

“licensee” means the person who is the holder of the licence in respect of a customs and excise manufacturing warehouse and who is liable to environmental levy; and

“registrant” means a person who operates emissions generation facilities at a capacity prescribed in, and who is registered in terms of, these rules.

(c) Except as otherwise provided in Chapter VA and these rules –

(i) any provision of this Act relating to a customs and excise manufacturing warehouse, liability for duty, payment of duty and the responsibility of the licensee and any other requirement prescribed in connection with any such warehouse;

(ii) sections 59A and 60 and the rules thereunder including the definitions in such rules; and

(iii) section 64E and the rules thereunder including the definitions in such rules, shall, as may be applicable, apply *mutatis mutandis* to any registrant or licensee contemplated in these rules.

### **Licensing and registration**

- 54FD.02 (a) (i) Every person who operates emissions generation facilities at a combined capacity equal to or above the carbon tax threshold must license each emissions generation facility as a customs and excise manufacturing warehouse.
- (ii) 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 for a customs and excise manufacturing warehouse contemplated in this rule.
- (b) (i) Every person who operates emissions generation facilities at a combined capacity below the carbon tax threshold must register in terms of section 59A and the rules thereto.
- (ii) Unless the Commissioner determines otherwise, no security is required to be furnished by a person applying for such registration.
- (c) Notwithstanding paragraphs (a) and (b), every person who operates emissions generation facilities in respect of which the carbon tax threshold is not applicable, or an allowance for fossil fuel combustion of 100% applies, must not license such emissions generation facilities, nor register.
- (d) The licensee or registrant, as the case may be, must advise the Commissioner in accordance with rule 21A.09 of any change in particulars provided in the application for licensing or registration.

### **Amount of environmental levy payable**

- 54FD.03 Every licensee must calculate the amount of environmental levy payable for each tax period in respect of each licensed emissions generation facility of that licensee in the following manner –
- (a) The sum of the emissions liable to environmental levy consists of the fuel combustion emissions, industrial process emissions and fugitive emissions that must be determined in accordance with –
- (i) a reporting methodology approved by the Department of Environmental Affairs as contemplated in section 4(1) of the Carbon Tax Act; or
- (ii) if a reporting methodology approved by the Department of Environmental Affairs does not exist, the alternative methodology contemplated in section 4(2) of the Carbon Tax Act.
- (b) The allowances that must be used to reduce the emissions contemplated in paragraph (a) must be determined 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 is the rate 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 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 separate annual account on form DA 180 in respect of each licensed emissions generation facility of that licensee;

(ii) payment of environmental levy as calculated on the said form DA180 and its annexures in accordance with rule 54FD.03; and

(iii) any supporting documents the Commissioner may require.

(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) Every licence or registration applied for before the date the provisions of these rules come into operation will be issued with effect from the date the said rules come into operation.

(b) The period for the submission of documents and payment contemplated in paragraph (b) of rule 54FD.04 commences on 1 July 2020.

### **Substitution of forms**

2. Item 202.00 of the Schedule to the rules is hereby amended by the substitution for forms DA 185 and DA 185.4B2 of the following forms:

“DA 185 Application form: Registration/Licensing of Customs and Excise Clients

DA 185.4B2 Licensing Client type 4B2 – Manufacturing warehouse”

### **Insertion of forms**

**3.** Item 202.00 of the Schedule to the rules is hereby amended by the insertion for forms DA 180 and DA 185.4A17 of the following forms:

“DA 180 Environmental Levy Return for Carbon Tax

DA 185.4A17 Client type 4A17 - Operator of an emissions generation facility below the carbon tax threshold”

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