

Greetings, attached is our February 2009 'TradeSmart' newsletter for your information.

South Africa
Tax

TradeSmart

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This month we turn our focus to the tax proposals stemming from the Minister of Finance's Budget Speech on 11 February 2009, and specifically those changes and proposals relating to Customs and Excise.

Budget 2009

Specific Excise Duties ("Sin Taxes")

The annual changes to the sin taxes were expected with an increase in the rates of excise duties payable on tobacco products and alcoholic beverages in line with annual trends and inflation. These duty amendments are effective from **11 February 2009**.

Fuel Taxes

The fuel levy on petrol increased 18% on prior year, 21% on diesel and 37% on the RAF. This has resulted in the total taxes on petrol equating to 34% and diesel 31% in relation to the pump prices. These are substantial increases and well above inflation. The explanation given for these increases are to limit fuel consumption, road congestion and environmental impact. Further to promote the use of public transport. We feel that the Minister missed a trick here, as this is an area where relief could have been given to the public, especially in light of the tough economic times. The above proposals will become effective from **1 April 2009**.

Ad Valorem Excise Duties

This was the one area where we saw an interesting change. The existing ad valorem (luxury) excise duties on motor vehicles was reduced to allow for an additional ad valorem carbon dioxide (CO₂) emissions tax as an environmental criterion from **1 March 2010**. The net impact is an increase on ad valorem duties payable.

While the "luxury" ad valorem excise duty rate on the sale of new motor vehicles will be reduced resulting in an effective tax saving of between 0.30 and 2.50 per cent on the retail selling price (RSP), an additional CO₂ emission ad valorem duty will now be calculated on the amount of CO₂ emission in grams per kilometre (g/km) on light motor vehicles imported and manufactured locally.

The emission tax will result in an effective tax increase of between 0.08 and 6.8 per cent on the local RSP.

The local excise tax base, against which the luxury and emission tax rates are applied, remains the same at the recommended retail selling price less the motor vehicle industry dispensation adjustment of 28 per cent.

For example, the Ad valorem on an imported Fiat Palio II Vibe 5, with a RSP of R 100 800 and a CO₂ g/km emission of 242, will increase from R 2 828 per vehicle to R 10 318, resulting in an effective 9 per cent increase on the Fiats RSP. A more carbon friendly vehicle like the imported Toyota Prius, with a RSP of R 292 500 and a CO₂ g/km emission of 123, will see a decrease in ad valorem duty from R 24 855 per vehicle to R 16 658 (An effective decrease of 4 per cent on the RSP).

General Customs and Excise Amendments

- **Customs dispute resolution:** Amendments to align remission and mitigation provisions within dispute resolution to ensure a single procedure is followed. Other amendments will be considered taking into account the results of a review by SARS of its dispute resolution processes.
- **Warehouse policies and procedures:** Amendments will be considered to provide for simplified clearance of goods from licensed warehouses to assist with the administration of ship stores.
- **Advance passenger Information (“API”):** Following the enactment of the empowering provisions for compulsory the electronic furnishing of API to SARS, SARS anticipates consequential amendments might be necessary following the implementation.
- **Customs transit procedures:** Amendment will be considered for improved provision for interruptions to goods in transit.
- **Customs enforcement at the border:** In order to beef up the Customs Border Control Unit, the Customs Act will be amended to provide for powers of officers to patrol and carry out surveillance, to question and search persons, for equipment and facilities to be used in detecting illicit goods concealed on persons.
- **Treatment of duty free Vat exempt goods:** Customs Act to be amended to provide for the clearance of duty free goods which are VAT exempt under rebate under Schedule 4.
- **2010 FIFA World Cup:** Amendments relating to the FIFA World Cup rebate item will be considered to provide for procedural or administrative matters as a result of the tournament and its duration.
- **Customs modernisation:** In support of the rapidly changing trade environment, improved use of technology and third-party information to authenticate data and reduce the need for supporting documentation, work is continuing to modernise customs.

Activities at ITAC

13 February 2009

The International Trade Administration Commission (ITAC) notified importers that the rate of customs duty (general / EU / SADC / EFTA) on **sugar** has been increased from free of duty to 6c/kg.

ITAC reviewed the existing anti-dumping duties on **stranded wire, rope and cables of iron or steel** imported from China, Germany, Korea and the United Kingdom (UK). Nantong Wire Rope Group Co Ltd in China previously had a lower duty rate, while Kiswire Ltd, DSR Wire Corporation (in Korea) and Bridon International Limited (in the UK and Germany) previously had a zero rate of duty.

ITAC subsequently amended the anti-dumping duties by splitting the products into two categories, namely “ropes and cables of iron and steel” and “stranded wire of iron and steel” and increased the applicable rate of duty on imports from the same countries as before. Bridon International Limited and Pfeifer Drako (in Germany) maintained a zero rate of duty.

In terms of a High Court Interdict, the current duty applicable to Bridon UK must remain at 42.1%, pending the finalisation of a High Court review application on the recommendations of ITAC regarding the anti-dumping duties on products from Bridon UK.

ITAC similarly reviewed the countervailing duties on **ropes and cables** of iron and steel as well as **stranded wire** of iron and steel, imported from India. Previously Usha Martin Limited had a lower rate of duty.

ITAC reduced the countervailing duty on both products imported from India. Apar Industries now has a zero rate of duty.

20 February 2009

The descriptions of rebate items 310.09 and 311.33 have been amended to assist in aiding the competitiveness of the planned local production of **disposable napkins for babies**.

27 February 2009

New tariff subheadings have been created to allow for the importation of printed **lay-flat seamless tubing** made from polymers of ethylene and **portable plastic toilets** weighing less than 5kg and with a removable waste tank with a capacity not exceeding 20 litres at a free rate of customs duty.

ITAC issued new **import control guidelines** and provided definitions for “second-hand goods” and “used goods”. Importers should familiarise themselves with the products listed and ensure that the products they import are not now restricted by means of a permit as a result of the changes.

Rule amendments

On **20 February 2009** the South African Revenue Service (SARS) inserted in item 200.03 of the Schedule to the Rules of the Customs and Excise Act No 91 of 1964 (the Customs Act) the following places where **unpolished diamonds** may be entered for import from or export to a BLNS country (the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia or the Kingdom of Swaziland):

- Johannesburg
- Kimberley
- Kopfontein
- OR Tambo International Airport
- Oshoek
- Van Rooyens Hek
- Violsdrift

This amendment is effective as from 1 November 2008.

On the same day SARS amended rule 46A2.01(d)(ii)(aa) of the Customs Act and issued a notice that the **European Community was enlarged to include Bulgaria and Romania**, which means that the full preferential trade benefits under the SA/EU Protocol on Trade have been extended to these two countries, **with retrospective effect from 1 January 2007**.

The effect of this will be that qualifying products originating from Bulgaria or Romania may be imported into the Republic under the EU preferential customs duty rates upon presentation of a EUR1 certificate of origin or invoice declaration. Qualifying products originating in the Republic will equally benefit from preferential customs duties upon presentation of a EUR1 Certificate of origin or invoice declaration issued here and presented in those countries.

Application for the retrospective issuance of certificates of origin for qualifying products exported to Bulgaria or Romania as from 01 January 2007 have to be submitted to the SARS Customs Branch Office where the export declarations were processed.

Applications for refunds of customs duties for qualifying products imported from Bulgaria or Romania as from 01 January 2007 should be made in the usual manner subject to the legal requirements for refunds. In addition, applicants must include the original retrospective EUR1 Certificate of Origin or invoice declaration issued in Bulgaria or Romania in their refund applications.

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