



November 2018

## SARS to introduce administrative non-compliance penalties on outstanding corporate tax returns as from December 2018

The South African Revenue Service (**SARS**) has advised of its intention to introduce administrative non-compliance penalties on outstanding corporate tax returns and has released a draft Public Notice in this regard.

In the draft Public Notice, Acting Commissioner of SARS, Mark Kingon adds the following to the incidences of non-compliance by a person that are subject to a fixed amount penalty in accordance with Section 210 and 211 of the Tax Administration Act, No. 28 of 2011:

*“Failure by a company to submit an income tax return as and when required under the Income Tax Act for years of assessment ending during the 2009 and subsequent calendar years...”*

However, the penalty will only be imposed, where SARS has issued a final demand to the company, in which SARS refers to the enabling notice (which is anticipated to be published during December 2018) and the company fails to submit the outstanding tax return within 21 business days of the date of issue of that final demand.

The list of incidences of non-compliance that are subject to a fixed amount penalty already includes *inter alia* the following:

- Failure by a natural person to submit an income tax return as and when required under the Income Tax Act for years of assessment commencing on or after 1 March 2006, where that person has two or more outstanding income tax returns for such years of assessment; and
- Failure by persons specified in Government Gazette No 41186 to submit Country by Country Reports and Master and Local File Transfer Pricing returns.

The penalty is levied in respect of each month, or part thereof, that the taxpayer fails to remedy the

non-compliance, but limited to a maximum of 48 months after the date of non-compliance. The penalty ranges between R250 to R16 000 per month and is determined with reference to the assessed loss or taxable income of the taxpayer for the year of assessment immediately prior to the year of assessment, during which the penalty is assessed.

**For more information, contact:**



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