

Commencement: 15 September 2003

CUSTOMS (SURCHARGE) REGULATIONS

Order 33 of 2003

1. Interpretation

In this Regulation:

“Act” means the Customs Act [Cap. 257];

“SAD” in respect of goods means the single administrative document issued for those goods for the purposes of the Act.

2. Surcharge on goods released from customs control without entry and payment of duty

- (1) The Director may, at his or her discretion, apply a surcharge if:
 - (a) the Director allows the release of certain goods from the control of Customs during a particular month without entry and payment of duty on the goods; and
 - (b) the release of the goods is conditional upon the following:
 - (i) the lodgment of a return for the goods for that month;
 - (ii) the lodgment of a SAD for such of the goods that are entered for home use during that month;
 - (iii) the payment of the duty that is payable in respect of such of the goods that are entered for home use during that month; and
 - (c) the Director is satisfied that one or more of the conditions are not complied with within 10 working days after the end of that month.
- (2) The amount of the surcharge is an amount equal to 10% of the total amount of the duty (excluding the surcharge) that would have been payable in respect of the goods released from the control of Customs had they been entered for home use on the day on which they were so released.
- (3) The surcharge is payable to the Director by the person liable for payment of the duty in respect of the goods and is payable on or before the end of the month following the month in which the goods were released from the control of Customs.

3. Surcharge arising from an audit or compliance activity

- (1) The Director may, at his or her discretion, apply a surcharge if:
 - (a) the Director is satisfied as a result of an audit or compliance activity by Customs that a person has underpaid the duty payable in respect of certain goods that have been imported into Vanuatu; and
 - (b) a new assessment is issued to the person setting out the amount of the underpayment; and
 - (c) the amount of the underpayment is not paid within 10 working days after the date of issue of the new assessment.
- (2) The amount of the surcharge is an amount equal to 10% of the amount of the underpayment.
- (3) The surcharge is payable to the Director by the person referred to in subregulation (1)(a) and is payable within 20 working days after the date of issue of the new assessment.

4. Surcharge arising from non-payment

- (1) The Director may, at his or her discretion, apply a surcharge if:
 - (a) a person lodges a SAD (whether or not in electronic form) in respect of certain goods and the person is issued with an assessment of the duty payable in respect of the goods; and
 - (b) the goods are released from the control of Customs; and

- (c) the amount of duty payable under the assessment is not paid within 10 working days after the relevant date.
- (2) The amount of the surcharge is an amount equal to 10% of the total amount of the duty (excluding the surcharge) payable under the assessment.
- (3) The surcharge is payable to the Director by the person liable for payment of the duty in respect of the goods and is payable within 20 working days after the relevant date.
- (4) In this clause, "relevant date" means:
 - (a) the date of the assessment; or
 - (b) the date of arrival of the vessel or aircraft transporting the goods;whichever is the later.

5. Surcharge arising from more than one SAD

- (1) The Director may, at his or her discretion, apply a surcharge if:
 - (a) a SAD (whether or not in electronic form) is lodged in respect of certain goods and an assessment of the duty payable in respect of the goods is issued; and
 - (b) one or more other SAD (whether or not in electronic form) is lodged in respect of the same goods and a further assessment of the duty payable in respect of the goods is issued; and
 - (c) a written request is not received by the Director to withdraw the SAD or SADs that are not required.
- (2) The amount of the surcharge is VT 10,000.
- (3) The surcharge is payable to the Director by the person liable for payment of the duty in respect of the goods and is payable within 20 working days after the relevant date.
- (4) In this clause, "relevant date" means:
 - (a) the date of the assessment; or
 - (b) the date of arrival of the vessel or aircraft transporting the goods;whichever is the later.

6. Surcharge recoverable as debt

A surcharge payable by a person under this Regulation, is a debt due to the Government by the person and is recoverable in a court in Vanuatu in the name of the Republic of Vanuatu.

7. Surcharge not part of VAT

A surcharge payable under this Regulation does not become part of the duty for the purposes of calculating value added tax under the Value Added Tax Act [Cap. 247].