



DEPARTMENT OF HOME AFFAIRS NOTICE

No. 2019/14

Refunds for duty paid tobacco sold to duty free operators

From 1 July 2019, all duties and taxes on tobacco products will be payable upon importation and the option to enter tobacco products into a licensed warehouse will cease.

To ensure duty free operators can continue to replenish tobacco stocks and offer the sale of tobacco products at a duty free price after 1 July 2019, amendments to the *Customs Regulation 2015* have been made.

Please read this notice in conjunction with Notice No. 2018/35.

New refund circumstance

Duty free stores, catering bonds that supply aircraft stores, and providores that supply ship stores are licensed warehouses administered by the Department of Home Affairs (Home Affairs). From 1 July 2019, these businesses will no longer be able to complete a Warehouse Declaration (N20) to store tobacco products or obtain duty unpaid tobacco products underbond.

To retain the ability for licensed duty free stores, catering bonds and providore warehouses to sell tobacco products at a duty free price to customers entitled to duty free purchases, amendments have been made to introduce two new refund circumstances at Items 20 and 21 of Schedule 6 of the *Customs Regulation 2015*. The new refund circumstances enable the original importer of tobacco products to apply for a refund of the duty paid on tobacco products that are sold to the proprietor of a licensed duty free store, catering bond or providore warehouse. The time limit for obtaining a refund under this circumstance is four years from the date the duty was paid.

Those entitled to duty free purchases may include relevant travellers, operators of a ship or aircraft for use as a ship or aircraft store, or military and diplomatic officials with access to duty free entitlements. Duty refunded tobacco must be stored securely until sale to these customers. Forms and processes involved in these sales remain unchanged.

Tobacco importers eligible for refunds under the new circumstance should quote Refund Reason Code 2021 for either Items 20 or 21 when lodging a refund application in the Integrated Cargo System (ICS).

Transitional arrangements for duty free operators

Importers with tobacco held in excise-equivalent goods licensed warehouses on 1 July 2019 will be required to enter them into home consumption and pay the outstanding duties within 7 days from 1 July 2019. Importers unable to pay duty for existing underbond stock by that time, may be eligible to enter transitional arrangements to pay the outstanding amounts in instalments over 12 months.

There is no requirement for duty free stores, providores and flight catering bond warehouses to enter duty unpaid tobacco products into home consumption on 1 July 2019. These businesses may hold current stocks of duty free tobacco until 1 January 2020, to allow time to reduce duty free stock through sales to customers entitled to duty free purchases.

Key documents

Attachment A – Detailed information on how to obtain a refund under the new circumstance

Legislation

The *Customs Amendment (Collecting Tobacco Duties at the Border) Act 2018* is available at: www.legislation.gov.au/Details/C2018A00131

The *Customs Amendment (Collecting Tobacco Duties) Regulations 2019* is available at <https://www.legislation.gov.au/Details/F2019L00350>

Further information

Information on how to apply for a refund can be found at www.abf.gov.au/importing-exporting-and-manufacturing/importing/cost-of-importing-goods/refund

Information on warehouse licenses for duty free stores, providores and catering bonds is available at www.abf.gov.au/licensing/warehouses/about

Information on excise-equivalent good warehouses is available on the ATO website at www.ato.gov.au/tobaccotaxpoint

Enquiries

Email: tobaccopolicy@homeaffairs.gov.au

[Signed]

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Customs and Border Revenue Branch | Trade and Customs Division
Infrastructure, Transport Security and Customs Group
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25 March 2019

Attachment A – Detailed information on how to obtain a refund under the new circumstance

All refunds are to be actioned in the ICS against the relevant Full Import Declaration (FID) where the on-sold tobacco was originally imported and duty paid, as follows:

- Amend the original line of imported tobacco. Change the tobacco quantity and value, reducing them by the amount for which the refund is being claimed, i.e. the amount that has been on-sold to a duty free operator. For this line, report refund reason code “2021”.
- Add a new line reporting the amount of on-sold tobacco. Report the quantity and value to reflect the amount of tobacco for which the refund is being claimed, i.e. the amount that has been on-sold to a duty free operator. For this line, report treatment code “832” and the relevant establishment code that refers to the duty free operator.
- You will need to ensure the amendments (quantity and value) add up to ensure all tobacco is accounted for.

For example:

1,000kg of tobacco is imported and duty paid on 1 July 2019. On 1 August 2019, 200kg of this tobacco is on-sold to a duty free operator.

Version 1 Line 1 shows 1,000kg tobacco.

Version 2 To obtain a refund, amend Line 1 reducing the quantity to 800kg and apply refund reason code 2021. Value will also need to be reduced accordingly.

Add Line 2 to the entry to show which duty free operator the 200kg has been on-sold to. Enter the duty free operator’s establishment code and treatment code 832. Value will also need to be entered.

This creates a refund for the duty and taxes paid upon importation for the 200kg on-sold to a duty free operator.

- If you sell tobacco to multiple duty free operators from the one original importation, a new line to reflect every such sale will need to be added.

Required documentation to support a refund

If requested, you will need to supply the following (but not limited to) evidence to support your amendment and refund:

- Commercial documents – this may include documents at the time of importation such as invoice, evidence of price paid, authority to pay agent.
- Documents proving the sale of tobacco (including details of quantity) to a duty free operator.
- Confirmation from the duty free operator that they have received the tobacco.

You should email the requested documents to nationalrefunds@abf.gov.au with the FID number in the email subject line, within 30 calendar days from date of request. The refund application will then be assessed. If required, you may be requested to provide further evidence to verify your refund application.

Refund applications will be assessed within approximately 30 days upon receipt of all necessary information. The refund will be rejected if sufficient documentation cannot be provided to substantiate the application.

Circumstances where a refund application will not be considered

- Refund applications lodged outside the prescribed time limit (i.e. four years from when the original duty was paid).
- Imported tobacco that goes stale or for discontinued stock – there is no applicable refund circumstance in the regulations.

- Where the tobacco products become stale after being on-sold to a duty free operator, and the owner of those goods intend to re-export from Australia, there is no drawback of duty payable if import duties have already been refunded under the new refund circumstances.