

**STATEMENT OF PRACTICE (SP 13/16)**

**IMPOSITION OF ASSESSING PENALTY**

Section 129 of the Income Tax Act and corresponding provision in other Revenue Laws provide that where the Director-General makes an assessment, the amount of additional tax claimed shall carry a penalty not exceeding 50 per cent.

The percentage of penalty imposed varies depending on the issue leading to the under-declaration of tax, the frequency of under-declaration by the taxpayer as well as the degree of cooperation of the taxpayer in the course of the audit.

Where the taxpayer makes a declaration of additional tax payable prior to the commencement of an audit, no assessing penalty is imposed.

Where additional tax is found to be payable on the conclusion of an audit, assessing penalty is imposed as follows:-

SN	ISSUE	AUDIT SINCE INCEPTION OF MRA (1 JULY 2006)		
		1 <sup>ST</sup> AUDIT	2 <sup>ND</sup> AUDIT	3 <sup>RD</sup> SUBSEQUENT AUDIT
1	<b>Income Tax</b>			
	Wrong claim of Income Exemption Threshold and other Deductions from Net Income resulting from –	No penalty	No penalty	No penalty
	1.1 Legal issue on which there is no statement of practice, ruling, precedence or which is still in dispute.			
	1.2 Wrong application of provision.	No penalty	5%	10%
	<b>Income Tax / VAT and Other Taxes</b>			
	Under-declaration of net income /VAT payable/ Gambling taxes/ Environmental Protection Fee / Passenger Fee/ Passenger Solidarity Fee –			
	2.1 resulting from legal issue on which there is no statement of practice, ruling, precedence or which is still under dispute.	No penalty	No penalty	No penalty
	2.2 arrived at after full cooperation of taxpayer (produced all requested information & documents & attended to meetings without delaying tactics) and –			
	2.2.1 agreement on tax liability reached.	2%	5%	15%
	2.2.2 no agreement on tax liability reached.	5%	10%	15%

	<p><b>2.3</b> arrived at after partial cooperation of taxpayer (produced required information and documents after reminders / produced part of information) and-</p> <p><b>2.3.1</b> agreement on tax liability reached.</p> <p><b>2.3.2</b> no agreement on tax liability reached.</p> <p><b>2.4</b> In case of non-compliant taxpayer (did not produce any information and attended meetings after reminders and -</p> <p><b>2.4.1</b> agreement on MRA's basis reached.</p> <p><b>2.4.2</b> no agreement reached.</p> <p><b>2.5</b> resulting from Tax Fraud which can be established and offence is compounded.</p>	<p>5%</p> <p>10%</p> <p>15%</p> <p>20%</p> <p>25%</p> <p>50%</p>	<p>10%</p> <p>15%</p> <p>20%</p> <p>35%</p> <p>50%</p> <p>50%</p>	<p>20%</p> <p>30%</p> <p>30%</p> <p>50%</p> <p>50%</p> <p>Note: additional penalty in lieu of prosecution decided by the compounding committee based on nature and extent of fraud, is applicable.</p>
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18 January 2016