

REFERENCE GUIDE

DIESEL / BIODIESEL REFUND

TABLE OF CONTENTS

1	PURPOSE	3
2	SCOPE	3
3	REFERENCES	3
3.1	Legislation	3
3.2	Cross References	3
4	DEFINITIONS AND ACRONYMS	3
5	BACKGROUND	6
6	GOVERNING LEGISLATION	6
7	The Diesel / Biodiesel refund system	6
7.1	Application for diesel / biodiesel refund	7
7.2	On land refund sectors and their eligible activities	8
7.2.1	Mining	8
7.2.2	Forestry	9
7.2.3	Farming	10
7.3	Offshore refund sectors and their eligible activities	11
7.3.1	Commercial fishing	12
7.3.2	Coastal vessels (shipping)	13
7.3.3	Offshore mining	14
7.3.4	National Sea Rescue Institute (NSRI)	14
7.3.5	Research vessels	15
7.3.6	Coastal patrol vessels	15
7.3.7	Vessels employed to service fibre optic telecommunication cables	15
7.4	Harbour vessels	16
7.5	Rail	16
7.6	Electricity Generation Plants	16
7.7	General conditions and procedures relating to purchases of diesel / biodiesel and refunds	17
7.7.1	Tax Invoice	17
7.7.2	Usage of diesel / biodiesel	17
7.7.3	Contracting	18
7.7.4	Re-selling of diesel / biodiesel	18
7.7.5	Barter or Donation	18
7.7.6	Wet or Dry	18
7.7.7	Diesel / biodiesel obtained under rebate of duty	18
7.7.8	Diesel / biodiesel purchased from neighbouring countries	18
7.7.9	Losses of diesel / biodiesel	18
7.8	Claiming the refund	19
7.9	Calculation of Diesel / Biodiesel refund	19
	Example 1 (on land) – tax period 6 monthly	20
	Example 2 (offshore) - tax period 2 monthly	21
	Example 3 (electricity generating plants) - tax period monthly	21
	Example 4 (rail and certain harbour vessels) - tax period 2 monthly	22
7.10	Non-compliance	22
7.11	Internal Administrative Appeals (DA 51) and applications for Alternative Dispute Resolution (DA 52)-:	23
7.12	Keeping of books, accounts and other documents	24
7.13	Deregistration of Diesel / Biodiesel	25
7.14	Road Fuel Testing Units (RFTU)	25
7.15	Information and assistance	25
8	QUALITY RECORDS	26
9	DOCUMENT MANAGEMENT	26

1 PURPOSE

- a) The purpose of this guide is to provide information to entities that qualify to register for the diesel / biodiesel refund.

2 SCOPE

- a) The diesel / biodiesel refund system provides a refund on the fuel and **Road Accident Fund (RAF)** levies paid on diesel / biodiesel by qualifying industries in the following categories:
- i) On land;
 - ii) Offshore;
 - iii) **Harbour Vessels;**
 - iv) **Rail; and**
 - v) **Electricity Generation Plants.**
- b) Instructions on how to keep records and substantiate claims are included in this guide.

3 REFERENCES

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: Item 670.04 and the notes thereto, Sections 14(1), 75(1A), 75(1C)(b)(i), 75(4A)
Other Legislation:	Road Accident Fund Act No. 56 of 1996: Section 5 Maritime Zones Act No. 15 of 1994: Section 1
International Instruments:	None

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE	APPLICABILITY
AS-VAT-DR-01	Internal Policy – Completion of VAT 201 for Diesel Refunds	All
AS-VAT-DR-02	External Policy – Completion of VAT 201 for Diesel Refunds	All
SC-CC-23	Internal Policy – Internal Administrative Appeals (IAA)	All
SC-CC-24	External Policy – Internal Administrative Appeals (IAA)	All
SC-CC-25	Internal Policy – Alternative Dispute Resolution (ADR)	All
SC-CC-26	External Policy – Alternative Dispute Resolution (ADR)	All

4 DEFINITIONS AND ACRONYMS

Abridged invoice	tax	A tax invoice which is shortened by removing details and unimportant information.
Act		Customs and Excise Act, Act No.91 of 1964
Biodiesel		Fuel that comprises of long chain fatty acids derived from vegetable or animal fats and oils, which is defined in the Additional Notes to Chapter 38 of Schedule 1 to the Customs and Excise Act.
BLNS Countries		a) The Republic of Botswana; b) The Kingdom of Lesotho; c) The Republic of Namibia; and d) The Kingdom of Swaziland
Bunkering of vessels	of	Supplying bunker fuel to a ship for propulsion of the vessel or the operation of any equipment on the vessel.
CC		Close Corporation

Coastal Shipping	The conveyance of goods by ship between the coastal ports of the Republic (including coastal ports within the Common Customs Area) shall be deemed to be coastwise traffic and all ships employed in such traffic shall be deemed to be coasting ships
Coasting vessels	Vessels designed and used for the conveyance of goods between the ports in the Republic or between any such port and a port in the common customs area and which are propelled by inboard engines of which the fuel tanks form an integral part of the structure.
Commercial Fishing	The taking, catching or capturing of fish including crustaceans, molluscs and other aquatic invertebrates; the processing of fish on board vessels; pearling operations; the operation of a dedicated mother vessel in connection with the activities referred to in above
Commercial fishing Vessels	Vessels designed or adapted and used for commercial sea fishing (as contemplated in the Marine Living Resources Act, 1998 (Act No. 18 of 1998)) and which are propelled by inboard engines of which the fuel tanks form an integral part of the structure and any dedicated mother ship in which fish is processed, but excluding any fishing vessel contemplated in item 670.08.
Commissioner	Commissioner for SARS
Common Customs Area	Means the combined area of the RSA and BLNS Countries with the governments of which Customs Union agreements have been concluded This consists of: A) The Republic of Botswana; B) The Republic of Lesotho; C) The Republic of Namibia; D) The Kingdom of Swaziland; and E) The Republic of South Africa.
Diesel / Distillate Fuel	A hydrocarbon fuel manufactured from crude oil, crude gas or coal, which is defined in the Notes to Chapter 27 of Schedule 1 to the Customs and Excise Act. Diesel is manufactured by 6 existing refineries in the Republic or imported by oil companies.
Diesel / biodiesel supplier	The company, institution or agent supplying the diesel / biodiesel.
Dry or contracted or hired on a dry basis	Any vehicle, vessel, machine or any other equipment whatsoever using diesel / biodiesel is hired or a person using such vehicle, vessel, machine or other equipment is contracted by a user for the purpose of performing any qualifying activity and the user supplies the diesel / biodiesel from eligible purchases
Duty free	Where diesel / biodiesel is purchased at a price which does not include the excise duty and fuel levy or RAF levy.
Duty Paid	The relevant excise duty and fuel levy applicable to diesel
Earthworks	The forming or maintenance of levee banks or windbreaks, contour banking or land levelling / grading.
Effective date	4 July 2001
EFT	Electronic Fund Transfer
Electricity Generating Plants	Electricity generating plants with a capacity exceeding 200 megawatt per plant using distillate fuel solely for the purpose of generating electricity.
Eligible purchases	Purchases of diesel / biodiesel by a user for use and used as fuel for own primary production activities in farming, forestry, mining on land, commercial fishing vessels, coasting vessels, offshore mining or in vessels owned by the NSRI or Rail.
Equipment	Any diesel / biodiesel driven item, implement, machine or vehicle which is used in primary production.
Farming	The science, art and function of soil cultivation for the production of agricultural products, including the growing of crops, reaping of harvests, horticulture, pasturage and apiculture, the rearing of and caring for animals, fish and reptiles and the drilling for water and the building of dams and roads.
Farming Products	Ay products in their natural state produced during any farming activity contemplated in paragraph 7.2.1, including animals, fish and reptiles and their products, plants, fruit and vegetables, eggs, milk, meat, honey, flowers, nursery products, wool and hides, whether or not packed for marketing;

Farming Requirements	Goods that are essential for farming and includes goods for the cultivation of the soil, growing of crops, reaping of harvests, breeding of and caring for animals, fish and reptiles and the building of dwellings and structures for farming purposes
Forestry	The science, art and function of planting and the maintenance of forests or plantations, including the growing of seed, seedlings and saplings, the cultivation of the soil, the protection of forests or plantations against fire and the felling of trees by the person carrying on forestry and the building and maintenance of roads in the forest or plantation.
Harbour Vessels	Vessels which only operate in the harbour area
Hire	Includes lease or charter
Installation	Defined in paragraphs (a)(ii), (b), (c) and (e) in section 1 of the Maritime Zones Act, 1994 (Act No. 15 of 1994)
Lime stone	For use in the de-acidification of soil in any agricultural activity.
Minerals	Minerals in any form, whether solid, liquid or gaseous, occurring naturally in or on the earth, in or under water or in the tailings whether organic or inorganic and having been formed by or subject to a geological process. Excludes water, but includes sand, stone, rock, soil (other than topsoil), clay, gravel and limestone.
Mining	The exploration or prospecting for minerals or the removal of overburden and other activities undertaken in the preparation of a site to enable mining for minerals to commence. Can also be the operation for the recovery (mining) of minerals including the recovery of salts or the beneficiation of those minerals or of ores bearing those minerals.
Mutatis mutandis	Can be interpreted as 'the necessary changes having been made'.
Natural resources	Includes precious stone, metal or minerals, natural oil or natural gas.
Non-eligible purchases	Purchases of diesel / biodiesel by a user not for use and not used as prescribed in these Notes as fuel for own primary production in farming, forestry or mining on land or in offshore mining, any vessel or in any locomotive or for electricity generation and includes such diesel / biodiesel used in transport for reward or if resold;
NSRI	National Sea Rescue Institute - a non-profit organisation which relies on donations for the purpose of performing rescue operations at sea.
OAC	Objections and Appeals Co-ordinator
Offshore Mining	Exploration and exploitation of the natural resources occurring in the bed of the sea and the subsoil thereof including the continental shelf of the Republic, as referred to in Section 8 of the Maritime Zones Act, 1994 (Act No.15 of 1994) and as contemplated in Section 5 of the Customs and Excise Act
Port	A harbour / haven / inlet or recess of the sea where ships may be secure from storms.
RAF	Road Accident Fund
Rail	The movement of cargo on rail track to different centres in the Republic.
Registered diesel / biodiesel claimant	Any VAT vendor who has registered to partake in the diesel / biodiesel refund.
Republic	The Republic of South Africa
Reward	Any financial gain, money, goods or services.
SARS	South African Revenue Service
Section	Refers to the relevant Section of the Customs and Excise Act, unless otherwise specified.
Ship stores	Fuel pumped on board a vessel for its own consumption.
Shore	The coast or land adjacent to a sea.
Smokeless diesel / biodiesel	A mixture of kerosene and lubricity agent which is used normally by mines underground for health reasons.
Tax invoice	An invoice according to the requirements set out in Section 75(4A)(c) of the Customs and Excise Act.
User	Defined in Section 75(1C)(b)(i) of the Customs and Excise Act, Act No. 91 of 1964 means, according to the context and subject to any notes to item 670.04, a person registered for Value-Added Tax purposes under the provisions of the Value-Added Tax Act, 1991 (Act No. 89 of 1991) AND for diesel / biodiesel refund purposes as contemplated in Section 75(1A) AND 75(4A).

VAT	Value-Added Tax
Vessel	Any ship or boat
Weed, pest or disease control	Hunting or trapping that is carried on as part of agricultural operations including the storage of any carcasses or skins.
Wet or contracted or hired on a wet basis	Diesel / biodiesel supplied with the vehicle, vessel, machine or other equipment contacted, hired, leased or chartered
Winter diesel	Diesel mixed with a small amount of paraffin or additive

5 BACKGROUND

- a) In order to encourage and enable primary production in the Republic a refund is offered on the fuel and RAF levies charged on diesel and biodiesel used in such production.

6 GOVERNING LEGISLATION

- a) Sections of the Customs and Excise Act, Act No. 91 of 1964 (the Act), as well as the Rules, have reference —
- i) Section 14(1) deals with coastwise traffic and coasting ships;
 - ii) Section 75 provides for the refund with effect from **4 July 2001**;
 - iii) Section 75(1C)(b)(i) defines a user of this refund;
 - iv) Section 75(4A)(b)(ii) stipulates that any refund claim of such levies must be submitted within two years from the date of purchase of the diesel / biodiesel;
 - v) Section 75(4A)(c) stipulates that any seller of such fuel shall furnish the user with an original invoice reflecting the particulars, and shall keep a copy of such invoice for the time prescribed in the notes to the item 670.04; and
 - vi) Details of the refund measures are contained in Note 6 to Item 670.04 of Schedule No. 6 to the Act.
- b) Section of the Road Accident Fund Act No. 56 of 1996 has reference —
- i) Section 5 - the Fund shall procure the funds it requires to perform its functions by way of a fuel levy in respect of all fuel sold within the Republic.
- c) Sections of the Maritime Zones Act No. 15 of 1994 have reference —
- i) Section 1 deals with relevant definitions;
 - ii) Section 5 defines the contiguous zone; and
 - iii) Section 8 defines the continental shelf.

7 THE DIESEL / BIODIESEL REFUND SYSTEM

- a) The diesel / biodiesel refund system provides a refund on the fuel and RAF levies paid on diesel / biodiesel by certain qualifying industries. The refunds will be dealt with under the following categories:
- i) **On land;**
 - ii) **Offshore;**
 - iii) **Harbour Vessels; and**
 - iv) **Rail.**
- b) Diesel / biodiesel in respect of which a fuel levy and RAF levy is prescribed in Part 5A and Part 5B of Schedule No1 respectively and which has been duly entered for home consumption or which is deemed to have been duly entered for home consumption, whether or not such diesel and biodiesel have been mixed, irrespective of the percentage blend, and excludes the following –

- i) "Smokeless diesel", a mixture of kerosene and a lubricity agent, normally used in underground mines.
 - ii) Any mixture of diesel with kerosene or any other substance except biodiesel.
 - iii) Any diesel / biodiesel entered for export or ships stores or in terms of any other procedure except for home consumption or on which the levies are not paid.
- c) Non-commercial manufacturers of biodiesel for own use will not be allowed to claim the refund.

7.1 Application for diesel / biodiesel refund

a) Who may apply?

- i) Any enterprise carrying on **eligible activities as indicated in this guide** that is registered for VAT purposes, either compulsory (annual turnover above R 1 000 000) or voluntary (annual turnover between R 50 000 and R 1 000 000), may apply for the diesel / biodiesel registration by completing a form VAT 101D – Application for registration of diesel / biodiesel refund.
- ii) The SARS Branch Office may refuse a diesel / biodiesel registration under the following circumstances -
 - A) The enterprise is not registered for VAT purposes (turnover below R 50 000);
 - B) The enterprise is not carrying on an eligible enterprise; or
 - C) The enterprise has not provided correct bank particulars.
- iii) **If a person registered for VAT becomes aware that he / she is entitled to register for the diesel / biodiesel refund system as well, may with retrospective effect for two (2) years from the diesel / biodiesel registration, claim back such diesel on condition that he / she complies with the conditions as set out in Note 6 to rebate item 670.04 of Schedule No. 6 to the Act (i.e. diesel used in primary production, records, tax invoices, etc.). (Section 75(4A)(b)(ii) of the Act stipulates that any refund claim of such levies must be submitted within two years from the date of purchase of the diesel / biodiesel).**

b) Close Corporations, Companies, Partnerships and Syndicates

- i) In some instances a group of registrants may form a CC, Company, partnership or syndicate, etc. to purchase expensive assets. Various assets may be registered in the name of the mentioned entities. For VAT purposes this entity will normally be registered as conducting hiring or contracting services, purchases and uses the diesel / biodiesel. It will not qualify for a refund and will be regarded as non-eligible purchases.
- ii) **Example:** Two separate farmers form a CC and purchase an expensive combined harvester in the name of the CC. Both farmers use the combined harvester for harvesting their own wheat. For accounting purposes the CC is paid rental for the use of the harvester. If the CC is responsible for purchasing the diesel / biodiesel for the harvester, the CC is regarded as a contractor and will not be able to claim a diesel / biodiesel refund. However, if the farmer in his / her own capacity purchases and provides the diesel / biodiesel for use in the harvester (supplied on a dry basis) while the harvester is being used to harvest the farmer's wheat, the farmer will qualify for the refund.

c) Application for registration:

- i) **Application for registration for diesel refunds must be made on form VAT 101D obtainable from the office of any Receiver of Revenue or on the SARS website (www.sars.gov.za).**

d) General notes on registration

- i) The VAT number will be validated against the VAT system;
- ii) Information in respect of estimated and past turnover must be provided in the financial statements;
- iii) Actual expenses and assumptions in respect of estimated and past diesel / biodiesel purchases must be provided;

- iv) If your business has branches and they maintain separate bookkeeping systems and are located separately, you can apply for separate VAT registrations; and
- v) Applications for separate diesel / biodiesel numbers for branches or divisions must be completed on a VAT 102D form.

7.2 On land refund sectors and their eligible activities

7.2.1 Mining

- a) The diesel / biodiesel must be purchased by the user for use and used as fuel for own primary production activities in mining.
- b) The mining activities which qualify for a refund of levies must be carried on –
 - i) For own primary production by the user or by a contractor of the user who is contracted on a dry basis;
 - ii) Unless otherwise specified, at the place where the mining operation is carried on; and
 - iii) By a person who is in possession of the necessary authorisation granted in terms of the Minerals Act, 1991 (Act No. 50 of 1991). **In this regard the mining permit is regarded as the relevant authorisation.**
- c) Own primary production activities in mining include the following:
 - i) The exploration or prospecting for minerals.
 - ii) The removal of over burden and other activities undertaken in the preparation of a site to enable the commencement of mining for minerals.
 - iii) Operations for the recovery of minerals being mining for those minerals including the recovery of salts.
 - iv) Searching for ground water solely for use in a mining operation or the construction or maintenance of facilities for the extraction of such water.
 - v) The pumping of water solely for use in a mining operation if the pumping occurs at the place where the mining operation is carried on or at a place adjacent to that place.
 - vi) The supply of water solely to the place where the mining operation is carried on, from such place or a place adjacent to that place.
 - vii) The construction or maintenance of private access roads at the place where the mining operation is carried on.
 - viii) The construction or maintenance of -
 - (A) Tailings, dams for use in a mining operation;
 - (B) Dams, or other works, to store or contain water that has been used in or obtained in the course of carrying on a mining operation.
 - ix) The construction or maintenance of dams, at the place where the mining operation is carried on, for the storage of uncontaminated water for use in a mining operation.
 - x) The construction or maintenance of buildings, plant or equipment for use in a mining operation.
 - xi) The construction or maintenance of power stations or power lines solely for use in a mining operation.
 - xii) Coal stockpiling for the prevention of the spontaneous combustion of coal as part of primary mining operations.
 - xiii) The reactivation of carbon for use in the processing of ores containing gold if the reactivation occurs at the place where mining for gold is carried on.
 - xiv) The removal of waste products of a mining operation and the disposal thereof, from the place where the mining operation is carried on.
 - xv) **The transporting by vehicle, locomotive or other equipment on the mining site of ores or other substances containing minerals for processing in operations for recovery of minerals.**
 - xvi) The service, maintenance or repair of vehicles, plant or equipment by the person who carries on the mining operation solely for use in a mining operation, at the place where the mining operation is carried on.

- xvii) The service, maintenance or repair of transport networks for use in a mining operation, to the extent that the service, maintenance or repair is performed at the place where a mining operation is carried on.
- xviii) Quarrying.
- xix) The transport of ores or other substances containing minerals from the mining site to the nearest railway siding.
- xx) The following equipment and vehicles are regarded as forming an integral part of the mining process:
 - (A) Agitators.
 - (B) Drilling rigs.
 - (C) Hammer mills.
 - (D) Smelters.
 - (E) Tunnelling machines.
 - (F) Specially manufactured underground equipment.
 - (G) Front-end loaders.
 - (H) Excavators.
 - (I) Locomotives for carriage by rail of minerals or equipment.
- d) The following are not regarded as mining activities:
 - i) Dredging for materials for use in -
 - A) Building;
 - B) Road making;
 - C) Landscaping;
 - D) Construction and similar activities.
 - ii) Mobile crushing operations such as the crushing of stone for road building and dam walls.
 - iii) Rehabilitation of mines either during operation or when operation has ceased.

7.2.2 Forestry

- a) **The diesel / biodiesel must be purchased by the user for use and used as fuel for own primary production activities in forestry.**
- b) Own primary production activities in forestry include the following:
 - i) Land preparation -
 - A) Clearing of land.
 - B) Ploughing, dicing and hoeing.
 - C) Making of initial access roads.
 - ii) Planting of land -
 - A) Transport of seedlings from nursery to plantations.
 - B) Making of planting pits, line seeding **and similar activities.**
 - C) Application of herbicides and fertilisation.
 - D) Follow-up activities replacing dead seedlings with new seedlings (blanking).
 - iii) Maintenance of plantations -
 - A) Weeding in plantation (manual, chemical or mechanical).
 - B) Making of fire breaks, including fire control access roads.
 - C) Pruning of branches.
 - D) Thinning of trees and removal of trees.
 - E) Road and infrastructure maintenance which forms an integral part of the forest.
 - iv) Harvesting of trees -
 - A) Making of extraction roads.
 - B) Felling of trees (manual with chainsaws or mechanical with equipment);
 - C) Stripping of bark off felled trees.
 - D) Stacking of felled tree timber (in field or at roadside).
 - E) Crosscutting into specified log lengths.
 - F) Extraction of timber to roadside.

- v) Transporting trees in a forest from where they were felled.
- vi) Transporting by the user of timber to a saw-mill or chip-mill that is outside the forest or plantation.
- vii) The transport of timber logs to a railway siding from the forest or plantation.
- viii) The process of growing, cutting or carting of trees and logs.
- ix) Generating electricity for domestic use at the place where forestry is carried on.
- x) Use of locomotives for the carriage of goods by rail in the forest or plantation.

NOTE: The above activities only qualify for the refund if carried on for own primary production in farming by the user or by the contractor of the user who is contracted on a dry basis.

- c) The following are not regarded as activities in forestry —
 - i) Constructing or building the mill or other processes facilities.
 - ii) Dressing, planning or shaping woods and producing board.
 - iii) The transport of the goods to build a road in the forest, unless it is regarded as an access road.
 - iv) Mining timber at a saw-mill or chip-mill.
- d) **No refund may be claimed in instances where trees are purchased from a forester for the harvesting thereof for commercial / private use. (A common error in the forestry sector is the claiming of a diesel refund in instances where an individual / business purchases and harvests trees on the legally registered foresters land (i.e. cutting down trees, transporting of trees, etc.). This activity does not constitute forestry and, therefore, does not qualify for the diesel refund.**

7.2.3 Farming

- a) **Own primary production activities in farming means the production of farming products by the user for gain on a farming property.**
- b) **The following activities are included:**
 - i) **Growing crops and harvesting and storing crops on the farming property.**
 - ii) **Horticulture, pasturage and apiculture.**
 - iii) **The breeding of fish in dams and the farming of oysters.**
 - iv) **The breeding and caring for animals and reptiles.**
 - v) **The breeding and caring for race and show horses and the transportation thereof.**
 - vi) **The shearing or cutting of hair or fleece of livestock or the milking of livestock.**
 - vii) **The transport of livestock to a farming property for the purpose of rearing.**
 - viii) **The rounding up or herding of livestock.**
 - ix) **The baling of hay.**
 - x) **The planting or tending of fruit trees.**
 - xi) **Any activity undertaken for the purpose of soil or water conservation.**
 - xii) **The carrying out of fire fighting activities.**
 - xiii) **The construction and maintenance of fences.**
 - xiv) **The construction or maintenance of firebreaks.**
 - xv) **The service, maintenance or repair of vehicles or equipment for use in a farming activity if it is carried out at the place where farming is carried on.**
 - xvi) **The construction or maintenance of sheds, pens, silos or silage pits for use in a farming activity.**
 - xvii) **The construction or maintenance of dams, water tanks, water troughs, water channels, irrigation systems or drainage systems including water pipes and water piping for use in a farming activity carried out on the farming property.**
 - xviii) **The carrying out of earthworks for the purpose of a farming activity, carried out on the farming property.**
 - xix) **Searching for ground water solely for use in a farming activity, or the construction or maintenance of facilities for the extraction of such water, solely for that use.**
 - xx) **The pumping of water solely for use in farming if the pumping is carried out on a farming property.**

- xxi) The supply of water solely for use in farming if the supply is to a farming property and the water is supplied from that property or a place adjacent to that property.
- xxii) The storage of farming products.
- xxiii) The packing or prevention of deterioration of farming products, if the packing or the prevention of deterioration of the products is carried out on a farming property.
- xxiv) Weed, pest or disease control.
- xxv) Hunting or trapping that is carried on as part of farming operations including the storage of any carcasses or skins.
- xxvi) Game farming, excluding leisure activities such as game viewing and lodging.
- xxvii) Generators or other farm equipment for domestic purposes.
- xxviii) Use of locomotives for the carriage of goods by rail on the farming property.

NOTE: The above activities only qualify for the refund if carried on for own primary production in farming by the user or by the contractor of the user who is contracted on dry basis.

- c) Where farming products or farming requirements are transported by a contractor of the user, and the distillate fuel is supplied by the user on a dry basis, the user may claim a refund in terms of item 670.04 in respect of the quantity of fuel actually used –
 - i) Where such farming products are transported from the farming property to the market or **first point** of delivery; or
 - ii) The farming requirements are transported from the supplier's loading point to the farming property.
- d) **No refund may be claimed in respect of any transport on a wet basis.**
- e) Eligible use in farming includes the transportation by the user by means of own vehicles of –
 - i) Farming products to any place; or
 - ii) Farming requirements for use by such user from any place to the farming property.
- f) The following are regarded as non-eligible farming activities —
 - i) Diesel / biodiesel used by a purchaser of farming products in vehicles which carry those products from the farming property to the place of business of the purchaser.
 - ii) Activities that change the nature of agricultural (farming) products are not regarded as farming and diesel / biodiesel used in these processes may therefore not be claimed for refund purposes. Such diesel / biodiesel must be added back as non-eligible purchases.
 - A) Examples —
 - I) The processing of grapes into producing wine.
 - II) The processing of milk in producing yoghurt, cheese or butter.
 - III) The processing of beef carcasses into sausages or biltong.
 - IV) The milling of maize into maize meal for resale.
 - V) The peeling and cutting of fresh fruit in making dried fruit.
 - iii) The diesel / biodiesel used in equipment hired to any third party for the purposes of utilising it for non-eligible use will not qualify for a refund claim.
 - iv) **If a farmer has a transport business, any diesel / biodiesel used for transport for reward is not claimable and should be indicated as non-eligible purchases on the VAT 201. This includes a situation where the farmer transports goods for reward on a once-off basis.**
 - v) Any person e.g. a dairy product processor that travels to a farm to collect milk or any other produce from a farm will not qualify to claim a refund.

7.3 Offshore refund sectors and their eligible activities

- a) **Offshore vessels include –**
 - i) **Commercial fishing vessels;**

- ii) Coasting vessels;
- iii) Offshore mining;
- iv) Vessels owned by the National Sea Rescue Institute (NSRI);
- v) Vessels conducting research in support of the marine industry;
- vi) Coastal patrol vessels; or
- vii) Vessels employed to service fibre optic telecommunication cables along the coastline of Southern Africa.

- b) Refund of levies on eligible purchases of diesel / biodiesel for offshore vessels conducting research in support of the marine industry, coastal patrol vessels or vessels employed to service fibre optic telecommunication cables along the coastline of Southern Africa. These include the following vessels-

NOTE: The diesel / biodiesel may only be used for the propulsion of the vessels or the operation of any equipment on the vessels.

7.3.1 Commercial fishing

- a) The diesel / biodiesel must be purchased by the user for use and used as fuel for own primary production activities in commercial fishing.
- b) Sea fishing **includes** —
- i) The catching of "fish" as defined in the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
 - ii) The processing of fish **while at sea**.
- c) Sea fishing **excludes** —
- i) Whaling, sealing or the catching of fish for non-commercial purposes.
- d) Use of diesel / biodiesel:
- i) Eligible purchases are only applicable in respect of fishing vessels -
 - A) Which are owned or chartered by a legal person registered in the Republic in accordance with the laws of the Republic and which has its place of effective management in the Republic or by a natural person who is ordinarily resident in the Republic.
 - B) Which are registered or licensed in terms of the Merchant Shipping Act, 1951 (Act No. 57 of 1951).
 - C) If the master is in possession of a valid commercial fishing permit issued by the Directorate Marine and Coastal Management, Department of Environmental Affairs and Tourism in terms of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
 - D) Which are used in fishing activities carried on with the aim of making a profit.
 - E) If used in an engine for the propulsion of, or operating of any equipment used on board, of such fishing vessels.
- e) The equipment may include the following—
- i) Air and refrigeration compressor.
 - ii) Bilge pump.
 - iii) Generator.
 - iv) Lighting plant.
 - v) Pump.
 - vi) Auxiliary engine.
 - vii) Other diesel / biodiesel powered engines.
 - viii) Boiler.
 - ix) Chiller or freezer.
 - x) Cooking facilities.
 - xi) Heater.

- xii) Incinerator.
- xiii) Welder.
- xiv) Onboard crane.
- xv) Winches.
- xvi) Other diesel / biodiesel equipment.

NOTE: The above activities only qualify for the refund if carried on for own primary production in commercial fishing by the user or by the contractor of the user who is contracted on a dry basis.

- f) The following are regarded as non-eligible commercial fishing activities —
 - i) Any offshore activity including offloading of catch with a fixed onshore crane and onshore processing.
 - ii) Any activity in the carrying on of a business relating to recreation, sport or tourism, which includes **fishing vessels chartered** for such purpose.
 - iii) Vessels undertaking trial runs connected with the repair or renovation thereof.
- g) **No refund may be claimed where a** fishing trip is undertaken as a combination of commercial fishing and fishing by paid passengers, a refund is only payable on the diesel / biodiesel consumed for commercial fishing and should be appointed on the basis of turnover. In these circumstances, if the activity of fishing is partly associated with recreation, sport or tourism and partly associated with commercial fishing, the diesel / biodiesel used does not qualify for a refund.

7.3.2 Coastal vessels (shipping)

- a) Use of diesel / biodiesel:
 - i) Eligible purchases are only applicable in respect of a coasting vessel -
 - A) If the vessel is owned or chartered by a legal person registered in the Republic in accordance with the laws of the Republic and which has its place of effective management in the Republic, or by a natural person who is ordinarily resident in the Republic; and
 - B) If the vessel holds a valid Certificate of South African Registry with a valid South African Maritime Safety Authority survey certificate; and
 - C) If the fuel is used for the propulsion of the vessel or the operation of any equipment on the vessel.
- b) Equipment may include the following:
 - i) Air and refrigeration compressor.
 - ii) Bilge pump.
 - iii) Generator.
 - iv) Lighting plant.
 - v) Pump.
 - vi) Auxiliary engine.
 - vii) Other diesel / biodiesel powered engines.
 - viii) Boiler.
 - ix) Chiller or freezer.
 - x) Cooking facilities.
 - xi) Heater.
 - xii) Incinerator.
 - xiii) Welder.
 - xiv) Onboard crane.
 - xv) Winches.
 - xvi) Other diesel / biodiesel equipment.

NOTE: The above activities only qualify for the refund if carried on for own primary production in coastal shipping by the user or by the contractor of the user who is contracted on a dry basis.

- c) The following are regarded as non-eligible activities:
- i) Any **onshore** activity including the off-loading of cargo by cranes **or** equipment fixed **on** land.
 - ii) Cargo transport / delivery on-shore;
 - iii) Other **onshore** activities including stacking of cargo, running or refrigeration containers.
 - iv) Pollution control;
 - v) Ferry services;
 - vi) Any activity which is undertaken other than the carrying of goods such as conveying of passengers, recreation, sport or tourism.
 - vii) Vessels undertaking trial runs connected with the repair or refit thereof.

NOTE: Duty free diesel / biodiesel purchased do not qualify for a refund and forms part of non-eligible purchases.

7.3.3 Offshore mining

- a) Any device contemplated in Section 5 of the Act, operated by a user on or above the the continental shelf in which diesel / biodiesel is used for offshore mining activities may qualify for a refund of levies, including -
- i) Any installation, including a pipeline which is used for the transfer of any substance to or from a research, exploration or production platform.
 - ii) Any exploration or production platform used in prospecting for or the mining of any substance.
 - iii) **Any exploration or production vessel used for exploration or exploitation of the seabed.**
 - iv) Any vessel or appliance used for the exploration or exploitation of the seabed.
- b) **Diamond dredgers must operate under a permit issued by the Department of Mineral and Energy Affairs.**
- c) The offshore mining activities, which qualify for such refund, further include —
- i) Machinery and equipment which form an integral part of the installation **or device**;
 - ii) A vessel used solely to convey persons or goods to and from any installation **or device**, which is supplied with diesel / biodiesel by such installation **or device**; and
 - iii) In the case of diamond dredgers, diesel / biodiesel used in a vessel chartered by the owner of the dredging vessel to bunker the diamond dredgers at sea and the fuel bunkered by such vessel.
- d) Any diesel / biodiesel used in any installation or device or any vehicle , vessel machine or other equipment of any kind whatsoever contracted or hired for use in any qualifying activity in respect of offshore mining only qualifies for a refund if so contracted or hired by the user on a dry basis.
- e) **The user so supplying such distillate fuel must keep an accurate account of the quantity supplied and all documents relating to the contract or hire and the activities undertaken by such installation, device, vehicle, machine or other equipment.**

NOTE: Any installation which uses diesel / biodiesel and is chartered or contracted to another installation, does not qualify for the refund.

7.3.4 National Sea Rescue Institute (NSRI)

- a) Use of diesel / biodiesel:
- i) Eligible purchases are only applicable in respect of NSRI vessels -

- A) If the diesel / biodiesel is used for the propulsion of the vessel for the purpose of rescue operations or training at sea or the operation of any equipment on the vessel.
- B) If the vessel is owned or chartered by a legal person registered in the Republic in accordance with the laws of the Republic and which has its place of effective management in the Republic, or by a natural person who is ordinarily resident in the Republic; and
- C) Which is registered or licensed in terms of the Merchant Shipping Act, 1951 (Act No. 57 of 1951).

b) The following is regarded as a non-eligible activity

- i) NSRI vehicles using diesel / biodiesel on-land.

7.3.5 Research vessels

a) Use of diesel / biodiesel:

- i) Eligible purchases are only applicable in respect of research vessels -
 - A) If the diesel / biodiesel is used for the propulsion of the vessel for the purpose of conducting research in support of the marine industry or the operation of any equipment on the vessel.
 - B) If the vessel is owned or chartered by a legal person registered in the Republic in accordance with the laws of the Republic and which has its place of effective management in the Republic, or by a natural person who is ordinarily resident in the Republic; and
 - C) Which is registered or licensed in terms of the Merchant Shipping Act, 1951 (Act No. 57 of 1951).

7.3.6 Coastal patrol vessels

a) Use of diesel / biodiesel:

- i) Eligible purchases are only applicable in respect of coastal patrol vessels -
 - A) If the diesel / biodiesel is used for the propulsion of the vessel for the purpose of patrolling the coastline of South Africa or the operation of any equipment on the vessel.
 - B) If the vessel is owned or chartered by a legal person registered in the Republic in accordance with the laws of the Republic and which has its place of effective management in the Republic, or by a natural person who is ordinarily resident in the Republic; and
 - C) Which is registered or licensed in terms of the Merchant Shipping Act, 1951 (Act No. 57 of 1951).

7.3.7 Vessels employed to service fibre optic telecommunication cables

a) Use of diesel / biodiesel:

- i) Eligible purchases are only applicable in respect of coastal patrol vessels -
 - A) If the diesel / biodiesel is used to service fibre optic telecommunication cables along the coastline of Southern Africa or the operation of any equipment on the vessel.
 - B) If the vessel is owned or chartered by a legal person registered in the Republic in accordance with the laws of the Republic and which has its place of effective management in the Republic, or by a natural person who is ordinarily resident in the Republic; and
 - C) Which is registered or licensed in terms of the Merchant Shipping Act, 1951 (Act No. 57 of 1951).

7.4 Harbour vessels

- a) **Only the Road Accident Fund (RAF) levy may be claimed** on eligible purchases of diesel / biodiesel for –
- i) Harbour vessels operated by Portnet; or
 - ii) Vessels used by in-port bunker barge operators.
- b) Eligible purchases are only applicable to such vessels, which are -
- i) Owned or chartered by a legal person registered in the Republic and which has its place of effective management in the republic or by a natural person who is ordinarily resident in the Republic; and
 - ii) Which are registered or licensed in terms of the Merchant Shipping Act, 1951 (Act No. 51 of 1951).
- c) A bunker barge operator may only deliver such diesel / biodiesel to any vessel contemplated in this item if a tax invoice has been issued as required in paragraph 7.3.1. Such operator must keep books, accounts and documents including a copy of such invoice for inspection by an officer for a period of 5 years from the date of such delivery.

7.5 Rail

- a) **Only the Road Accident Fund (RAF) levy may be claimed** on eligible purchases of diesel / biodiesel for locomotives used for hauling rail freight in the Republic other than those used in farming, forestry or mining.
- b) Instances may occur, where goods wagons will be combined with passenger trains, e.g. a train consisting of 4 passenger coaches and 20 goods wagons. Should this happen, the diesel / biodiesel used must be apportioned between freight haulage and passenger transport. If the train used 2 000 litres of diesel / biodiesel on such a journey, then the non-eligible usage would be calculated in the proportion of passenger coaches and goods wagons. In this case, $4 / 24 \times 2\,000$ litres = 333,3 litres.
- c) Eligible purchases includes —
- i) Maintenance of diesel / biodiesel locomotives; and
 - ii) Diesel / biodiesel used in locomotives for shunting in connection with freight haulage.
- d) The following are regarded as non-eligible rail freight activities -
- i) Carriage of paid passengers;
 - ii) Operating tourist activities;
 - iii) Any off-rail activity e.g. road transport of goods and passenger busses;
 - iv) Rail transport of goods and passengers beyond the South African borders; and
 - v) Diesel / biodiesel used in loading and off-loading of goods wagons unless the equipment used forms an integral part of the train.

7.6 Electricity Generation Plants

- a) With effect from 1 October 2007, the existing diesel refund scheme has been extended to include Electricity Generation Plants, with a capacity exceeding 200 megawatt per plant and using distillate fuel solely for the purpose of generating electricity, **for the national distribution network..**
- b) There are currently only two electricity generation plants known as —
- i) Ankerlig Power Station situated in Atlantis; and
 - ii) Guarikwa Power Station situated at Mosselbay

7.7 General conditions and procedures relating to purchases of diesel / biodiesel and refunds

7.7.1 Tax Invoice

- a) The purchaser who is registered for diesel / biodiesel refund must be in possession of a valid tax invoice to support the refund claim. If the necessary tax invoices is not kept, or does not comply with the requirements, the diesel / biodiesel refund will not be allowed.
- b) For the purposes of section 75(4A)(c) of the Act, the invoice must be a tax invoice containing the following information:
 - i) The words "Tax Invoice";
 - ii) The name, address and VAT number (a 10-digit number starting with 4) of the supplier;
 - iii) The name and address of the purchaser (if the invoice value is over R500);
 - iv) Date of the transaction;
 - v) Description of the goods (being diesel or biodiesel);
 - vi) Quantity delivered or purchased;
 - vii) Value of the supply;
 - viii) The amount of VAT, which must be shown as 0% since VAT is not levied on diesel / biodiesel.
- c) A full valid tax invoice must be obtained for all purchases of diesel / biodiesel unless the amount is less than R 500.00 in which an abridged tax invoice is sufficient.
- d) Any working papers and supporting documentation (diesel / biodiesel invoices) must be retained and not be submitted with the VAT 201.
- e) Should a claimant (user) re-sell diesel / biodiesel, a valid tax invoice containing the VAT registration number must be issued. The diesel / biodiesel sold by this claimant (user) will be regarded as non-eligible purchases.
- f) **Example:** A holding company buys the diesel / biodiesel and sells it to its subsidiary company to be used in primary production. The holding company cannot claim the diesel / biodiesel refund. The subsidiary company using the diesel / biodiesel in primary production, in possession of a tax invoice from the holding company, may claim a refund.
- g) Where vessels which are engaged in operations qualifying for eligible use are refuelled offshore, a tax invoice must be issued by the supplier to the user.

7.7.2 Usage of diesel / biodiesel

- a) It is a requirement that the diesel / biodiesel must be purchased and used within the borders of the Republic. Diesel / biodiesel purchased and used in a neighbouring territory for any activity to which this item relates may not be claimed for a refund.
- b) 80% of the total eligible purchases used in agriculture, mining and forestry related to primary production will qualify for a refund.
- c) 100% of the total eligible purchases used in the remaining sectors.
- d) Records of used diesel / biodiesel must show the following —
 - i) The quantity of diesel / biodiesel involved (litres);
 - ii) How the diesel / biodiesel was disposed of.

7.7.3 Contracting

- a) Any person, whose services are contracted by a user, is not entitled to a refund in respect of diesel / biodiesel used in any vehicle, vessel, machine or other equipment to render such services.
- b) Where a contract for such services is only on a dry basis, the user who supplies the diesel / biodiesel to the contractor may apply for a refund in respect of the fuel actually used in rendering the services. Such services may include harvesting by a contractor using his own harvester and transport of the harvested crop to the market or any first point of delivery.

7.7.4 Re-selling of diesel / biodiesel

- a) The user who sells such diesel / biodiesel may not claim a refund of levies thereon and the diesel / biodiesel sold must be shown as a non-eligible purchase on the return for a refund.
- b) Records of sold diesel / biodiesel must show the following —
 - i) The date that the sale occurred and to whom it was sold.
- c) Should a claimant (user) re-sell diesel / biodiesel, a valid tax invoice containing the VAT registration number must be issued.

7.7.5 Barter or Donation

- a) Where a user disposes of any such diesel / biodiesel by barter or by donation, the diesel / biodiesel so disposed of does not qualify for a refund and must be indicated as a non-eligible purchase on the return for a refund.

7.7.6 Wet or Dry

- a) **Dry** — the registered claimant, who has purchased diesel / biodiesel and supplies it to a contractor to perform a certain task on the claimants' (user) behalf, will be eligible for the refund if the task is part of primary production.
- b) **Wet** — if a contractor performs a certain task as part of primary production for a claimant and provides equipment and the diesel / biodiesel on a wet basis, neither the registered claimant (user) nor contractor will be eligible for a refund.

7.7.7 Diesel / biodiesel obtained under rebate of duty

- a) Any diesel / biodiesel obtained under rebate of duty under any item of any Schedule must be shown as a non-eligible purchase on the diesel return for a refund.

7.7.8 Diesel / biodiesel purchased from neighbouring countries

- a) No diesel / biodiesel may be brought into the Republic in any container for consumption in the Republic from any other country in the common customs area unless such fuel is duly entered for home consumption on importation as contemplated in Section 52 of the Act, and all levies to which this item relates have been paid. If any such fuel is thereafter sold to a user, a tax invoice must be issued by the seller in the Republic.

7.7.9 Losses of diesel / biodiesel

- a) Diesel / biodiesel lost through accident, theft, leakage or any other cause whatsoever is regarded as non-eligible.
- b) A copy of the police report, where applicable or insurance claim details can provide the information necessary to substantiate the particulars of the loss.

- c) A refund may not be claimed for lost diesel / biodiesel and the quantity lost must be reflected as a non-eligible purchase on the refund return.
- d) In case of diesel / biodiesel lost through accident, theft or other reasons, the following records must be kept —
 - i) The quantity of diesel / biodiesel involved (litres);
 - ii) The date the loss occurred, or the date the loss was detected.
 - iii) Where the loss occurred and the circumstances surrounding the incident.
 - iv) The quantity of fuel lost and how the quantity was calculated.

7.8 Claiming the refund

- a) As mentioned before any refund claim of diesel / biodiesel levies must be submitted within two years from the date of purchase of such diesel / biodiesel.
- b) **No return for a refund of levies on diesel / biodiesel in terms of this item as referred to in section 75(4A)(b) shall be considered unless the applicant is so registered.**
- c) **A refund may only be applied for in respect of diesel / biodiesel purchased in and for use in the Republic and for which a duly completed tax invoice is issued.**
- d) **The diesel / biodiesel refund part of the return form is incorporated in the VAT return form (VAT 201D).**
- e) The completed form VAT 201 (VAT and diesel / biodiesel), must be signed and submitted to your local SARS Branch Office before the 25th day of the following month.
- f) If making use of SARS' e-filing, the VAT 201 can be submitted electronically within the period ending on the last business day of the month during which that 25th day falls.
- g) **Any person who includes in any purchase of fuel, fuel for eligible and non-eligible purchases, shall deduct the non-eligible purchases from the quantities for which a refund is claimed.**
- h) No diesel / biodiesel refund will be paid by cheque, but by EFT directly into your bank account. If no bank account number is supplied the refund will not be made (registration cannot take place).
- i) The refund will not be made if your tax affairs are not in order. This means that all outstanding tax, interest, penalties or additional tax owed to SARS must be paid or there must be an agreement to pay the outstanding moneys.

7.9 Calculation of Diesel / Biodiesel refund

- a) It is imperative that the wholesale price of diesel / biodiesel is obtained for the purpose of verifying whether the selling price indicated on the tax invoice is in line with current trends. The sale is zero-rated for VAT purposes and VAT is not levied on the importation thereof.
- b) Should the selling price be less than the wholesale price, it is likely that the product in question is not diesel / biodiesel as provided for in the schedules to the Act. If diesel / biodiesel is purchased and subsequently mixed with another product, such product will not be eligible for a refund. It is illegal to mix or blend diesel / biodiesel with another product and if this is discovered, it must be reported to the Road Fuel Testing Unit.
- c) **With effect from 6 April 2011 the general fuel levy increased by 10.0 c/l and the RAF levy increased by 8.0 c/l respectively.**

- i) Fuel levy = Increases from **152.5 c/l to 162.5 c/l**; and
- ii) RAF = Increases from **72.0 c/l to 80.0 c/l**.

b) PLEASE NOTE THE 7.5 c/l FUEL LEVY (APRIL 2010) TO HELP FUND THE NEW MULTI-PRODUCT PETROLEUM PIPELINE BETWEEN DURBAN AND GAUTENG WILL NOT FORM PART OF THE DIESEL REFUND SYSTEM.

c) Thus (Full fuel levy = 162.5 c / litre excluding the pipeline levy of 7.5 c/l = 155.0 c/l).

d) The diesel refund in respect of on-land primary sector beneficiaries is 40% of the general fuel levy of **155.0 c/l** which equals **62.0 c/l** of the qualifying 80% of diesel consumption.

e) With effect from 1 October 2007, the existing diesel refund scheme was extended to include Electricity Generation Plants, with a capacity exceeding 200 megawatt per plant and using distillate fuel solely for the purpose of generating electricity.

USAGE TYPES	PREVIOUS	NEW
On Land (Farming, Mining & Forestry)	130.0 c/l	142.0 c/l
Electricity Generation Plants	217.0 c/l	235.0 c/l
Offshore (Commercial fishing, Coastwise Shipping, Offshore Mining & NSRI)	217.0 c/l	235.0 c/l
Rail & Harbour Services	72.0 c/l	80.0 c/l

f) Where the implementation date of the new rates for RAF levy and fuel levy falls within the tax period, a factor has been determined on which a vendor must recalculate total non-eligible and eligible litres to determine the correct litres to be entered on the VAT 201 return.

g) The prescribed factor per usage type is as follows:

On Land	0.91549
Electricity Generation Plants	0.92340
Offshore	0.92340
Rail & Harbour Services	0.90000

h) The VAT vendor must recalculate total non-eligible and eligible litres purchased up to and on **5 April 2011**, by using the factor (shown above) to reduce these litres to enable them to use the new rate when calculating the diesel refund.

i) Examples of the calculations are shown below:

Example 1 (on land) – tax period 6 monthly

Return for tax period 08/2011 (01 March to 31 August)	Invoices to 05/04/2011 @ 130.0 c/l	Invoices from 06/04/2011 @ 142.0 c/l
Total Litres	102 000.00	102 000.00
Non-eligible Litres	2 000.00	2 000.00
Eligible Litres	100 000.00	100 000.00
80% of Eligible Litres	80 000.00	80 000.00
Amount Refundable	R 104 000.00	R 113 600.00
TOTAL REFUNDABLE	R 104 000.00 + R 113 600.00 = R 217 600.00	

a) Correction of litres purchased until **5 April 2011**:

Total litres times factor equals recalculated litres:	102 000 litres	x	0.91549	=	93 380 litres
Non-eligible litres times factor equals recalculated litres:	2 000 litres	x	0.91549	=	1 831 litres
Recalculated eligible litres:	93 380 litres	-	1 831	=	91 549 litres

b) Return for **April 2011** to be completed as follows:

i) Recalculated litres **plus** litres purchased from **06/04/2011 equals** figures for return

Total litres	93 380	(Recalculated)	+	102 000	(litres from 06/04/11)	=	195 380
Non-eligible litres	1 831	(Recalculated)	+	2 000	(litres from 06/04/11)	=	3 831
Eligible litres	91 549	(Recalculated)	+	100 000	(litres from 06/04/11)	=	191 549
80% of eligible litres	73 239	(Recalculated)	+	80 000	(litres from 06/04/11)	=	153 239

ii) Amount refundable **153 239 (litres) x 142.0 c/l = R 217 599.38**

Example 2 (offshore) - tax period 2 monthly

Return for tax period 04/2011 (March and April)	Invoices to 05/04/2011 @ 217.0 c/l	Invoices from 06/04/2011 @ 235.0 c/l
Total Litres	102 000.00	102 000.00
Non-eligible Litres	2 000.00	2 000.00
Eligible Litres	100 000.00	100 000.00
Amount Refundable	R 217 000.00	R 235 000.00
TOTAL REFUNDABLE	R 217 000.00+ R 235 000.00= R 452 000.00	

a) Correction of litres purchased until **05/04/2011**

Total litres times factor equals recalculated litres:	102 000 litres	x	0. 92340	=	94187 litres
Non-eligible litres times factor equals recalculated litres:	2 000 litres	x	0. 92340	=	1 847 litres
Recalculated eligible litres:	94 187 litres	-	1 847	=	92 340 litres

b) Return for **April 2011** to be completed as follows:

i) Recalculated litres **plus** litres purchased from **06/04/2011 equals** figures for return

Total litres	94187	(Recalculated)	+	102 000	(litres from 06/04/11)	=	196 187
Non-eligible litres	1 847	(Recalculated)	+	2 000	(litres from 06/04/11)	=	3 847
Eligible litres	92 340	(Recalculated)	+	100 000	(litres from 06/04/11)	=	192 340

ii) Amount refundable **192 340 (litres) x 235.0 c/l = R 451 999.00**

Example 3 (electricity generating plants) - tax period monthly

a) With effect from **1 October 2007**, the existing diesel refund scheme was extended to include Electricity Generation Plants, with a capacity exceeding 200 megawatt per plant and using distillate fuel solely for the purpose of generating electricity.

Return for tax period 04/2011 (April)	Invoices to 05/04/2011 @ 217.0 c/l	Invoices from 06/04/2011 @ 235.0 c/l
Total Litres	102 000.00	102 000.00
Non-eligible Litres	2 000.00	2 000.00
Eligible Litres	100 000.00	100 000.00
Amount Refundable	R 217 000.00	R 235 000.00
TOTAL REFUNDABLE	R 217 000.00+ R 235 000.00= R 452 000.00	

a) Correction of litres purchased until **05/04/2011**

Total litres times factor equals recalculated litres:	102 000 litres	x	0. 92340	=	94 187 litres
Non-eligible litres times factor equals recalculated litres:	2 000 litres	x	0. 92340	=	1847 litres
Recalculated eligible litres:	94 187 litres	-	1847	=	92 340 litres

b) Return for **April 2011** to be completed as follows:

i) Recalculated litres **plus** purchased from **06/04/2011 equals** figures for return

Total litres	94 187	(Recalculated)	+	102 000	(litres from 06/04/11)	=	196 187
Non-eligible litres	1847	(Recalculated)	+	2 000	(litres from 06/04/11)	=	3 847
Eligible litres	92 340	(Recalculated)	+	100 000	(litres from 06/04/11)	=	192 340

ii) Amount refundable **192 340 (litres) x 235.0 c/l = R 451 999.00**

Example 4 (rail and certain harbour vessels) - tax period 2 monthly

Return for tax period 04/2011 (March and April)	Invoices to 05/04/2011 @ 72.0 c/l	Invoices from 06/04/2011 @ 80.0 c/l
Total Litres	102 000.00	102 000.00
Non-eligible Litres	2 000.00	2 000.00
Eligible Litres	100 000.00	100 000.00
Amount Refundable	R 72 000.00	R 80 000.00
TOTAL REFUNDABLE	R 72 000.00 + R 80 000.00 = R 152 000.00	

a) Correction of litres purchased until **05/04/2011**

Total litres times factor equals recalculated litres:	102 000 litres	x	0.90000	=	91 800 litres
Non-eligible litres times factor equals recalculated litres:	2 000 litres	x	0.90000	=	1 800 litres
Recalculated eligible litres:	91 800 litres	-	1 800	=	90 000 litres

b) Return for **April 2011** to be completed as follows:

i) Recalculated litres **plus** litres purchased from **06/04/2011 equals** figures for return

Total litres	91 800	(Recalculated)	+	102 000	(litres from 06/04/11)	=	193 800
Non-eligible litres	1 800	(Recalculated)	+	2 000	(litres from 06/04/11)	=	3 800
Eligible litres	90 000	(Recalculated)	+	100 000	(litres from 06/04/11)	=	190 000

ii) Amount refundable **190 000 (litres) x 80.0 c/l = R 152 000.00**

7.10 Non-compliance

a) Interest, forfeiture (penalty) and suspension

- i) The provisions of the VAT Act apply mutatis mutandis in respect of the payment of interest on any amount of fuel levy or RAF levy being recovered by SARS.
- ii) The Act does not provide for the payment of interest by SARS and it is therefore your responsibility to accurately assess the amount of diesel / biodiesel fuel purchases you are entitled to claim. Records that substantiate your claims must be kept. SARS may audit your claims for up to 5 years after it has been made and interest, forfeiture (penalty) or a suspension may be imposed if a larger refund was claimed than you were entitled to. An additional assessment will be issued to recover any amount overstated, as well as interest and forfeiture payable.

INTEREST	FORFEITURE	SUSPENSION
The official rate of interest per month or part of a month	Once the value of the total litres overstated	Suspension from the system (discretion of SARS)

- iii) Suspension - A diesel / biodiesel registrant can be removed from the diesel / biodiesel refund system without being removed for VAT purposes. The taxpayer will be suspended due to fraud committed to obtain an undue diesel / biodiesel refund. If suspended the diesel / biodiesel registrant will not be able to claim any refunds for the period of suspension.
- b) Assessment liability to pay duties
- i) An assessment will be issued if any person is claiming a refund of duty or levy to which he / she is not entitled to.
 - ii) The Commissioner may issue an assessment of the amount of levy which is liable and the amount so assessed shall be paid by the person to the Commissioner on demand.
- c) Offences / fines
- i) Prosecution may be instituted where a claimant has —
 - A) Knowingly or recklessly made false or misleading statements or omitted material facts from a statement that has the effect of making the statement misleading;
 - B) Knowingly claimed a refund to which the claimant is not entitled; or
 - C) Failed or refused to make records available for inspection which substantiates the entitlement of the refund.
 - ii) Should a registrant be convicted in a court of law of an offence, a fine may be levied not exceeding R 100 000.00 or double the amount of any levies refunded, whichever is the greater, or to imprisonment for 10 years or to both the fine and imprisonment.
- d) In certain instances forfeiture may also be demanded
- i) The following are motivation for suspension —
 - A) Any person who with intent obtains any refund or levy under this Act to which such person is not entitled;
 - B) Makes, causes or allows any false statement or entry to be made in any return rendered in terms of this Act or signs any statement or return so rendered without reasonable grounds for believing the same to be true;
 - C) Gives any false answer, whether verbally or in writing, to any request for information made under this Act by the Commissioner or any person duly authorised by the Commissioner;
 - D) Prepares, maintains or authorises the preparation or maintenance of any false books of accounts or other records or authorises the falsifications of any books of accounts or other records;
 - E) Makes use of any fraud, art or contravention whatsoever or authorises the use of such fraud, art or contravention;
 - F) Makes any false statement for the purposes of obtaining any refund; or
 - G) Knowingly issues any tax invoice, credit note or debit note required under this Act which is in any material respect erroneous or incomplete.
 - ii) Suspension will be for a period as determined by the Commissioner. The Commissioner may reconsider reactivation of the registration after the period of suspension has lapsed.
 - iii) A notice of suspension (VAT 124) with the relevant reason(s) will be issued electronically to the diesel / biodiesel registrant where such suspension has been set.

7.11 Internal Administrative Appeals (DA 51) and applications for Alternative Dispute Resolution (DA 52)-:

- i) In the case where a vendor is not satisfied with an **assessment** raised by the SARS Compliance Division or a decision to **suspend** him / her from the system and / or the **timeframe of suspension**, a formal appeal under cover of a form DA 51 must be lodged by him / her with the SARS Branch Office concerned, for the attention of the Objections and Appeals Co-ordinator (OAC) in the relevant **SARS Compliance Division**, stating the grounds of his / her appeal.

- ii) On receipt of such appeal the OAC must deal with the matter in accordance with the procedures contained in the following document:
 - A) Internal / External Policy – Internal Administrative Appeal (IAA) (SC-CC-23 or SC-CC-24 respectively)).
- iii) Should a client be unhappy with the decision of an SARS Audit Objection Committee his / her recourse will be to lodge an Application for Alternative Dispute Resolution (ADR), form DA 52, with the relevant Objection Committee. The Committee will then add its recommendations thereto and forward the form DA 52 to the **ADR unit in Head Office, for the attention of Chantal Heugh.**
- iv) The matter must be dealt with in accordance with the procedures contained in the following document:
 - A) Internal / External Policy – Alternative Dispute Resolution (ADR) (SC-CC-25 or SC-CC-26 respectively)).

7.12 Keeping of books, accounts and other documents

- a) All books, accounts or other documents to substantiate the refund claim (purchase invoices, sales invoices and logbooks) must be kept for a period of 5 years from the date of use or disposal of the diesel / biodiesel or the refund return (form VAT 201), whichever occurs last.
- b) Any working papers and supporting documentation (diesel / biodiesel invoices) must be retained and not be submitted with the VAT 201.
- c) Any person who sells any distillate fuel to a user must keep a copy of the tax invoice for five years from the date of sale.
- d) Any such books, accounts or other documents and invoices must be produced for inspection to any officer in accordance with the provisions of section 4 of this Act.
- e) Purchase documents must be in the name of the registered user.
- f) Books, accounts or other documents must show in respect of each claim how the quantity of diesel / biodiesel on which a refund was claimed, was calculated.
- g) If a user carries on a business in more than one of the categories of eligible activities, or in any ineligible activity, the books, accounts or other documents regarding each activity must be kept separately.
- h) Documentation must show how the distillate fuel purchased was used, sold or otherwise disposed of. The user must –
 - i) Keep books, accounts or other documents of all purchases or receipts of distillate fuel, reflecting -
 - A) The number and date of each invoice relating to such purchases or receipts;
 - B) The quantities purchased or received;
 - C) The seller's name and business address; and
 - D) The date of purchase and receipt.
 - ii) Keep books, accounts or other documents in respect of the storage and use of distillate fuel, reflecting -
 - A) The date or period of use;
 - B) The quantity and purpose of use;
 - C) Full particulars of any fuel supplied on a dry basis to any contractor or other person who renders qualifying services to the user;
 - D) The capacity of each tank in which fuel is stored and the receipt and removal of such tanks.
 - iii) Where the fuel was sold or otherwise disposed of or used (except supplied on a dry basis), record in such books, accounts or other documents -
 - A) The quantity of fuel involved;

- B) In each case, whether the fuel was sold or otherwise disposed of or used and the date thereof;
- C) Where applicable to whom the fuel was sold or otherwise disposed of;
- D) The price received for the fuel, including details of any offsetting arrangements, barter or other dealings involved,
- iv) Keep logbooks in respect of fuel supplied to each vehicle, vessel or other equipment used in the following activities -
 - A) On land mining;
 - B) Forestry;
 - C) Farming;
 - D) Fishing;
 - E) Coastwise shipping;
 - F) Offshore mining;
 - G) National Sea Rescue Institute;
 - H) Rail freight; and
 - I) Electricity generation

7.13 Deregistration of Diesel / Biodiesel

- a) Deregistration of diesel / biodiesel will happen if —
 - i) You have ceased trading;
 - ii) You have disposed of the eligible enterprise; or
 - iii) There is a change in trade activity to a non-qualifying activity.
- b) When deregistering for diesel refund purposes, all unused litres / litres on hand must be declared on the Notice of Deregistration, VAT 123.

7.14 Road Fuel Testing Units (RFTU)

- a) These units have been formed specifically with the purpose of curbing the illegal mixing of paraffin or a lubricity agent with diesel / biodiesel. By mixing these products, an excisable product is being manufactured which attracts excise duty and fuel levy that is different to the individual products. The price of diesel / biodiesel is higher than paraffin due to the duties that are charged on diesel / biodiesel. Unscrupulous operators mix paraffin with diesel / biodiesel and sell this as diesel / biodiesel. Not only are they evading duty, but the mixture can be harmful to diesel / biodiesel equipment as it is not designed to operate on this mixture.
- b) A colourless marker (Authentix A1) has been introduced into paraffin which can only be detected by taking a sample of the diesel / biodiesel and by adding a reagent. If the colour turns pink, it indicates the presence of paraffin. Should you have doubt regarding the quality of the diesel / biodiesel in the possession of a user / reseller, you are welcome to approach these units for assistance.
- c) These units form part of SARS and are situated in the following centres —
 - i) Durban;
 - ii) **Alberton**; and
 - iii) Cape Town

7.15 Information and assistance

- a) You may at any time request assistance of a SARS official by contacting your local SARS Branch Office. For more information visit our web site at www.sars.gov.za

8 QUALITY RECORDS

- a) The following Quality Records shall be generated and managed in accordance with QMS-15 – Record Control Procedures.

Number	Title
VAT 101D	Application for Diesel / biodiesel Registration
VAT 102	Application for separate diesel / biodiesel numbers for branches or divisions
VAT 123	Notice of Deregistration
VAT 124	A notice of suspension with the relevant reason(s) issued electronically to the diesel / biodiesel registrant where suspension has been set
VAT 201	VAT return form on which the diesel / biodiesel refund is claimed

9 DOCUMENT MANAGEMENT

Designation	Name / Division
Business Owner:	Executive: Compliance
Policy Owner:	Executive: Process Solutions - Operations
Author:	A.J. Joubert / N.Singh
Detail of change from previous revision:	The document has been amended to bring it in line with Note 6 of Part 3 of Schedule No. 6 and the diesel refund rates in paragraph 7.9 have also been amended as the Minister announced in his budget speech on 23 February 2011 that the fuel levy and RAF levy is increased by 10.0 c/l and 8.0 c/l respectively with effect from 6 April 2011.
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