

SECTION 210-211 OF THE TAA, 2011
[DATE 1 DECEMBER 2022]

210. Non-compliance subject to penalty

(1) If SARS is satisfied that non-compliance by a person referred to in subsection (2) exists, SARS must impose the appropriate 'penalty' in accordance with the Table in section 211.

(2) Non-compliance is failure to comply with an obligation that is imposed by or under a tax Act and is listed in a public notice issued by the Commissioner, other than—

- (a) the failure to pay tax subject to a percentage based penalty under Part C;
- (b) non-compliance in respect of which an understatement penalty under Chapter 16 has been imposed; or
- (c) the failure to disclose information subject to a reportable arrangement or mandatory disclosure penalty under section 212.

[S210 substituted by s. 70 of Act No. 21 of 2012.] [(c) substituted by s. 40 of Act No. 33 of 2019.]

211. Fixed amount penalty table.

(1) For the non-compliance referred to in section 210, SARS must impose a 'penalty' in accordance with the following Table—

1	2	3
<i>Item</i>	<i>Assessed loss or taxable income for 'preceding year'</i>	<i>'Penalty'</i>
(i)	Assessed loss	R250
(ii)	R0 – R250 000	R250
(iii)	R250 001 – R500 000	R500
(iv)	R500 001 – R1 000 000	R 1 000
(v)	R1 000 001 – R5 000 000	R 2 000
(vi)	R5 000 001 – R10 000 000	R 4 000
(vii)	R10 000 001 – R50 000 000	R 8 000
(viii)	Above R50 000 000	R 16 000

(2) The amount of the 'penalty' in column 3 will increase automatically by the same amount for each month, or part thereof, that the person fails to remedy the non-compliance within one month after—

(a) the date of assessment of the penalty, if SARS is in possession of the current address of the person and able to deliver the assessment, but is limited to 35 months from the date of the assessment; or

[(a) substituted by s. 71 of Act No. 21 of 2012.]

(b) the date of the non-compliance if SARS is not in possession of the current address of the person and is unable to deliver the 'penalty assessment', but limited to 47 months after the date of non-compliance.

(3) The following persons, except those falling under item (viii) of the Table or those that did not trade during the year of assessment, are treated as falling under item (vii) of the Table—

(a) a company listed on a recognised stock exchange as referred to in paragraph 1 of the Eighth Schedule to the Income Tax Act;

(b) a company whose gross receipts or accruals for the 'preceding year' exceed R500 million;

(c) a company that forms part of a "group of companies" as defined in section 1 of the Income Tax Act, which group includes a company described in item (a) or (b); or

(d) a person or entity, exempt from income tax under the Income Tax Act but liable to tax under another tax Act, whose gross receipts or accruals exceed R30 million.

(4) SARS may, except in the case of persons referred to in subsections (3) (a) to (c) if the taxable income of the relevant person for the 'preceding year' is unknown or that person was not a taxpayer in that year—

(a) impose a 'penalty' in accordance with item (ii) of column 1 of the Table; or

(b) estimate the amount of taxable income of the relevant person for the 'preceding year' based on available relevant material and impose a 'penalty' in accordance with the applicable item in column 1 of the Table.

(5) Where, upon determining the actual taxable income or assessed loss of the person in respect of whom a 'penalty' was imposed under subsection (4) it appears that the person falls within another item in column 1 of the Table, the 'penalty' must be adjusted in accordance with the applicable item in that column with effect from the date of the imposition of the 'penalty' issued under subsection (4).