

Didn't submit your tax return?*

Fine.

Your guide to the penalty process

*** No income tax returns for those who earn less than R120 000**

If you earn less than R120 000 for a full year from one employer (total salary income before tax) and have no car allowance, additional income or deductions that you want to claim for, you do not need to submit an income tax return to SARS.

TAX SEASON 2010

SARS
At Your Service

Introduction

Over the past few years there has been a marked increase in the levels of compliance among taxpayers. These are the taxpayers who are making a meaningful contribution, helping our country develop through their tax compliance.

However, a small minority of taxpayers continue to avoid their tax responsibilities despite being given several warnings and opportunities to pay their taxes. That's not fair to the vast majority of taxpayers who are meeting their tax obligations.

In the interest of equity, SARS is taking tough action against these non-compliant taxpayers, especially those who have consistently failed to comply with their tax obligations over many years.

When did the new penalties system come into effect?

The new penalties system came into effect on 1 January 2009 and provides for stringent penalties for a range of non-compliance, which are determined according to the taxpayer's taxable income and which range from R250 up to R16 000 a month.

In October last year SARS announced the introduction of new administrative penalties beginning with monthly penalties for taxpayers who had outstanding returns for multiple years.

The first round of penalties was issued in January 2010 against non-compliant taxpayers who had outstanding returns for multiple years.

This guide addresses the most important questions relating to the new penalties system. A full schedule of penalties is available on the SARS website www.sars.gov.za

Which offences will be penalised?

The penalties system covers a range of non-compliance including failure to register as a taxpayer, failure to inform SARS of a change of address and other personal particulars, as well as failure to submit tax returns and other documents.

However, SARS has decided to phase in the new penalty system and to focus the first round of administrative penalties on those non-compliant taxpayers who have not submitted tax returns for a number of years.

Eventually, all non-compliant taxpayers will face tough action from SARS.

Penalties

How are the penalty amounts prescribed?

The penalty amounts depend on the category of the taxpayer as determined by his or her taxable income and range from R250 up to R16 000 a month. So the more you earn, the higher your penalty per return, which is outstanding.

Assessed loss or taxable income for preceding year	Penalty
Assessed loss	R250
R0 – R250 000	R250
R250 001 – R500 000	R500
R500 001 – R1 000 000	R1 000
R1 000 001 – R5 000 000	R2 000
R5 000 001 – R10 000 000	R4 000
R10 000 001 – R50 000 000	R8 000
Above R50 000 000	R16 000

How are penalty amounts levied?

Once the penalty amount has been determined according to the schedule, the taxpayer is notified by means of a Penalty Assessment Notice (ITP34) that is sent to the taxpayer. The ITP34 serves as a final letter of demand.

If the taxpayer fails to comply within 30 days from date of issue of the penalty assessment, the penalty amount automatically increases by the same amount each month. If a taxpayer fails to pay his/her penalty, SARS may appoint his/her employer or anyone in control of their money to act as an agent in terms of section 99 of the Income Tax Act, No. 58 of 1962.

Agents will be required to debit the penalty amount from the taxpayer's salary or other funds and pay it over to SARS. Failure to pay the amount to SARS is a criminal offence, and the agent will be personally liable for the amount. (See Agent Appointment on the next page for more info)

What must you do if you get a Penalty Assessment Notice from SARS?

A non-compliant taxpayer who receives a Penalty Assessment Notice (ITP34) must do two things:

1. Correct the non-compliance – that is, submit the outstanding tax returns for which you were penalised.
2. Pay the penalty by the due date. This must be paid even though you have corrected your non-compliance.

Disputes

What if there is a dispute between SARS and a taxpayer regarding the submission of a tax return?

Provision is made for a Request for Remission of the penalty if the taxpayer wants to dispute the administrative penalty that was levied. In such a case, the appropriate Request for Remission form (RFR) can be completed by the taxpayer.

However, such an application will only be considered if the non-compliance has been remedied on or before the due date mentioned in the notice of the penalty (i.e. if the outstanding return/s have been submitted).

On the RFR you must provide full details of the exceptional circumstances that made you incapable of complying with your tax obligation. It is important to note that the circumstances must have been beyond your control and resulted in your non-compliance.

Where can you obtain a Request for Remission (RFR) form?

The Request for Remission form (RFR), which will be in a bar-coded format, is available via the following channels:

- **eFiling:** This channel can be used by eFilers to request, complete and submit the form.
- **SARS branch:** The form is available at your local branch for completion and submission.
- **Contact Centre:** Taxpayers can request the RFR via the SARS Contact Centre on 0800 00 SARS (7277) which will be posted to you.

For prompt assistance and your protection, please have your ID number and tax reference number at hand whenever you call the SARS Contact Centre or when visiting any SARS branch.

Agent Appointment

What is an Agent Appointment?

If a taxpayer does not respond to any notices or demands in respect of the outstanding penalty, SARS is allowed in terms of section 99 of the Income Tax Act, No. 58 of 1962, to recover monies held by third parties (agents) on behalf of the taxpayer.

This means that if you did not respond to any of the notices or demands in respect of your outstanding penalty taxes by the due dates, SARS may appoint your employer or other people who hold your money or owe you money – including salary, wages and other types of remuneration – to deduct the outstanding amount from what they owe you and pay it to SARS.

Failure to act as an agent is a criminal offence.

Can SARS initiate an Agent Appointment without your consent?

Yes, in terms of section 99 of the Income Tax Act, No. 58 of 1962, SARS is allowed to recover monies held by third parties (agents) on behalf of the taxpayer.

How does the ITA88 process work?

When the Agent Appointment is initiated, the third party that was selected as your agent will receive an ITA88.

Upon receipt of this ITA88, the third party is legally bound to transfer any monies in favour of you (the taxpayer) to SARS within the due date as mentioned on the ITA88.

Should this not be paid over, the agent can, in terms of legislation, be held personally liable to the extent that he/she holds monies on behalf of the taxpayer.

Submitting your income tax return

There are three ways to submit your income tax return.

1) eFiling

If you want to use our free, secure Internet filing facility to eFile, you first need to register – if you haven't already done so. Join the more than two million people already enjoying the speed, convenience and ease of eFiling.

Once you have registered, you will find your ITR12 already pre-populated with your personal and financial information – if your employer has provided us with your IRP5 information. If not, you can try again later by clicking on the "Refresh IRP5 Data" button.

You can then complete the questionnaire on the first page of the ITR12, which will create all the fields you need to complete your return.

Check the pre-populated information and make any necessary changes. Please complete all mandatory and relevant fields. One of these is for banking details, which is vital to complete as we cannot pay you a refund (if applicable) without these.

To avoid fraud and theft, SARS only pays refunds electronically into verified cheque or transmission/savings bank accounts held in the name of the taxpayer (no third party or joint accounts) at a registered South African financial institution. Only the last four digits of your account number will appear on the ITR12. If the last four digits do not correspond with your bank account number, you will have to complete your full bank account number in the spaces provided.

You can then use our online tax calculator to check your return and get an indication of your assessment.

Once you're ready to submit the return to SARS, just click on the "File" button. If something is incorrect or incomplete, eFiling will prompt you to correct it.

Outstanding Returns

What if you have lost your old returns?

You urgently need to request a new income tax return via eFiling or from your nearest SARS branch or call 0800 00 SARS (7277) and one will be posted to you.

How must your outstanding returns be submitted?

Old format income tax returns will not be accepted by SARS. Therefore, all outstanding returns must be submitted on the current year ITR12 Income Tax Return.

In this return you must indicate in the section provided on the first page what year of assessment the return is in respect of.

If you submit an old return it will be mailed back to you with a copy of the latest ITR12 return for your completion and submission and it will **not** be marked as "submitted" until the properly completed new format return is received. That means you can still get penalties until you submit the correct document.

Why won't SARS accept old format income tax returns?

Each year the income tax process changes due to changes to the tax laws and tax rates. Over the past few years, SARS has significantly enhanced its income tax return process including reducing the income tax return from twelve pages to only two and doing away with the need for supporting documents.

The entire income tax system is now automated and developed to manage the 2010 process. If we were to allow people to submit returns from three, four or even ten years ago then SARS would have to retain costly manual processes for each different year of assessment.

Will outstanding returns be assessed using the current income tax laws and provisions?

No. Your old returns will be assessed using the relevant income and deduction allowances and limits from the relevant year of assessment. Our income tax calculation system is able to calculate tax accurately using the new returns for any year since 1975.

Supporting Documents

Even if you have an outstanding return for past years when supporting documents were still required to be submitted with income tax returns, you do not need to submit supporting documents.

You must use the new income tax process including the current year (2010) ITR12 return. However, you must keep your documents safe by law for five years after you submit your return.

2) Electronic filing at a SARS branch

If you want to eFile but think you need assistance doing so, just bring all your supporting documents to your nearest SARS branch and we will do it all for you.

3) Postal and SARS drop box submissions

If you prefer to complete your income tax return on paper, you can submit it via the post using the self-addressed envelope sent to you by SARS with your ITR12. Alternatively, you can simply submit it via the drop box at your local SARS branch.

Tax Season 2010

Postal and SARS Drop Box Deadline

- **Provisional and Non-provisional Taxpayers**
30 SEPTEMBER 2010

e-Filing and SARS In-Branch Filing Deadline

- **Non-provisional Taxpayers**
26 NOVEMBER 2010
- **Provisional Taxpayers**
31 JANUARY 2011

Provisional Taxpayers

SARS has introduced important changes to the provisional tax process effective from 28 June 2010.

SARS will no longer issue printed IRP6 returns to all registered provisional taxpayers.

Instead, request your return by:

- Registering for SARS eFiling at www.sarsefiling.co.za or, if you are already an eFiler, simply add Provisional Tax to your profile so that you can access and file your IRP6 return online.
- Calling the SARS Contact Centre to request an IRP6 return.
- Visiting a SARS branch where our staff will help you complete and submit your IRP6 electronically.

Requirements to submit IRP6 returns

Previously all registered provisional taxpayers and anyone who received an IRP6 return from SARS was required to submit it, even if it resulted in an assessed loss or a "nil return".

From now on, you only need to request and submit an IRP6 return when you have a provisional tax liability for the period concerned, i.e. when you have received taxable income other than remuneration from which PAYE is withheld.

Examples of scenarios for submission of IRP6 Provisional Tax Returns:

You need to submit an IRP6 return if:

- You have interest income that exceeds the exemption threshold (currently R22 300 for persons under the age of 65 and R32 000 for persons over the age of 65).
- If you are in receipt of business income (e.g. rental income) which results in a tax obligation.

You do not need to submit an IRP6 return if:

- You only received remuneration that is subject to PAYE.
- Your business income after expenses and deductions is below the tax threshold.
- Your interest income is below the exemption threshold, or together with your other income is below the tax threshold.

** If you are in any doubt about the need to submit an IRP6 return, call the SARS Contact Centre on 0800 00 SARS (7277) or visit your nearest branch for advice.*

Payment and submission deadlines for individuals and trusts

- The first provisional tax payment must be made within six months of the year of assessment i.e. **31 August**.
- The second payment must be made no later than the last working day of the year of assessment i.e. **end of February**.

Payment and submission deadlines for companies

Payment and submission deadlines for companies will be according to their financial year end. For more information see the Reference Guide for Provisional Tax on www.sars.gov.za

Branch List

FIND A SARS BRANCH NEAR YOU

REGION	BRANCH	ADDRESS
EASTERN CAPE	Mthatha	PRD1 Building, cnr Sutherland & Durham Streets
	Port Elizabeth	Sanlam Building, Chapel Street
	Uitenhage	No.1 Young Street
	East London	No. 3-36 Philip Frame Road, Waverley Park, Chiselhurst
FREE STATE	Bloemfontein	Central Government Building, cnr Nelson Mandela & Aliwal Streets
	Kimberley	Cnr Bean & Villiers Streets
	Welkom	SARS Building, cnr Graaff & Tulbagh Streets
	Kroonstad	LMC Centre, cnr Hill & Steyn Streets
KZN	Durban	201 West Street
	Pietermaritzburg	209 Pietermaritz Street
	Richards Bay	Shop No.12, The Bayside Mall
	Pinetown	36 Kings Road, 2 nd Floor
	Mount Edgecombe	32 Flanders Drive, Blake House, Lower Ground Floor
MPUMALANGA	Witbank	Cnr Botha Avenue & Paul Kruger Streets
	Nelspruit	Nedbank Building, 7 th Floor, 30 Brown Street
	Standerton	29 Church Street, cnr Church & Princess Streets
LIMPOPO	Polokwane	40 Landros Mare Street, Government Building, Ground Floor
	Lebowakgomo	Old Parliamentary Building, 1 st Floor Finance Wing
	Giyani	Department of Justice Building, Ground Floor, Main Road
	Sibasa	756 P. West Main Road, Thohoyandou
WESTERN CAPE	Cape Town	17 Lower Long Street
	Bellville	Cnr Teddington and Lange Streets
	Paarl	19-20 Market Street, Rhoba Building, Ground Floor
	Worcester	Naude Building, 59 Church Street
	George	York Park Building, 93 York Street
	Beaufort West	Church Street
NORTH WEST	Rustenburg	39 Heystek Road
	Mmabatho	Revenue House, cnr Barokologadi & Batlhaping Roads
	Klerksdorp	39 Leask Street, Revenue Building
GAUTENG	Pretoria Central	Cnr Schoeman & Van der Walt Streets
	Pretoria East	46 Lebombo Road, Ashlea Gardens
	Krugersdorp	40 Kobie Krige Street
	Randfontein	39 Stubb Street
	Roodepoort	Horizon View Shopping Centre, cnr Sonop Street & Ontdekkers Road
	Soweto	2223 Mncube Street, Ekhaya Centre, Dube
	Springs, Brakpan	No. 20 Sanlam Building, 7 th Street, Springs
	Nigel	Cnr Hendrik Verwoerd Street & 4 th Avenue
	Vereeniging	Cnr Joubert & Merriman Avenues
	Benoni	65 Howard Avenue
	Germiston	Outeniqua Building, No.72 Victoria Street
	Alberton	49 New Quay Road, New Redruth
	Boksburg	IDEM Building, cnr Leeuwpoort & Short Streets
	Johannesburg Central	No.4 Rissik Street