

Media Releases 2010

Deductions from salaries and bank accounts

Pretoria, 8 July 2010 – Following numerous queries regarding the announcement that SARS intends to deduct unpaid administrative penalties from salaries and bank accounts beginning in September, the South African Revenue Service (SARS) would like to reassure taxpayers that this planned step is a last resort that affects only a minority of non-compliant taxpayers.

The vast majority of compliant taxpayers who submit their tax returns on time and pay what is due to SARS will not be affected. The people who are affected by administrative penalties are those who for a number of years have failed to submit returns – a key step for the smooth and efficient functioning of our tax processes.

The administrative penalty system became law on 1 January 2009, after extended public consultation in 2008. In October last year SARS warned taxpayers with multiple outstanding returns that they would be affected by the first phase of the system's implementation. These taxpayers were given a final opportunity to correct their non-compliance before penalties were imposed.

In January this year SARS issued the first round of penalties to approximately 230 000 taxpayers who had returns outstanding for multiple years.

The penalties range in amount from R250 per month per return outstanding to R16 000 per month per return depending on the income of the individual. Notices are issued every month to inform taxpayers of the escalating penalties.

To date 31 273 taxpayers have paid R33,8-million in penalties and 83 016 returns have been submitted. Regrettably, approximately 180 000 taxpayers have failed to respond to the penalty notices.

SARS has always clearly indicated that the purpose of imposing the penalties is not to raise revenue but rather to instil a broader culture of compliance among taxpayers. SARS has emphasised that the key principle involved is fairness to the majority of taxpayers who honestly comply with their obligations every year.

At the same time SARS has been fair and reasonable to the non-compliant taxpayer as well. Before appointing an employer to deduct the outstanding penalty, SARS built into the process steps such an opportunity to apply for remission of penalty and an opportunity to lodge an objection.

If a taxpayer has requested the remission of an administrative penalty, collection steps will generally not be taken until SARS has dealt with the request.

Non-compliant taxpayers were warned in October last year and again last week that in the event of penalties not being settled, their employers would be appointed as agents to deduct and pay over the outstanding administrative penalties due to SARS.

Taxpayers who have not provided their current addresses to SARS, as they are required to do in terms of the law, may not have received these penalty notices and are advised to provide their addresses as soon as possible.

The appointment of employers as agents is being done in terms of section 99 of the Income Tax Act, 1962. This section of the Act has been the subject of judicial scrutiny which has found that it is not unconstitutional and does not require a hearing before its application. This is a measure that SARS has had at its disposal for a long time.

SARS will be communicating with the affected employers who will be appointed as agents, informing them of the legal framework and process to deduct the outstanding penalty from the taxpayer's salary, depending on the circumstances of the taxpayer and based on the most recent information SARS has available.

If the employer foresees an affordability problem a mechanism will be put in place for the employer to communicate with SARS to reduce the amount to be recovered each month. These mechanisms are over and above the mechanism that currently exists for the taxpayers to request remission of the penalties.

If the response from non-compliant taxpayers remains unacceptable, SARS will be forced to extend the appointment of agents to banks holding funds on behalf of these taxpayers.

SARS believes that the non-compliant taxpayers concerned have been afforded more than sufficient opportunity to correct their non-compliance. It is simply not fair to the majority of compliant taxpayers that a minority should continue to get away with what is essentially a crime.

ENDS