

(7 July 2017– to date)

CUSTOMS AND EXCISE ACT 91 of 1964

Government Notice 1148 in Government Gazette 866 dated 31 July 1964. Commencement date:

1 January 1965 [Proc. R340, Gazette No. 970, dated 11 December 1964]

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SA

GUIDELINES PERTAINING TO REBATE OF THE DUTY ON REBATE PROVISIONS IN TERMS OF THE CUSTOMS AND EXCISE ACT

General Notice 511 in Government Gazette 40965 dated 7 July 2017. Commencement date:

7 July 2017.

Interested parties are hereby notified that all applications submitted for permits in terms of the following rebate provision/s will be dealt with according to the guidelines as described in this notice and must be submitted in the format as set out in the application forms in this notice, where applicable.

For the convenience of all interested parties, the following guidelines in respect of all the rebate provisions subject to publication are attached to this notice as indicated in the Schedule hereunder:

The questionnaires and application forms related to these rebate provisions listed hereunder must be obtained from the International Trade Administration Commission of South Africa (ITAC), Private Bag x 754, Pretoria.

Note: Permits in relation to rebate provisions subject to a permit condition should be applied for and received before the goods concerned are shipped.

Schedule of Rebate Provisions

DESCRIPTION OF REBATE PROVISION	ANNEXURE
Guidelines, rules and conditions pertaining to fabrics imported in terms of rebate items 320.01/5407.61/01.06, 320.01/5903.20.90/02.08 and 320.01/5907.00.90/02.08 for the manufacture of upholstered furniture	Annexure 1.1

Prepared by:

ANNEXURE 1.1**GUIDELINES, RULES AND CONDITIONS PERTAINING TO FABRICS IMPORTED IN TERMS OF REBATE ITEMS 320.01/5407.61/01.06, 320.01/5903.20.90/02.08 AND 320.01/5907.00.90/02.08 FOR THE MANUFACTURE OF UPHOLSTERED FURNITURE**

Interested parties are hereby notified that all applications submitted for permits in terms of rebate items 320.01/5407.61/01.06, 320.01/5903.20.90/02.08 and 320.01/5907.00.90/02.08 will be dealt with according to the guidelines as described in this notice and must be submitted in the format as set out in the application forms where applicable. For the convenience of all interested parties, the following guidelines in respect of the above mentioned rebate items subject to publication are attached to this notice. The application forms related to the rebate items mentioned above are obtainable from ITAC's website at www.itac.org.za and from ITAC, Block E: thedti Campus, 77 Meintjies Street, Sunnyside, Pretoria.

Note: In terms of section 26(4) of the International Trade Administration Act, 71 of 2002, the Commission may, *inter alia*, require an applicant to provide additional information in respect of the application. The conditions attached to and the information requested below reflects the minimum requirements, which ITAC would apply to evaluate an application under this rebate provision.

1. Applicants must register with South African Revenue Service (SARS) as users of rebate provisions 320.01/5407.61/01.06; 320.01/5903.20.90/02.08 and 320.01/5907.00.90/02.08 used for the manufacture of upholstered furniture, and they must acquaint themselves with the requirements of SARS.
2. Applications for permits must be addressed to the International Trade Administration Commission (ITAC), Private Bag X 753, Pretoria or delivered by hand to the DTI Campus, (Block E), 77 Meintjies Street, Sunnyside, Pretoria, 0002.
3. Applications for permits must be submitted according to the requirements as set out in the attached application form. If the space provided in the application form is insufficient, please use the format of the application form to submit the requested information.
4. Qualifying fabrics under rebate item 320.01 are as follows:
 - 320.01/5407.61/01.06: Woven fabrics containing 85 per cent or more by mass of non-textured polyester filaments, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit, for use in the manufacture of upholstered furniture classifiable in tariff heading 94.01.
 - 320.01/5903.20.90/02.08: Other textile fabrics commonly known as imitation leather laminated with polyurethane, in such quantities, at such times and subject to such conditions as the

International Trade Administration Commission may allow by specific permit, for use in the manufacture of upholstered furniture classifiable in tariff heading 94.01.

- 320.01/5907.00.90/02.08: Textile fabrics commonly known as imitation leather backed with bonded leather, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit, for use in the manufacture of upholstered furniture classifiable in tariff heading 94.01.

5. If all the information requested in the application form is not submitted, the application will be deemed deficient. The application will not be considered, and it will be returned to the applicant.
6. At least fourteen (14) working days should be allowed for the processing of applications and the issue of permits, provided that all necessary information which renders the application duly completed has been submitted to ITAC.
7. Each rebate permit issued defines the period during which the goods concerned can be cleared under the rebate item. The rebate permit will only be valid for a period of twelve (12) months, commencing from the date on which the permit is issued. The permit may be issued for a shorter period as requested by the applicant, or as decided upon by ITAC.
8. If an applicant intends to apply for a subsequent permit for which the period of validity should commence on the day after the expiry date of the permit issued in terms of paragraph 7, this must be clearly indicated in a new application. The application must be submitted to ITAC at least two weeks prior to the expiry date of the previous permit as permits cannot be issued with retrospective effect.
9. Rebate permits issued will be subject to the following conditions and reciprocities:
 - 9.1. There should be an intention by the applicant(s) to “manufacture end products as described in the rebate provision” to such an extent that there is a visible permanent change in the fabrics, and a change in tariff heading;
 - 9.2. The applicant (s) must be able to prove that they have sufficient manufacturing capacity to process the volume of fabric internally for which it has applied for. ITAC will, if it deems it necessary, physically inspect the equipment and manufacturing process prior to the issue of a rebate permit.
 - 9.3. The applicant must provide a formal letter on the applicant’s business letter head confirming that the applicant complies with labour laws, regulations and agreements gazetted by the Minister of Labour.
 - 9.4. An applicant must, together with his application submit proof of registration and a Certificate of Compliance obtainable from the relevant Bargaining Council.

- 9.5. The applicant must submit a SARS PIN to enable ITAC to verify the Applicant's tax clearance status on the SARS Tax Clearance System. Should challenges exist in providing this information give detailed reason/s for the absence thereof. Thereafter, applicants will be requested to submit a valid tax clearance certificate.
- 9.6. The applicant must submit a letter of consent agreeing to transparency in that the following information may be shared with industry and government stakeholders [Texfed and Thedti (Textiles, Clothing, Footwear and Leather directorate) etc.]. The stakeholders should treat the following data supplied, as confidential and should not release it to a third party:
- Name of applicant;
 - Contact details of applicant;
 - Technical description of fabric (i.e. weave type, width, weight, thread count; finish);
 - Volume applied for and;
 - Units of end product to be manufactured from imported subject fabrics.
- 9.7. The applicant(s) must first consult with industry associations (Texfed etc.) and known local manufacturers of the qualifying upholstery fabrics. Additionally, a sample of fabrics to be imported should also be provided to these parties. The relevant stakeholders should then provide confirmation with regard to the extent of local availability of the fabrics to be imported under rebate.
- 9.8. Should the applicant be unaware of any known local manufacturers of the qualifying upholstery fabrics, the applicant must also consult with the Sustainable Cotton Cluster (SCC) to obtain a list of local manufacturers of qualifying fabrics, so as to allow applicant(s) to widen their engagements.
- 9.9. Applicant(s) must consult and engage with industry associations and any identified manufacturers prior to the submission of an application for a permit to ITAC. Letters of consultation and engagements should be provided with the application, either confirming whether required qualifying fabrics are available locally or show the extent to which applicant(s) engaged with known/identified upholstery fabric manufacturers. Letters received from local fabric manufacturers and industry bodies must have a date, not older than 30 days from the date of application.
- 9.10. In the event that the applicant's request to import the required fabrics is not supported, the applicant should consult with Thedti (Textiles, Clothing, Footwear and Leather directorate). Thedti directorate will thereafter provide proposals in this regard.

- 9.11. Firm commitments in the form of signed contracts and/or proof of purchasing (i.e. purchase orders) of locally manufactured fabrics must be included in the application to ITAC.
- 9.12. As a rebate provision is considered for the purpose of providing relief to domestic producers that may experience injurious import pressures against similar imported end products, the benefit of the rebate provision will be tied to conditions related to economic performance over time and may be reviewed after a specified period. Reciprocity commitments as set out in the application form must be addressed in each application submitted.
- 9.13. The applicant must commit, *inter alia*, to the creation of employment and provide in each permit the number of jobs it expects to create annually as a result of the rebate permit granted. The applicant must submit to ITAC an annual report on its job creation performance.
10. Rebate permits may not be transferred in any manner by the holder thereof to any other person, or be used to the benefit of any person, not named in the permits.
11. Permits in relation to these rebate provisions should be applied for and received before the goods concerned are shipped.
12. Any request for an amendment to a rebate permit must be forwarded to ITAC for consideration. Amendments will only be considered in the following instances:
- a) Error by ITAC on permit;
 - b) Error by applicant regarding the product description or tariff subheading. This will only be processed if the request is accompanied by a confirmation from SARS in this regard.
13. Should any party misplace a permit, the applicant should submit an affidavit on a company letterhead endorsed by a Commissioner of Oath, stating that the permit was lost and the circumstances surrounding loss of such permit. ITAC may, on the facts furnished, exercise its discretion to issue a new permit that replaces the lost permit. Should the lost permit be found the applicant must return such permit to ITAC.
14. Extension of the validity period from which the permit is valid may be granted. Extensions will only be granted where the relevant permit has not expired, and in the view of ITAC, good cause warrants extension of such permit. Such discretion shall lie solely with ITAC. Extensions will only be permitted for a period up to 3 months and the party applying for the extension must submit a letter and supporting documents to ITAC, furnishing reasons and good cause for the extension.

Non-compliance to the conditions of permits:

15. If a *prima facie* case is established that any condition of a permit issued, in terms of this rebate provision has not been complied with, the consignment in terms of which the rebate was used can be seized by ITAC and the rebate permit temporarily suspended while ITAC conducts an investigation. If it is established that non-compliance occurred, appropriate steps will be taken. These steps will be taken in terms of the International Trade Administration Act, Act 71 of 2002 and the Customs and Excise Act of 1964 that can include, criminal charges, withdrawal of the permit or permits concerned and/or the rejection of future applications for permits.