Jacobsens: Customs News Bulletin

Latest News

FUEL AND ROAD ACCIDENT FUND LEVY GOING UP (AGAIN)

Despite the protest marches against the fuel price hikes in 2018, South Africans will be paying more for petrol and diesel with effect from 3 April 2019 due to increases in the fuel and road accident fund levy.

Petrol and diesel will also become subject to increases of 9 cents per litre and 10 cents per litre due to the imposition of a carbon tax on fuel which will be implemented on 5 June 2019.

The Automobile Association believes that the additional tax increases will increase the burden on all consumers, who will already be paying at least more than 50 cents per litre more for their fuel at the pump in March 2019.

These forecasts are based on an earlier statement by the AA based on the unaudited mid-month fuel price data released by the Central Energy Fund.

According to the AA, consumers are currently paying R5,34 towards indirect taxes on every litre of petrol bought, and R5,19 on every litre of diesel. This comprises R3,37 (petrol) and R3,22 (diesel) for the General Fuel Levy, R1,93 for the RAF levy (for petrol and diesel) and 4 cents per litre for customs and excise duties.

The AA said that the increases announced in the Budget Speech will mean that with effect from 3 April the total cost of the levies alone will rise to R5,63 for petrol and R5,49 for diesel.

The Automobile Association added: "These increases will comprise anything between 40 and 42 percent of every litre of fuel bought depending on the type of fuel used and where it is purchased [inland or at the coast]. This represents a substantial portion of the fuel price and, in our opinion, adds to the burden especially poorer consumers carry directly through paying these taxes, and indirectly through the costs passed on to them by manufacturers and retailers who also have to pay these taxes."

The Automobile Association is very concerned about the introduction of the carbon tax on fuel and believes that it is unfair because "South Africans will now be paying an emissions tax on inferior quality fuel despite not having access to higher quality fuels which are available in many other markets in the world."

Minister Mboweni mentioned that "SARS is being fixed", and proposed the following in terms of the administration and its customs and excise duties and taxes:

Based on the recommendations of the Commission of Judge Nugent:

1. A new SARS Commissioner will be appointed in the coming weeks.
2. A new Illicit Economy Unit launched in August 2018 will fight the trade in illicit cigarettes and tobacco.
3. The large business unit was a major source of tax collection, and its skill was renowned. This unit will be reintroduced and will be formally launched in early April 2019.
4. SARS is strengthening its IT team and its IT systems.
5. Information sharing agreements with allies will help fight cross-border tax evasion schemes.

The proliferation of duty-free shops will also be reviewed.

Excise duties on alcohol and tobacco will be increased, as follows:

- The excise duty on a can of beer goes up by 12 cents to R1.74
- A 750ml bottle of wine will have an excise duty of R3.15, which is 22 cents more
- The duty on a 750ml bottle of sparkling wine goes up by 84 cents to R10.16
- The duty on a bottle of whiskey will go up by R4.54 to R65.84
- A pack of 20 cigarettes goes up by R1.14 cents to R16.66
- The excise duty on a typical cigar will go up by about 64 cents to R7.80. (There will be no change to the excise duty on sorghum beer).

Fuel levies will increase by 29 cents per litre for petrol and 30 cents per litre for diesel

The Minister mentioned that the Road Accident Fund levy increase will not be enough to match the Fund's R215 billion liability. The Department of Transport was thus urged to quickly re-submit the Road Accident Benefit Scheme Bill for Parliament's urgent consideration as this will help to stabilise fuel prices.

Customs Tariff Applications and Outstanding Tariff Amendments

The International Trade Administration Commission (ITAC) is responsible for tariff investigations, amendments, and trade remedies in South Africa and on behalf of SACU.

***Tariff investigations include:** Increases in the customs duty rates in Schedule No. 1 Part 1 of Jacobsens. These applications apply to all the SACU Countries, and, if amended, thus have the potential to affect the import duty rates in Botswana, Lesotho, Namibia, Swaziland and South Africa.*

Reductions in the customs duty rates in Schedule No. 1 Part 1. These applications apply to all the SACU Countries, and, if amended, thus have the potential to affect the import duty rates in Botswana, Lesotho, Namibia, Swaziland and South Africa.

Rebates of duty on products, available in the Southern African Customs Union (SACU), for use in the manufacture of goods, as published in Schedule No. 3 Part 1, and in Schedule No. 4 of Jacobsens. Schedule No. 3 Part 1 and Schedule No. 4, are identical in all the SACU Countries.

Rebates of duty on inputs used in the manufacture of goods for export, as published in Schedule No. 3 Part 2 and in item 470.00. These provisions apply to all the SACU Countries.

Refunds of duties and drawbacks of duties as provided for in Schedule No. 5. These provisions are identical in all the SACU Countries.

***Trade remedies include:** Anti-dumping duties (in Schedule No. 2 Part 1 of Jacobsens), countervailing duties to counteract subsidisation in foreign countries (in Schedule No. 2 Part 2), and safeguard duties (Schedule No. 2 Part 3), which are imposed as measures when a surge of imports is threatening to overwhelm a domestic producer, in accordance with domestic law and regulations and consistent with WTO rules.*

To remedy such unfair pricing, ITAC may, at times, recommend the imposition of substantial duties on imports or duties that are equivalent to the dumping margin (or to the margin of injury, if this margin is lower).

***Countervailing investigations** are conducted to determine whether to impose countervailing duties to protect a domestic industry against the unfair trade practice of proven subsidised imports from foreign competitors that cause material injury to a domestic producer.*

***Safeguard measures,** can be introduced to protect a domestic industry against unforeseen and overwhelming foreign competition and not necessarily against unfair trade, like the previous two instruments.*

***Dumping** is defined as a situation where imported goods are being sold at prices lower than in the country of origin, and also causing financial injury to domestic producers of such goods. In other words, there should be a demonstrated causal link between the dumping and the injury experienced.*

The International Trade Commission of South Africa (ITAC) also publishes Sunset Review Applications in relation to anti-dumping duty in terms of which any definitive anti-dumping duty will be terminated on a date not later than five years from the date of imposition, unless the International Trade Administration Commission determines, in a review initiated before that date on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, that the expiry of the duty would likely lead to continuation or recurrence of dumping and material injury.

There were no applications for amendments to the SACU Common External Tariff at the time of publication.

List 10/2018 was published under Notice No. 802 of 2018, in *Government Gazette* No. 42100 of 14 December 2018.

On 1 February 2019, ITAC published a document titled "GUIDELINES PERTAINING TO A TEMPORARY REBATE PROVISION WHICH PROVIDES FOR REBATE OF THE FULL ANTI-DUMPING DUTY ON BONE-IN CUTS OF THE SPECIES *GALLUS DOMESTICUS*, FROZEN, CLASSIFIABLE IN TARIFF SUBHEADING 0207.14.9 AND IMPORTED FROM OR ORIGINATING IN THE UNITED STATES OF AMERICA .. " under Notice No. 54 of 2019 which was published in *Government Gazette* No. 42203.

Customs Tariff Amendments

With the exception of certain parts of Schedule No. 1, such as Schedule No. 1 Part 2 (excise duties), Schedule No. 1 Part 3 (environmental levies), Schedule No. 1 Part 5 (fuel and road accident fund levies), the other parts of the tariff are amended by SARS based on recommendations made by ITAC resulting from the investigations relating to Customs Tariff Applications received by them. The ITAC then investigates and makes recommendations to the Minister of Trade and Industry, who requests the Minister of Finance to amend the Tariff in line with the ITAC's recommendations. SARS is responsible for drafting the notices to amend the tariff, as well as for arranging for the publication of the notices in Government Gazettes.

Parts of the South African Tariff are not amended resulting from ITAC recommendations.

These parts (for example Parts of Schedule No 1 other than Part 1 of Schedule No. 1), must be amended through proposals that are tabled by the Minister of Finance, or when the Minister deems it expedient in the public interest to do so.

Once a year, big tariff amendments are published by SARS, which is in line with the commitments of South Africa and SACU under international trade agreements.

Under these amendments, which are either published in November or early in December, the import duties on goods are reduced under South Africa's international trade commitments under existing trade agreements.

In *Government Gazette* No. 42232 of 15 February 2019, a safeguard duty of 50.54% was imposed on certain screws fully threaded with hexagon heads as recommended by ITAC Report 596.

Two more notices were published in *Government Gazette* 42241 of 22 February 2019 to reduce the safeguard duty to 45,61% on 2 August 2021, after which it will expire.

Customs Rule Amendments

The Customs and Excise Act is amended by the Minister of Finance. Certain provisions of the Act are supported by Customs and Excise Rules, which are prescribed by the Commission of SARS. These provisions are numbered in accordance with the sections of the Act. The rules are more user-friendly than the Act, and help to define provisions which would otherwise be unclear and difficult to interpret.

Forms are also prescribed by rule, and are published in the Schedule to the Rules.

There were no Rule amendments at the time of publication. The latest rule amendments were published in *Government Gazette* No. 42218 of 8 February 2019. (Refer to the Bulletin of 8 February 2019 for more information).

The SARS reference number for the last Rule amendment was DAR 180.

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