

Fixed amount penalties for non-compliance under Tax Admin Law Act

 By [Michael Stein](#)

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The Tax Administration Laws Act 28 of 2011 is a fascinating and far-reaching piece of tax legislation that affects all taxpayers and tax practitioners. For instance, Chapter 15 of the Act deals with administrative non-compliance penalties, which comprise fixed amount penalties and the percentage-based penalty.



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The part dealing with the fixed amount penalties provides that if the South African Revenue Service is satisfied that there has been non-compliance by a person, it must impose the appropriate penalty in accordance with the table in the Act. The table provides for a penalty the amount of which depends upon the taxable income of the offender in the preceding year and escalates on a monthly basis.

Now 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 matters that are punishable by other penalties.

The only public notice issued by the Commissioner under this provision to date was issued on 1 October 2012 as GN 790 in Government Gazette 35733. It lists only one instance of non-compliance, that is, 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 when that person has two or more outstanding returns for those years of assessment.

This means that only individuals may be liable for the fixed amount penalty and then only for the failure to submit the annual income tax return when required. So, as the law now stands this penalty does not apply to other taxpayers, such as companies and trusts.

Important amendments to the Act will be dealt with at the [Tax Developments 2013-2014 Seminar](#) to be hosted by content and technology solutions provider, LexisNexis South Africa, in March 2014. This half-day seminar in Durban,

Cape Town, Johannesburg and Pretoria, will see presenters Michael Stein and Des Kruger apply their experience and insights to shed light on a number of new tax laws based on proposals outlined in the Finance Minister's February 2013 Budget Speech. These include the Rates and Monetary Amounts and Amendment of Revenue Laws Amendment Act 2013, the Taxation Laws Amendment Act 2013 and the Tax Administration Laws Amendment Act 2013.

For more information, go to www.lexisnexis.co.za.

ABOUT MICHAEL STEIN

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