



South African Revenue Service

Dear Valued Stakeholder

Pay As You Earn Administrative Penalties Update

During the month of June 2021, SARS introduced the PAYE Admin Penalty solution. The implemented interim solution provided SARS with the ability to impose PAYE administrative penalties, which meant charging admin penalties for the failure to submit EMP501 reconciliations on time.

PAYE admin penalty was divided into 3 phases with the first 2 phases having already being implemented as follows.

- Phase 1 was implemented in June 2021; and
- Phase 2 was implemented in April 2022

SARS is currently in the process of implementing phase 3, on 23 June 2023, which aims to incorporate the legal changes that were effected on the 19th June 2022. The PAYE Admin Penalty Phase 3 will include:

- **Admin Penalty Imposition** - “Para 14(7) If the total amount of employees’ tax deducted or withheld, or which should have been deducted or withheld for the period described in subparagraph (3), is unknown, the Commissioner may estimate the total amount based on information readily available and impose the penalty under subparagraph (6) on the amount so estimated”;
- **Admin Penalty Adjustment** – “Para 14(8) Where, upon determining the actual employees’ tax of the person in respect of whom the penalty was imposed under subparagraph (7), it appears that the total amount of employees’ tax was incorrectly estimated under subparagraph (7), the penalty must be adjusted in accordance with the correct amount of employees’ tax with effect from the date of the imposition of the penalty under subparagraph (6) read”

It is important to note that the effective date of the enhancement to the admin penalty process (imposition and adjustment) will only be from the date of promulgation (19 January 2022). The legal changes to the admin penalty imposition and adjustment rules may not be applicable to any recon period prior to 19 January 2022, which means that this takes effect for recon period 202202 and onwards.

Sincerely,

**ISSUED ON BEHALF OF THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE
SERVICE**

1 June 2023