

## Customs Flash

### Sugar tax implementation in South Africa

#### Introduction

On 25 October 2017 the Minister of Finance of South Africa introduced, during his mid-term budget policy statement, amendments to the Customs and Excise Act, 91 of 1964 (the Act), to enable the implementation of 'sugar tax' in South Africa.

The amendments will come into operation, and the tax will therefore be implemented, with effect from 1 April 2018.

A first set of governing rules has been published, and the relevant forms to be used by prospective licensees will be published on 10 November 2017 by the South African Revenue Service (SARS) for comment by 30 November 2017.

It is proposed in the governing rules that entities manufacturing less than 50,000 liters of sugary beverages per annum will be regarded as 'non-commercial manufacturers'. These manufacturers will only have to register (not apply for a license) with SARS and will not have to provide surety at the time of registration. This proposed rule seems to imply that such manufacturers will also be exempted from paying the levy.

#### What does this mean for you?

Depending on the volume of manufactured sugary beverages, a levy may become due. Notable aspects of the amendments to the Act are listed below.

#### Levy structure

- The levy will be payable, in addition to any applicable customs duty, on specified sugary beverages imported into or manufactured in the Republic of South Africa.
- Any reference to sugar content means both the intrinsic and added sugar and other sweetening matter contained in the product.

- For the purposes of calculating the levy-amount payable, the sugar content will be:
  - as stated on the food labelling of the sugary beverage as prescribed in terms of the Foodstuffs, Cosmetics and Disinfectants Act, No. 54 of 1972;
  - as certified on a test report obtained and retained from a testing laboratory recognized by the National Regulator for Compulsory Specifications of South Africa; or
  - (if neither of the above is provided) deemed to be 20 grams per 100ml.
- In the case of powder and liquid concentrates or preparations for the making of beverages, the sugar content must be calculated based on the total volume of the prepared beverage when mixed or diluted according to the manufacturer's product specifications.

### **Specified sugary beverages and levy rate**

The levy will apply to the following sugary beverages and will be payable at the rate of 2.1c per gram of the sugar content that exceeds 4 grams per 100ml:

- Cocoa powder, containing added sugar or other sweetening matter;
- Specified malt extracts;
- Syrups and other concentrates or preparations for making beverages;
- Drinking straws, containing flavoring preparations;
- Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavors, and other non-alcoholic beverages (excluding fruit or vegetable juices);
- Non-alcoholic beer (excluding beer in collapsible plastic tubes and with a basis of milk).

### **Rebates, drawbacks and refunds**

In principle, but not necessarily, any rebate, drawback or refund of customs duty and/or excise duty generally provided for excisable products should apply *mutatis mutandis* to health promotion levy goods.

### **Product accounting and levy assessment**

Although not explicitly stated in the rules yet, SARS has advised that these products will be accounted for, and the applicable levy assessed, similar to other levies currently administered by the excise department of SARS, i.e.

- Accounting for opening stock, receipts, manufacture, removal (local, BLNS (Botswana, Lesotho, Namibia and Swaziland) and export) and closing stock; and
- Assessment of the levy payable on removal to the South African market for home consumption and payment of duty.

## What to do?

When importing sugary beverages to South Africa as of 1 April 2018 organizations may face a sugar tax levy and/or need to be registered with SARS. Although the amendments are not yet confirmed, organizations are advised to monitor developments and make preparations in the event that the 'sugar tax' is implemented.

We will keep you updated on progress.

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