

DRAFT RULES ADVANCE FOREIGN EXCHANGE PAYMENTS

19 October 2023

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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SOUTH AFRICAN REVENUE SERVICE

No.

R.

2023

CUSTOMS AND EXCISE ACT, 1964

AMENDMENT OF RULES

Under section 120 of the Customs and Excise Act, 1964 (Act No. 91 of 1964), the rules published in Government Notice R.1874 of 8 December 1995, are herewith amended to the extent set out in the Schedule hereto **with effect from 1 December 2023**.

EDWARD CHRISTIAN KIESWETTER

COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

Amendment of rule 120.13.01

1. Rule 120.13.01 is hereby amended by the insertion of the following definition after the definition for “authorised dealer”:

“**bank generated advance import payment reference number**” or “**BGA reference number**” means a reference number in relation to an advance foreign exchange payment issued to an importer by an authorised dealer in circumstances contemplated in rule 120.13.05A;”.

Amendment of rule 120.13.03

2. Rules 120.13.03 is hereby amended by the addition of the following paragraph after paragraph (e):

“(f) This rule is subject to rule 120.13.05A.”.

Amendment of rule 120.13.04

3. The following rule is hereby substituted for rule 120.13.04:

“Issuing of APN reference number

- 120.13.04 (a) An importer who submitted an APN as contemplated in rule 120.13.03 is entitled to be notified of –
- [(a)](i)** the outcome of any data validation process conducted by SARS in respect of the APN; and
 - [(b)](ii)** the APN reference number assigned in respect of a validated APN.
- (b) An APN reference number referred to in paragraph (a)(ii) must be referenced on that importer’s application to effect an advance-payment submitted to an authorised dealer.

(c) The authorised dealer indicated on the APN is entitled to be notified by SARS of the APN reference number assigned in respect of a validated APN.

(d) Paragraphs (b) and (c) are subject to rule 120.13.05A in circumstances described in that rule.”.

Insertion of rule

4. The following rule is hereby inserted after rule 120.13.04:

“Requirements for authorised dealers in relation to advance payments

120.13.04A (a) An authorised dealer may not grant an application to effect an advance import payment if such application does not reflect an APN reference number.

(b) An authorised dealer intending to effect an advance payment must, by making use of the APN reference number received in terms of rule 120.13.04(c), verify information supplied by an applicant for advance payment.

(c) Paragraph (a) and (b) are subject to rule 120.13.05A in circumstances described in that rule.”.

Insertion of rules

5. The following rules are hereby inserted after rule 120.13.05:

“Requirements and procedures for authorised dealers issuing bank generated advance import payment reference numbers

120.13.05A (a) This rule applies –

(i) in exceptional circumstances where the authorised dealer who is to effect an advance payment on behalf of an importer considers obtaining an APN reference

number from SARS before payment is effected as impracticable; or

(ii) where the importer is unable to notify the Commissioner of the importer's intention to submit an application for advance payment to an authorised dealer in order to obtain an APN reference number as required in terms of rule 120.13.03 due to a SARS systems failure;

(iii) where the importer included an APN reference number on that importer's application to an authorised dealer to effect an advance payment as required in terms of rule 120.13.04A(a), which that authorised dealer could not verify with SARS as contemplated in rule 120.13.04A(b) due to a SARS systems failure; or

(iv) where the importer applied to an authorised dealer to effect an advance payment of an amount not exceeding R50 000,00 in respect of which no APN is required, which amount subsequently exceeded R50 000,00 due to currency fluctuations before payment could be effected by the authorised dealer.

(b) An authorised dealer may in circumstances set out in paragraph (a) –

(i) generate and issue a BGA reference number to an importer; and

(ii) effect the advance import payment despite rule 120.13.04(b) which requires the authorised dealer to verify information

supplied by an applicant for advance payment.

Requirements and procedures for importers where authorised dealers issued bank generated advance import payment reference numbers

120.13.05B (a) An importer to whom a BGA reference number was issued in terms of rule 120.13.05A(b) must prior to submission of the bill of entry notify the Commissioner of the issuance of the BGA reference number by the authorised dealer by –

(i) submitting the APN and indicating the BGA reference number in the case where no APN was submitted before payment was made by the authorised dealer, or

(ii) amending the APN previously submitted and also indicating the BGA reference number in the case where an APN had been submitted but the APN reference number could not be verified.

(b) An importer may despite rule 120.13.03(d) when amending a previously submitted APN in terms of paragraph (a)(ii), amend information indicated on such APN to reflect current circumstances, subject to any restrictions on key information fields indicated on the APN.”.