



# Tax Controversy & Dispute Resolution

## Guide to Understatement Penalties by SARS

### *Are you under audit or have assessments raised where understatement penalties could or have been levied?*

SARS published Issue 2 of the Guide to Understatement Penalties on 18 April 2018. An understanding of this guide may be useful when under audit and at risk of understatement penalties.

In the guide SARS provides guidance on several of the aspects relating to understatement penalties that caused ambiguity previously.

The guide addresses among other things:

- What constitutes an **understatement**:
  - The behaviour that would trigger an “understatement”
  - When SARS or the *fiscus* is prejudiced
  - Examples of how the “shortfall” (i.e. the difference between the correct amount of tax and the tax that was reported in a tax period” is calculated).

- **Bona fide inadvertent error**

In this guide SARS provides insight into what would constitute a “*bona fide* inadvertent error” in their opinion. It appears that they are likely to interpret the term narrowly i.e. to be only involuntary typographical mistakes. SARS further notes that in this instance a “lack of reasonable” care will not necessarily be excused;

- The **criteria for the determination of the penalty percentage** with reference to the specific behaviours.

When at risk of an understatement penalty, it is key to understand the different elements and their potential effect.

The guide provides insight into how SARS is likely to interpret the different elements relating to the understatement penalty regime whilst bearing in mind that SARS ultimately bears the onus of proof.



### *Let's talk*

For a deeper discussion of how this issue might affect your business, please contact:

### **Elle-Sarah Rossato**

Lead: Tax Controversy & Dispute Resolution  
Johannesburg  
(011) 797 4938  
[elle-sarah.rossato@pwc.com](mailto:elle-sarah.rossato@pwc.com)

