



The South African Revenue Service
Per E-mail

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Proposed Solution for Drawback Item 536.00 to be updated to include provisions and utilized for drawback claims on OEM exports

This document contains an overview of the current challenge that the South African automotive industry is faced with insofar as the CPC codes to be used on export declarations for OEM transactions and its accompanying constraints are concerned as well as our proposed solutions thereto. The purpose of this document is to solicit a response in writing from SARS, confirming the adoption of a solution to and receiving confirmation of the CPC to be used whereby more than one item is being applied for on against drawback item 521.00 for the OEM and related industries.

The content of the document is as follows: **(1) Problem Overview, (2) Information and Discussion Topics, (3) Proposal, and (4) Conclusion.**

1. PROBLEM OVERVIEW

As provided for in policy document SC-CF-04, only one CPC can be used per export SAD 500, however where there is more than one drawback of a specific duty to be applied for in terms of the 5th and 6th schedule this becomes a challenge. OEM export in terms of H.64:00 for excise purpose and specific excise drawback in terms of Schedule 6. Supplier who supplies manufactured parts form raw material to the OEM can apply for drawback in terms of item 521.00 of Schedule 5 with ceded SAD 500 received from the OEM.

The problem is that the vehicles is not exported with CPC H 63.11 and endorsed with rebate item 521.01.00.01.08 as required in terms of the drawback policy, therefore the export do not qualify for drawback purposes. OEM cannot use CPC H 63.11 as require by the supplier as this will disqualify the export for OEM claim purposes.

A related problem, on the export side, is that it is not possible to pass a replacement export declaration using processing code 5, whereas it is a legal requirement for the SARS system to accommodate same, inter alia reading Note 8 to Schedule 5.

There are a large number of traders that are losing substantial revenue, and this does not support the strategic objective of supporting trade facilitation.



8. Notwithstanding any provision to the contrary in this Schedule, for the purposes of items 501.00 to 521.00 in Part 1, items 522.02 to 522.06 in Part 2 and items 550.00 to 551.00 of this Schedule, a refund or drawback of duty as contemplated in section 75(1)(c), 54D or 54J, may be granted if the customs procedure code (CPC) applicable to the export as specified in the list published on the SARS website referred to in rule 00.06 and the relevant refund or drawback item are reflected on the export bill of entry or other export declaration: Provided that a refund or drawback may be granted in exceptional circumstances where-
- (a) the Commissioner is satisfied on good grounds shown, that -
 - (i) the refund or drawback item number has been -
 - (aa) omitted from the export bill of entry or declaration in error or due to unforeseeable circumstances; or
 - (bb) reflected incorrectly on the export bill of entry or declaration; or
 - (ii) the CPC had been reflected incorrectly on the bill of entry or declaration;
 - (b) the mandatory information required on the bill of entry is completed or corrected post export; and

2. INFORMATION AND DISCUSSION TOPICS

Annex 14 and Annex 16 to SC-CF-04 has reference viz.: SC-CF-04-A14 CPC Combination Matrix & SC-CF-04-A16 Procedure Measure Matrix. Drawbacks.

SARS allows and provides for clients to apply for a Customs refund or drawback on duties and taxes within a specific time frame as prescribed in Sections 75 and 76, together with Section 76B of the Customs and Excise Act 91 of 1964 hereinafter referred to as “The Act” Drawbacks are paid in respect of specified materials used in the manufacture, processing, packing, etc., of goods that are subsequently exported.

Duties are only payable upon goods consumed within the SACU (South African Customs Union) region. If goods are therefore imported and then exported outside of SACU, the duties can be claimed back. This concept is known as a drawback. For example, a simple drawback (item 522.00) relates to a refund of duties on goods imported, which are applicable when the goods are exported in the same format. For goods to qualify under this drawback, both the importer and exporter must be registered with SARS and subsequently notify SARS before the export occurs (known as an export under supervision). Furthermore, SARS can inspect the goods before export to determine if the goods claimed to be exported are, in fact, imported. Once the inspection has been completed (or no inspection was requested), the export and drawback may be lodged to the closest regional customs office.

A more complex drawback (relating to item 521.00) refers to a refund on duties on a raw material, which is processed further (value-added) before being exported outside the SACU region. To be eligible for the drawback benefit, the importer and exporter must be registered with SARS. In addition, the importer must apply to ITAC (International Trade Administration Commission of South Africa) for a drawback permit before the drawback application may be considered. The size of the drawback equals the amount of duty contained in the product that is finally exported outside of SACU. The permit will confirm the volume that can be imported with the associated duties to be claimed back as drawbacks. Once the volume stipulated on the permit has been exhausted, a new permit must be applied.



We discuss the following CPC's 62.11, 63.11, 64.00, under CPC 62.11 as they specifically related to multiple Drawback items under the 5th Schedule. We cannot apply item 521.00 as the goods were not used in the manufacture or "inward processing" using CPC 62.11 as this provides for outright export of 'Home Use' goods with intention to claim a refund under the 5th Schedule. On the other hand, CPC 64.00 provides for the Outright Export of 'locally produced excisable goods', with the intention of claiming a refund under the 6th Schedule.

Taking an introspective view into CPC 63.11, used under 501.00 to 521.00 "outright export of compensating products after "Home Use" and Inward Processing with the intention of claiming a drawback under the 5th schedule, there are certain components used in the manufacture of goods that would also qualify for an environmental or other levy (as may so be applicable) drawback, albeit this is not provided for or stipulated in the 5th schedule or 6th schedule and does not correspond to the CPC provide viz.: 63.11

This creates a risk for the Importer as a substantial amount of money could potentially be lost to revenue due to the use of an incorrect CPC and there is currently no clear distinction in the respective schedules or CPC that allows for the processing of multiple drawback duty type claims on a single shipment i.e. (excise levies, environmental levies, etc. together with the import duty)

521.00	GENERAL				
521.00	00.00	01.00	08	Goods used in the manufacture, processing, finishing, equipping or packing of any goods exported: Provided that- (1) no drawback in terms of this item shall be granted unless the claim in respect of such drawback is accompanied by and complies with the provisions of a permit issued by the International Trade Administration Commission; (2) the said permit may specify the nature, quantity or value of the goods to which the drawback relates, the nature, quantity or value of the goods in the manufacture, processing, finishing, equipment or packing of which the first-mentioned goods are used, the period during which any such goods shall be imported or exported or any restrictions of whatever nature ; and (3) the Commissioner may, exempt any person to whom such permit has been issued or any goods to which this item is applicable from the provision of any Note relating to Part 1 of Schedule No. 5.	Full duty less Part 2 of Sch
521.00	44.15	01.04	41	Wooden packing cases, boxes, crates, drums and similar containers, unassembled, used as packing for exported goods	Full duty
521.00	44.16	01.04	48	Casks of a capacity of less than 180 litres, used as packing for exported goods	Full duty

H - Export for Specific Refund	62	11	522.02; 522.03; 522.04; or 522.06	Outright export of 'Home Use' goods with intention to claim a refund under the 5th Schedule.	EIG
H – Export for Drawback	63	11	501.00 to 521.00; 550.00 to 551.00	Outright export of 'compensating products after 'Home Use' and Inward Processing with the intention of claiming a drawback under the 5th Schedule.	EIG
H – Export and refund on Excise	64	00	Schedule 6 item	Outright Export of 'locally produced excisable goods', with the intention of claiming a refund under the 6th Schedule.	ELG



5.22 Previous Procedure (PPC)

REPRESENTATION: Previous Procedure Code

WCO3 PATH:

Declaration.GoodsShipment.GovernmentAgencyGoodsItem.GovernmentProcedure.Current Code (161)

FIELD TYPE and LENGTH: N 2

Description:

The code which denotes the previous procedure of the goods to be declared.

Operations Ref:

SC-CF-04-A14 – CPC Combination Matrix

Location:

SAD Box 37B – Customs Procedure Codes (CPC): Previous Procedure (PPC)	CD1: Consignment Line Details > Consignment Details > Previous Procedure Code
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Rules and Usage:

- If a previous CCD was made the code used at that time must be inserted.
- If no previous CCD was made the code “00” must be inserted.

NORM	INCOMP	PROV	SUPPLM	ORIGINAL
AMEND	REPLACE	CANCEL	IMPORT	EXPORT

5.23 Procedure Measure [Rebate Code]

REPRESENTATION: Procedure Measure Code

WCO3 PATH:

SET

Declaration.GoodsShipment.GovernmentAgencyGoodsItem.AdditionalCode.AdditionalCode Type (000) = PMR (Procedure Measure)

MAP to

Declaration.GoodsShipment.GovernmentAgencyGoodsItem.AdditionalCode.AdditionalCode ID^{DMR}

FIELD TYPE and LENGTH: N 11

Description:

Denotes the Schedule 3, 4 or 5 item which is associated to the Customs procedure combination. A procedure measure indicates the extent of a trade remedy which in terms of:

- Schedules 3 and 4 rebates the duty payable at time of importation; or
- Schedule 5 specifies a drawback or refund.

Operations Ref: SC-CF-04-A16 – Procedure Measure Matrix

Location:

SAD Box 44F – Additional Information/Produced Documents: Rebate Code	CD1: Consignment Line Details>Consignment Details>Procedure Measure
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Rules and Usage:

- CPC A 15** with respective previous procedure codes on an import clearance, the Rebate Item can only refer to Schedule 4, namely item 412.07.
- CPC A 14** with respective previous procedure codes on an import clearance, the Rebate Item can only refer to Schedule 4, namely those specified in SC-CF-04-A16.



- c) **CPC K 85** with respective previous procedure codes on an import clearance, the Rebate Item can only refer to Schedule 3, namely those specified in SC-CF-04-A16.
- d) **CPC H 62-11** to a clearance for export, the appropriate Schedule 5 item – **522.02, 522.03, 522.04, or 522.06** whichever applicable must be entered in this field. The goods must be available for possible Customs inspection.
- e) **CPC H 63-11** to a clearance for export, the appropriate Schedule 5 item – **501.00 to 521.00, and 550.00 to 551.00** where applicable must be entered in this field.
 - i) Items **501.00 to 520.00**: No permit is required, but the field is mandatory.
 - ii) Item **521.00**: An ITAC permit is only required in support of the drawback, i.e. it is not required to be reflected on the export clearance. The permit may be issued subsequent to the original export.
- f) **CPC H 62-11**, to a clearance for export, the appropriate Schedule 5 item – **522.02, 522.03, 522.04, or 522.06** where applicable must be entered in this field.
- g) Import: If a rebate item is declared on any Excise CPC (E 45/E 46/E 47) the CCD will be rejected.

NORM	INCOMP	PROV	SUPPLM	ORIGINAL
AMEND	REPLACE	CANCEL	IMPORT	EXPORT

3. REQUEST AND PROPOSED SOLUTIONS

- a) Our request therefore is for SARS to provide a written response indicating that the OEM will not forfeit any duty or levy claimable as drawback if one or the other CPC is used and provide written directive on how the OEM should proceed in this instance, alternatively create new CPC's or amend the current CPC's or schedule item numbers to explicitly include and state very precisely the types of duties that an OEM can apply for and of course our follow on is to extend this submission to other industries. As mentioned in the discussion topic above, a related problem, on the export side, is that it is not possible to pass a replacement export declaration using processing code 5, whereas it is a legal requirement for the SARS system to accommodate same, *inter alia* reading Note 8 to Schedule 5.
- b)
 - (i) Our proposed solution is thus for an amendment to SC-DT-C-13 Refunds and Drawbacks External Policy, Sch5 Item No. 536.00, to make provisions for drawback on duties against materials used in the manufacture of vehicles subsequently exported (example: Imported Paint used on an automotive vehicle that is exported) to be granted, thus no system enhancements are necessary. This is also a cost-effective option.

2.3.5 Refund item 536.00 (Motor vehicle parts and accessories)¹

¹ SC-DT-C-13 Drawbacks and Refunds External Policy



a) Refund item 536.00/02.00 - Goods of any description as permitted by ITAC on which duty has been paid for use in the manufacture of motor vehicles provided proof is submitted to the Commissioner six (6) months after the date of issue of the permit that such motor vehicle complies with TH 8702.10.10.

b) Refund item 536.00/00.00/03.00 and 04.00 – APDP: Automotive components on which duty has been paid and which have been supplied to a vehicle manufacturer for use as original equipment components in the manufacture of specified vehicles as defined in Rebate Item 317.03 or 317.07 or which have been incorporated in original equipment components supplied to vehicle manufacturers provided.

i) Such component manufacturer or supplier can produce proof by means of copies of bills of materials reflecting the actual number of imported automotive components used in the manufacture of specific original equipment components supplied;

ii) There is proof of the quantity of each original equipment component supplied to a vehicle manufacturer;

iii) The claim is substantiated by a statement from the vehicle manufacturer to whom such components were supplied with specific reference to the part number, description and quantity received, and the statement from the vehicle manufacturer is certified by a Customs Officer; and

iv) The imported component value has been declared on a Form C1 (Declaration Certificate of Imported Component Values in respect of components in terms of the notes to the ITAC Regulations) and it can be produced on request.²

4. CONCLUSION

This document contained an overview of the CPC challenges re drawback claims on export transactions (OEM industry) and its accompanying constraints as well as the suggested solutions thereto. The need to for industry to receive a written response from SARS as a matter of urgency, providing clarity on the CPC's to be used and of course the process to be followed to ensure that no levies or duties are forfeited to revenue because of an incorrect CPC. We stress as well that this issue is not endemic to the OEM sector and therefore request a bilateral with SARS to discuss further, having said that though and taking into consideration the rapid developments of late regarding the APDP Phase 2 and the high monetary value of levies and duties paid or payable to and subsequently claimable back from SARS via Drawback, it is essential to receive the written response in reference as a matter of urgency. We trust that the above meets with your approval and we remain at your disposal for further engagement as may so be required. We remain committed to working with SARS in our collaborative efforts to improve compliance and support trade facilitation.

Best Regards

Devlyn Naidoo
Executive: SARS & OGA
SAAFF

