

Rebate Item 412.11/00.00/01.00 FAQs

Q: There appear to be two processes dealing with a rebate of customs duties and a VAT exemption. What are these and are they linked?

A: ITAC and SARS have created two distinct processes aimed at combating the Covid19 virus in South Africa:

1. Full rebate of duty and VAT exemption:

This process relates to a full rebate of customs duties and a VAT exemption for certain goods in terms of Rebate Item 412.11/00.00/01.00 (hereinafter referred to as Rebate Item 412.11). Eligible goods are only those contained in a document called “*the List of Critical Supplies*”. This list was established by ITAC in terms of Rebate Item 412.11 to the Customs and Excise Act, 1964. The *List of Critical Supplies* can be found on ITAC’s website together with related documents such as an application form. Eligibility for a full rebate of customs duties is subject to a completed and approved application form. For an application form and the *List of Critical Supplies*, use the following link to ITAC’s website:

<http://www.itac.org.za/pages/about-itac/covid-19-news-and-regulat>

2. VAT exemption:

This process relates to an exemption from VAT, and eligible goods are those contained in the *list of essential goods*, but with specific exceptions. The *list of essential goods* is set forth in paragraph A of Annexure B of the Regulations promulgated under the Disaster Management Act, 2002. These goods are eligible for a VAT exemption, but not for a full rebate of customs duties. Use this link to access the *list of essential goods*:

<https://www.sars.gov.za/AllDocs/LegalDoclib/SecLegis/LAPD-LSec-COVID19-Reg-2020-003%20-%20VAT%20412.11%20Mapping.pdf>

Regarding the aforementioned exceptions, goods that are on the list of essential goods but are ineligible for a VAT exemption are those contained in the global VAT certificate that ITAC issued to SARS. The VAT certificate and the exceptions listed therein can be found on ITAC’s website. Below is a link to the VAT certificate:

[http://www.itac.org.za/upload/ITAC%20Certificate%20-%20SARS%20Essential%20Goods%20List%20\(2\)%2020200408.pdf](http://www.itac.org.za/upload/ITAC%20Certificate%20-%20SARS%20Essential%20Goods%20List%20(2)%2020200408.pdf)

SARS has published a series of FAQs, which can be accessed using the following link:

<https://www.sars.gov.za/AllDocs/Documents/customsandexcise/CUSTOMS%20FAQs%20Covid-19%2021%20April%20final.pdf>

Q: Why is it taking so long to process my application?

A: ITAC is trying its level best to expedite the processing of 412.11 rebate applications. However, the sheer volume of requests and the lockdown have hampered these efforts. Additional staff has been added to assist with the processing of applications. Innovative processes, such as the emailing of certificates (as the result of approved applications), to SARS and applicants, as opposed to paper copies, are also being deployed. Finally, to avoid the need to submit multiple applications, it would assist if applicants submit one application, which application includes estimated requirements of all qualifying import goods up to and including 31 May 2020.

Q: I have questions about the ITAC application form.

A: The following represents some of the pertinent information required in the application form:

1. As per Question 3 of the ITAC application form, kindly confirm whether the statistical unit relating to the quantity applied for in your application is provided in kg or units. It should be noted that quantity applied for should be provided in kg as per SARS statistical unit of measure for HS Code 6307.90. (in other words, the statistical unit will be that unit indicated in the applicable SARS tariff subheading);
2. Following from above, the specific volumes (in Kgs) and values (in Rands) in your application should be informed by, for example, off-take orders from buyers or substantiated methodology that supports the volume applied for as well corresponding value; and
3. A written undertaking indicating that goods are imported for relief of distress of persons in case of the current state of national disaster.

It should be borne in mind that the email certificate's validity period will be from the date that the application was submitted until 31 May 2020, which means that the customs duty will be rebated for any clearances made during that period.

Q: My goods are ready for clearance, but I do not have an ITAC certificate. Must I pay the duty and can I get a refund of the duties paid and what is the process?

A: To avoid paying the applicable duty for the goods being imported, applicants must await the issuing of a certificate subsequent to lodging an application with ITAC before clearing the goods in question. Otherwise the duty will be payable at the time of clearance.

Applicants who received their certificate only after they have cleared the goods in questions can approach SARS for a refund of duties paid. Specifically, a refund will

require passing a substitution declaration and the cancelling of the duty paid declaration with a voucher of correction.

Q: Will SARS accept an email certificate from ITAC for a refund of duties?

A: Due to the current lock down and inaccessibility of certain services, ITAC's email serves as the ITAC certificate. This email is sent to applicants and, at the same time, SARS.

Q: What happens after the VAT certificate (email) has been provided from a clearing perspective?

A: Once granted a VAT certificate (email), the importation process will follow the normal procedure described in SARS' SC-CF-54 - Clearance declaration - Internal policy. Parties can reference the external policy (SC-CF-55).

The rebate is only valid for direct importations and is not to be cleared into bond or warehousing. CPC A 14 must be used for importations from outside SACU and CPC A 12 for importations from the BLNS (other SACU Member States), with measure 412.11/00.00/01.00.

Q: What is meant by the condition in Rebate Item 412.11 in Schedule 4 to the Customs and Excise Act, 1964, "party who is not entitled to any privileges".

A: Rebate item 412.11 states that goods imported under the rebate item "shall not be sold or disposed of to any party who is not entitled to any privileges under the rebate item". Although the provision allows for limitations to be placed on the party to which goods imported under the rebate item may be sold to or disposed of, currently no such limitations are in place. Consequently, goods imported under rebate item 412.11 may be sold or disposed of to any person (natural or juristic) in South Africa for consumption in South Africa (i.e. there may be no re-exportation outside of South Africa).

Q: What is the purpose of the required CIPC document?

A: The CIPC document will be included in the email to SARS to enable SARS to verify that applicants were approved to operate as an essential service and therefore can operate during the national lockdown and participate under the Rebate Item 412.11 process.

Q: Can goods be added to the List of Critical Supplies?

A: The List of Critical Supplies is not exhaustive and may be amended by ITAC from time to time. At this time, however, it is not envisioned that there will be an extension of this list to cover goods in the list of essential goods that are not already featured on

the list. In particular, goods benefiting from a duty under Schedule 1 (ordinary customs duty) or a duty under Schedule 2 (trade remedies customs duties, i.e. anti-dumping, countervailing and safeguard duties) of the Customs and Excise Act, 1964, are ineligible for inclusion in the List of Critical Supplies. The reason for the exclusion is that tariffs assist the domestic industries producing such goods and rebating duties would run counter to this policy.

Q: I understand that there are conditions for the rebate of duty under rebate item 412.11/00.00/01.00. What are these conditions?

A: The rebate certificate (e-mail) issued by ITAC is subject to various conditions that must be strictly adhered to. These conditions, which are also stated on the certificate (e-mail) issued by ITAC are as follows:

1. The rebate provision under which the certificate is issued is only applicable for COVID-19 relief purposes and for COVID-19 approved critical supplies, which do not include used or second-hand goods.
2. The certificate is non-transferable.
3. The certificate is for direct importation only and not for clearance into bond.
4. Goods imported under Rebate Item 412.11 shall not be sold or disposed of to any party who is not entitled to any privileges under the rebate item, or removed to the area of Botswana, Lesotho, Swaziland or Namibia without the permission of the International Trade Administration Commission.
5. Goods imported under Rebate Item 412.11 will be subject to monitoring and if a prima facie review establishes that any condition of the certificate has not been complied with, the consignment in terms of which the rebate certificate was used can be seized and the rebate certificate will be temporarily suspended while SARS and ITAC conduct an investigation. If it is established that non-compliance took place, appropriate steps will be taken. These steps will be taken in terms of the International Trade Administration Act, 71 of 2002 and the Customs and Excise Act, 91 of 1964 and can include, criminal charges, withdrawal of the certificate or certificates concerned and/or the rejection of future applications for certificates.

Q: Do I need an individual certificate to claim the VAT exemption for imported goods that are on the *list of essential goods*?

A: This question relates to goods on the list of essential goods. For a VAT exemption in terms of the *list of essential goods*, ITAC and SARS agreed that ITAC would issue a single, global certificate. This global certificate covers every entry for goods on the *list of essential goods* except for certain goods (as explained in the next Q&A).

Q: I understand that not all goods on the list of essential goods qualify for a VAT exemption. What are these goods?

A: Regarding goods that are on the *list of essential goods* but are ineligible for a VAT exemption, these can be found on ITAC's website in a document entitled, "Goods qualifying for import VAT exemption under Rebate Item 412.11". The document is viewable using the following link:

<http://www.itac.org.za/pages/about-itac/covid-19-news-and-regulat.>

Q: Do I need to apply for a VAT certificate for the VAT exemption under Rebate Item 412.11?

A: No, ITAC has issued a global certificate, which as mentioned above, covers every entry of eligible goods.

Q: My shipping company believes that a permit number or certificate is necessary for a VAT exemption.

A: In line with what is stated above, the global certificate covers every entry and no individual applications have to be submitted to SARS or ITAC.

Q: Who can I contact if I am experiencing difficulties with the VAT exemption?

A: SARS can be contacted at –

osc@sars.gov.za

Q: Does the exemption from VAT also apply to the local supply of goods by vendors that have been imported exempt from VAT under item 412.11?

A: No, according to SARS the normal rules apply. The VAT exemption is an exemption from the VAT levied on importation under section 7(1)(b) of the VAT Act. Only the goods listed in section 12 of the VAT Act are exempt from the VAT that is levied under section 7(1)(a) on the supply of goods by vendors.

Q: Where can I find more information about the VAT exemption for goods on the list of essential goods?

A: Please consult SARS' website. SARS is also publishing a list of FAQs on its website. See the link below for relevant information from SARS:

<https://www.sars.gov.za/Media/Pages/CoronaVirus.aspx>