



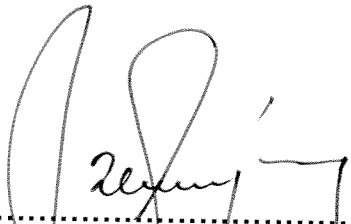
International Trade Administration Commission of South Africa

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## **REPORT NO: 351**

# **REVIEW OF REBATE ITEM 460.11/00.00/01.00 FOR THE IMPORTATION OF USED OVERCOATS**

The International Trade Administration Commission of South Africa herewith presents its **Report No 351: Review of rebate item 460.11/00.00/01.00 for the importation of used overcoats.**



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**SIYABULELA TSENGIWE**  
**CHIEF COMMISSIONER**

**PRETORIA**

.....05 / 11 / .....2010

REPUBLIC OF SOUTH AFRICA

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

REPORT NO. 351

REVIEW OF REBATE ITEM 460.11/00.00/01.00 FOR THE IMPORTATION OF USED OVERCOATS

Synopsis

Worn overcoats, car-coats, raincoats, anoraks, ski-jackets, duffle-coats, mantles, parkas and similar clothing articles (excluding wind-jackets and wind-cheaters) are classifiable under tariff subheading 6309.00.13 at a rate of duty of 60 per cent **ad valorem** or 2500c/kg.

However, rebate item 460.11/00.00/01.00 provides for rebate of the full duty less 30 per cent on imported used overcoats, car coats, raincoats, anoraks, ski-jackets, duffle coats, mantles, parkas and similar clothing articles, (excluding wind-jackets and wind-cheaters) classifiable under tariff headings 61.01, 61.02, 62.01, and 62.02 and worn articles specified in subheading 6309.00.13 in bales, not containing other clothing articles, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission, may allow by specific permit.

In terms of this rebate provision, qualifying importers that have been issued with a rebate permit will pay a duty of 30 per cent **ad valorem** on imported used coats. It is only a partial rebate. New coats attract a duty of 45 per cent ad valorem.

The Commission and the South African Revenue Service (SARS) have found it increasingly burdensome to administer this rebate item due to its description that leaves it open to interpretation regarding qualifying products.

During 2009, the Commission decided to review the rebate item with a view to revising the description, and introducing guidelines and questionnaires for the administration of this rebate item, also taking into account developments within the industry.

The Commission considered that:

- There is a definite need for these imported used overcoats especially during the cold winter season by people with a relatively low income and those that are unemployed;
- The ability of the SACU industry to meet the demand for the types of coats provided for under the rebate provision is seriously limited by the short winter season in Southern Africa, and it is not viable to manufacture products at the lower end of the market which are in demand for only a few months in a year;
- The prices of these imported used overcoats, which are very low compared to the prices of SACU manufactured coats, do not have a disadvantageous effect on the local industry as the focus of local manufacturers is on the fashionable high-priced upper end of the market; and
- The recommended description and accompanying strict guidelines for the issuing of rebate permits drawn up after extensive consultation with SARS, would significantly improve the administration and would eliminate the abuse of the provision.

On balance, the Commission found that the recommended revised, more restrictive description of the rebate provision is a workable solution to the problem. The amended rebate description would:

- Reduce the difficulties that have been experienced in administering the provision;
- Not have an adverse effect on the financial position and employment within the overcoat manufacturing industry; and
- Not have an undue disruptive impact on the used overcoat business.

The Commission recommended that the description of rebate item 460.11/00.00/01.00, that makes provision for rebate of the full duty less 30%, be amended as follows:

*Used overcoats, car-coats, raincoats, anoraks, ski-jackets, duffle coats, mantles, three-quarter coats, greatcoats, hooded caps, trench coats, gabardines, padded waistcoats, parkas (but no other clothing articles) classifiable under tariff headings 61.01, 61.02, 62.01, 62.02 and 6309.00.13 in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit.*

*Note:*

*Used overcoats that are admissible under this rebate item must be imported in bales and must be designed to be worn over all other clothing articles as protection against the weather.*

### **Introduction and tariff position**

Worn overcoats, car-coats, raincoats, anoraks, ski-jackets, duffle coats, mantles, parkas and similar clothing articles (excluding wind-jackets and wind-cheaters) are classifiable under tariff subheading 6309.00.13 at a rate of duty of 60 per cent **ad valorem** or 2500c/kg.

However, rebate item 460.11/00.00/01.00 provides for rebate of the full duty less 30 per cent on imported used overcoats, car coats, raincoats, anoraks, ski-jackets, duffle coats, mantles, parkas and similar clothing articles, (excluding wind-jackets and wind-cheaters) classifiable under tariff headings 61.01, 61.02, 62.01, and 62.02 and worn articles specified in subheading 6309.00.13 in bales, not containing other clothing articles, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission, may allow by specific permit.

In terms of this rebate provision, qualifying importers that have been issued with a rebate permit will pay a duty of 30 per cent **ad valorem** on imported used coats. It is only a partial rebate. New coats attract a duty of 45 per cent ad valorem.

## **The Review by the Commission**

The Commission and the South African Revenue Service (SARS) have found it increasingly burdensome to administer this rebate item due to its description that leaves it open to interpretation regarding qualifying products.

During 2009, the Commission decided to review the rebate item with a view to revising the description, and introducing guidelines and questionnaires for the administration of this rebate item, also taking into account developments within the industry.

On 29 January 2010, the intended review was published in the Government Gazette, for interested parties to comment.

## **Industry and Market**

There is an industry manufacturing coats in SACU. However, the ability of the SACU industry to provide coats of various types is limited due to the short winter season in Southern Africa.

Manufacturers have indicated that it is not economically viable to manufacture products at the lower end of the market which are only in demand for a few months of the year.

The SACU coat industry focuses on the niche high-income segment of the market. In this segment, the imported used coats do not pose a threat to the competitive position of the SACU industry.

Consumers at the lower end of the market are also unable to afford the high-priced domestically manufactured coats.

Coats manufactured in SACU are expensive due to the relatively high cost of input materials. Many of the manufacturers participate in the Textile and Clothing Industry Development Programme (TCIDP) and export the final product.

As part of the investigation to review the rebate provision, a survey was conducted to establish the current trend in the used coat industry with respect to employment, types of products being imported and sold, the prices of these products, and the market for these coats.

A Task Team was established consisting of officials of the Commission, SARS, South African Textile and Clothing Workers Union (SACTWU) and importers of used coats.

The purpose of the Task Team was to discuss the possibility of a consolidated description of the products to be included or excluded from the current rebate provision to enable proper administration of this rebate item.

### **Comments on the Application**

The Apparel Manufacturers of South Africa (AMSA) generally opposed any future importation of second hand clothing, stating that second-hand clothing imported in South Africa would compromise industrial development and upgrading in the apparel manufacturing sector.

The South African Clothing and Textile Worker's Union (SACTWU) indicated their support for the rebate provision but requested that the description of the rebate provision be amended by limiting the rebate provision to a single tariff heading 63.09, changing the wording from "used" to "worn", excluding overcoats, car-coats, jackets, blazers and raincoats from the rebate provision, and that the overcoats not be imported and cleared in bales but in a manner that they can be viewed singly.

### **Findings**

The Commission considered that:

- There is a need for these imported used overcoats especially during the cold winter season by people with a relatively low income and those that are unemployed;

- The ability of the SACU industry to meet the demand for the types of coats provided for under the rebate provision is seriously limited by the short winter season in Southern Africa, and it is not viable to manufacture products at the lower end of the market which are in demand for three to four months in a year;
- The prices of these imported used overcoats, which are very low compared to the prices of SACU manufactured coats, do not have a disadvantageous effect on the local industry as the focus of local manufacturers is on the fashionable high-priced upper end of the market; and
- The Commission took cognisance of the comments by SACTWU. The recommended description and accompanying strict guidelines for the issuing of rebate permits, drawn up after extensive consultation with SARS, would significantly improve the administration of the provision and would eliminate the abuse of the provision.

On balance, the Commission found that the recommended revised, more restrictive description of the rebate provision is a workable solution. The amended rebate description would:

- Significantly reduce the difficulties that have been experienced in administering the provision;
- Not have an adverse effect on the financial position and employment within the overcoat manufacturing industry; and
- Not have an undue disruptive impact on the used overcoat business.



### **Recommendation**

The Commission recommends that the description of rebate item 460.11/00.00/01.00, that makes provision for rebate of the full duty less 30 %, be amended as follows:

***Used overcoats, car-coats, raincoats, anoraks, ski-jackets, duffle coats, mantles, three-quarter coats, greatcoats, hooded caps, trench coats, gabardines, padded waistcoats, parkas (but no other clothing articles) classifiable under tariff headings 61.01, 61.02, 62.01, 62.02 and 6309.00.13 in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit.***

**Note:**

***Used overcoats that are admissible under this rebate item must be imported in bales and must be designed to be worn over all other clothing articles as protection against the weather.***

## ANNEXURE A

### INTERNATIONAL TRADE ADMINISTRATION COMMISSION

#### GUIDELINES, RULES AND CONDITIONS PERTAINING TO REBATE ITEM 460.11/00.00/01.00

1. 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.
2. Applications for permits must be submitted according to the requirements of the attached application form (See Annexure B). If the space provided in the application form is insufficient, please use the format of the application form to submit the requested information.
3. If all the information requested in the application form is not submitted, the application will not be considered, and it will be returned to the applicant.
4. At least 14 working days should be allowed for the processing of applications and the issuing of permits.
5. All rebate permits under this rebate item will be issued only once a year. Therefore all applications for rebate permits under this rebate item must be submitted to ITAC on or before the 15<sup>th</sup> day of January for existing importers and 15 March for new importers for every year and no late applications will be allowed for the year after these dates.

6. Each rebate permit issued defines the period during which the goods concerned can be cleared under the rebate, and the period shall be for a twelve month period starting from the 1<sup>st</sup> of February until 31<sup>st</sup> January for existing importers and 1<sup>st</sup> of April until 31<sup>st</sup> March for new importers, or a shorter period as requested by the applicant, or as decided upon by ITAC.
7. Rebate permits issued will be subject to the following conditions:
  - 7.1 ITAC, if deemed necessary, can physically inspect the warehouse to verify storage of overcoats.
  - 7.2 The applicant must confirm that labour laws and agreements gazetted by the Minister of Labour are complied with.
  - 7.3 The applicant must submit a Tax Clearance Certificate and VAT Certificate.
  - 7.4 The applicant must provide in each permit application the number of jobs it expects to create and/or sustain annually as a result of the rebate. The applicant will submit to ITAC upon application a report on its job creation and performance.
  - 7.5 ITAC shall periodically review the performance of the industry importing the coats with regards to employment.
  - 7.6 Rebate permits may not be transferred in any way or form by the holder thereof, to any other person or entity, or be used to the benefit of any other person or entity, not named in the permit.
  - 7.7 The used overcoats shall not be sold to any retailer or any company registered with CIPRO as a profit making company.
  - 7.8 New importers should not be linked to existing importers in any way. All new importers that are companies or closed corporations must submit their company or close corporation registration documents, and ITAC reserves the right to

verify the shareholding or membership of the companies or close corporations with CIPRO.

- 7.9 The quantity of overcoats to be imported by each importer per 12 month period will be limited and the criteria that will be used for the allocation of the quantity of overcoats that each importer may import under this rebate item will be as follows:

#### **Existing Importers**

- The quantity imported in the last twelve months period will be used as the basis for allocation of quota for the current application.
- The Commission may allow importers only 10% increase of quota based on imports over the previous twelve months provided they submit proof of importation.

#### **New Importers**

- The quota for new importers will be limited to a maximum of 20 000 kg.
- The 20 000 kg quota for new users of this rebate item will be allocated on a first come first serve basis and ITAC reserves the right to reject the applications in cases where the quota for the year approved by the Commission for use by new importers under this rebate item is fully utilised.

#### **Special condition for permits issued in 2010:**

**Permits under the revised provision will be issued concurrently with those permits expiring after 28 February 2011. In cases where the permit has not expired by closing date of applications as set in paragraph 5 above, importers must apply with proof of permit expiring later in the year, and the quota allocated in 2010 will be used as the basis for quota in 2011.**

However utilisation of the permit issued in 2010 together with that issued in 2011 will be taken into account when issuing the permit for 2012. This condition only applies for permits in 2011 to accommodate those permits expiring later in 2011.

8. All applicants for rebate permits under this rebate item must also apply for an import permit, for the same period, to import the used or second hand overcoats. The rebate permit issued will also be subject to the conditions contained in the import permit issued.
9. All users of rebate permits under this rebate item must inform ITAC without delay if any consignment imported by the permit holder under this rebate item contains clothing items not defined in this rebate item. These clothing items must be kept separate from the rest of the clothing items imported under this rebate item or any other clothing items in possession of the permit holder and may not be removed until officials of ITAC had an opportunity to inspect these items. ITAC in consultation with the importer and SARS will decide how to dispose of the clothing items incorrectly imported under this rebate item.
10. If it is suspected that any condition of this permit is not complied with, the consignment in terms of which the rebate permit was used can be seized by ITAC. 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 and can include: criminal charges, withdrawal of the permit or permits concerned and/or the rejection of future applications for permits.

## CONFIDENTIAL INFORMATION

Please note that if any information is considered to be confidential then a non-confidential version of the information must be submitted, simultaneously with the confidential version. In submitting a non-confidential version the following rules are strictly applicable and parties must indicate:

- Where confidential information has been omitted and the nature of such information;
- A summary of the confidential information which permits a reasonable understanding of the substance of the confidential information; and
- In cases, where information is not susceptible to summary, reasons must be submitted to this effect.

This rule applies to all parties and to all correspondence with and submissions to the Commission, which unless indicated to be confidential and filed together with a non-confidential version, will be made available to other interested parties.

**ANNEXURE B**

**INTERNATIONAL TRADE ADMINISTRATION  
COMMISSION OF SOUTH AFRICA  
APPLICATION FOR A PERMIT IN TERMS OF REBATE ITEM  
460.11/00.00/01.00 FOR REBATE OF DUTY ON  
USED OVERCOATS**

## APPLICATION FORM

BEFORE COMPLETING THIS FORM, PLEASE ACQUAINT YOURSELF WITH THE  
GUIDELINES AND CONDITIONS PERTAINING TO REBATE ITEM  
460.11/00.00/01.00

**NB: ALL INFORMATION REQUESTED SHOULD BE FURNISHED**

<p>1 (a). Applicant's name:</p> <p>Contact Person:.....</p> <p>Position:.....</p> <p>Postal Address:.....</p> <p>Tel No.:.....</p> <p>Fax No:.....</p> <p>Date completed:.....</p> <p>Email add:.....</p> <p>VAT Registration No:.....</p> <p>SARS Importer Registration No:.....</p> <p><b>(No application for this rebate provision will be considered for applicants utilising the "unallocated importers reference number i.e. 70707070)</b></p>	<p>1(b). Physical address where used overcoats bales will be stored and sold</p>
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2. Details of product in respect of which a rebate permit is required with regards to categories: Men, Ladies, Boys or girls

Product	Duty payable	Quota applied for	Estimated customs FOB value	Country of origin
1.				

3. Furnish the following information in respect of the value of total sales in the Southern African Customs Union (SACU) for the past three years in respect of the overcoats imported.

Year	Overcoats: Men, Ladies, boys and girls	Total quantity	Total Sales (in SACU)
1.			

4. Copies of the relevant DA500 (for previous permit) and import permit in terms of the Import and Export Control Act 1963 should be submitted as per schedule below.



**SCHEDULE 1**

Bill of Entry (DA 500) No	Date of Entry	Quantity: Number of Items	FOB Value
1.			

5. Provide information pertaining to the number of jobs the firm will create annually as a result of this rebate. (*Submit with the application a letter signed by the Chief Executive Officer to provide a report on job creation performance*)

6. Name of Chief Executive Officer:.....  
 Tel No:.....Fax No:.....

**DECLARATION IN RESPECT OF AN APPLICATION FOR A PERMIT IN TERMS OF REBATE PROVISION 460.11/00.00/01.00 OF SCHEDULE 4 TO THE CUSTOMS AND EXCISE ACT, 1964**

**NB: The obligation to complete and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the claimant**

I, ..... (full names) with identity number ....., in my capacity as – managing director/chief executive (in respect of a company) or senior member/ person with management responsibility (close corporation, partnership or individual)  
 (Delete whichever is not applicable)

of ..... (hereinafter referred to as the applicant) hereby declare that –

- a) the applicant complies with prescribed requirements in order to qualify for rebate in terms of the above-mentioned rebate provision;
- b) I have satisfied myself that the preparation of the application has been done in conformity with the guidelines and requirements in respect of the above-mentioned rebate provision, with which I have fully acquainted myself and to which I unconditionally agree to;

- c) I accept that the decision by the Chief Commissioner: International Trade Administration will be final and conclusive and that the said Chief Commissioner may at any time conduct or order that an investigation to verify information furnished in the application form, be conducted;
- d) The information furnished in this application is true and correct;
- e) The applicant or any one of its associates, or related party is not subject of an investigation by either the South African Police, the Office for Serious Economic Offences, International Trade Administration, or the Commissioner for South African Revenue Services (SARS) into previous claims or other related matters.
- f) I confirm that the applicant complies/ does not comply with the relevant labour laws and agreement gazetted by the Minister of Labour.

**NAME:** ..... **DESIGNATION:** .....

**SIGNATURE:** ..... **DATE AND YEAR:** .....

**I CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, AND THAT HE HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH, AND THAT HE CONSIDERS THIS OATH TO BE BINDING ON HIS CONSCIENCE.**

**SIGNED and SWORN to before me at ..... on this ..... Day of ..... Year.**

**COMMISSIONER OF OATHS.....FULL NAMES.....**

**CAPACITY: .....**