

Responding to SARS Findings of Audit

*Webinar and practitioner notes | Section 42 of the Tax Administration Act |
Updated 17 October 2026*

SCOPE AND CAUTION These notes address ordinary civil tax audits. They do not treat verification correspondence as automatically equivalent to a statutory section 42 audit, and they do not substitute for checking the applicable version of the legislation for the tax period. A proposed adjustment is not yet a final assessment. Identify the notice actually issued.

Learning outcomes

1. Identify when a SARS letter is a section 42(2)(b) audit-outcome document rather than a general verification request or a final assessment.
2. Calculate and protect the response deadline under section 42(3), and apply for an extension where justified.
3. Prepare fact-by-fact and law-by-law representations supported by indexed documents and reconciliations.
4. Address proposed understatement penalties and interest separately from proposed tax adjustments.
5. Escalate appropriately if findings are inadequate or SARS issues an assessment without engaging with the response.
6. Distinguish the pre-assessment response from the post-assessment request-for-reasons and objection processes.

1. Why the findings letter matters

A Findings of Audit or Audit Outcome Letter is ordinarily SARS's explanation of proposed material adjustments following an audit. It gives a taxpayer an opportunity to correct disputed facts and challenge SARS's application of law before an additional assessment is raised. The intervention is designed to resolve factual and legal differences at the earliest practical stage, potentially avoiding formal objection and appeal.

The terminology on the letter is not decisive. Read its actual content. A communication described as "verification finalised" may have a different legal character from a section 42(2)(b) findings letter; likewise, a Finalisation of Audit letter is not the same instrument as the notice of assessment. File each separately with its date of delivery.

2. Statutory foundation

Provision	Operational significance
TAA s 40	SARS may select a person for verification or audit for purposes of proper administration of a tax Act.
TAA s 42(1)	Audit commencement and progress reports: check notices and exceptions; official progress reporting is generally at 90-day intervals.
TAA s 42(2)(b)	Where an audit identifies potentially material adjustments, SARS must provide an outcome document identifying grounds for the proposed assessment or relevant decision.
TAA s 42(3)	Taxpayer must respond in writing to the facts and conclusions within 21 business days of delivery, or further time allowed by SARS based on audit complexity.
TAA ss 42(4)–(6)	Waiver is possible; limited exceptions permit the ordinary prior-notice requirements to be bypassed where the statutory prerequisites exist.
TAA s 46	Relevant material may be requested; identify precisely what is requested and keep a record of what was supplied.
TAA s 96	Contents and grounds of a notice of assessment; assess adequacy once the assessment is issued.

TAA s 102	Taxpayer ordinarily proves matters such as entitlement to deductions; SARS bears the burden regarding understatement penalty facts.
TAA ss 221–223	Understatement and behaviour-based penalty framework; consult the version applicable to the relevant period, including 2026 changes.
TAA s 164	An objection does not automatically suspend payment; consider a separate suspension-of-payment request.

KEY POINT Section 42(3) is not a formal objection. It is a pre-assessment statutory written response. An objection ordinarily requires an issued assessment or appealable decision and must follow the current dispute-resolution rules.

3. The timeline: what starts the clock?

1. Record the delivery date and method of the actual findings document (eFiling correspondence, email or other authorised channel).
2. Identify the last day of the 21-business-day period applying the statutory definition of business day, including exclusions as applicable.
3. Check whether the letter imposes an earlier requested response date; do not waive statutory entitlements accidentally.
4. If more time is needed, submit a reasoned application before the ordinary deadline and request an express written decision.
5. Do not assume that submitting the extension request suspends time. If the decision is outstanding, consider lodging a protective substantive response by the original deadline.
6. Preserve submission receipts, case references, email delivery data and the indexed annexures actually delivered.

Example (illustrative only): A letter delivered on [DATE] proposes an R800 000 expenditure disallowance and 50% understatement penalty. The practitioner first calculates the section 42(3) response date; if supplier confirmations will require three weeks, the extension application explains the records outstanding, why they are material and the exact revised date requested.

4. The six-stage working method

Stage 1: Identify every proposed adjustment

Separate income additions, denied deductions, assessed-loss issues, VAT input tax, output tax, penalties and interest. Record tax periods and the proposed monetary effects.

Stage 2: Test SARS's factual premises

For each assertion, mark it accepted, denied or partly admitted. State the corrected fact and where the proof appears. Never assume that a document speaks for itself.

Stage 3: Test the applicable law

Identify the precise tax Act section, statutory condition and date-sensitive amendments. Discuss why the facts satisfy or do not satisfy that condition.

Stage 4: Build the calculation bridge

Reconcile original return -> SARS adjustment -> taxpayer response -> revised liability requested. Avoid submitting an argument without a calculation.

Stage 5: Address penalties separately

Identify whether SARS is proposing an understatement penalty, administrative non-compliance penalty, provisional tax penalty or interest. Different tests and routes apply.

Stage 6: Submit, verify and preserve

Use the authorised response channel identified for the case. Name annexures consistently, keep evidence of receipt and maintain a complete audit file for any later objection or appeal.

5. Working paper to accompany the response

Item	SARS position	Taxpayer position / evidence	Relief sought
Income omitted	R[amount] from bank deposits	Deposits include inter-account transfers: bank reconciliation A1–A3	Delete R[amount]
Operating expenditure	R[amount] unsubstantiated	Invoices, contracts and payments B1–B9 establish trade purpose	Allow supported deduction
Input VAT	R[amount] denied	Tax invoices C1–C6 and enterprise-use evidence	Allow substantiated input tax
Understatement penalty	[category] at [rate]%	Separate submission on statutory shortfall and applicable behaviour	Do not impose / apply correct category

The amounts are placeholders. For genuine matters, attach a separate calculation and identify any alternative argument if only part of an item can be substantiated.

6. When the findings are inadequate

A bare conclusion such as “all expenses disallowed” may be insufficient for a meaningful section 42(3) response, particularly if no transaction schedule, legal basis or calculation is supplied. Identify precisely what is missing; request a complete list of affected transactions, working papers or calculations relied upon (to the extent lawfully accessible), and relevant statutory provisions. Respond to everything capable of being addressed and request an extension for the remainder. Do not simply await a corrected letter without protecting the current response deadline.

If SARS’s allegations are inconsistent with records it already holds, identify the previous upload date and submission reference rather than re-sending an unindexed mass of documents.

7. Understatement penalties: do not confuse the questions

A proposed tax adjustment and a proposed understatement penalty require distinct examinations. For the tax question, assess the return, facts and relevant substantive tax statute. For the penalty question, assess the statutory meaning of understatement, whether any shortfall is demonstrated, the behaviour category alleged under section 223, and supporting facts. SARS bears the evidentiary burden described in section 102(2).

A taxpayer may deny that any understatement occurred and, in the alternative, explain why a proposed behaviour classification is not established. Where applicable, documentary evidence of tax advice, contemporaneous computations, disclosure of information and reasonable methodology can be relevant. These submissions are not admissions. Avoid simply pleading for “leniency” without contesting the charge or category.

Important 2026 updating point: the previous, broad wording concerning “bona fide inadvertent error” found in older cases and in Costa Divaris’s 2020 publication is not a safe default statement of current law. Section 222 and section 223 were amended in 2026. Confirm commencement and applicable dates before selecting an argument; do not recycle the 2020 penalty paragraphs verbatim.

8. Should the practitioner give a neutral reply or argue the merits?

Letter 26, illustrates a terse acknowledgement strategy that defers a developed defence to later objection/appeal. Letter 27 illustrates an express fact-and-law response; Letter 28 challenges inadequate findings. Letters 29 and 30 deal with proposed penalties. These are source examples of drafting choices, not court-sanctioned rules.

Recommended standard practice: where information is available, answer the facts and legal conclusions now. A neutral protective reply may be appropriate only where carefully justified and should not be treated as fulfilling the substantive obligation in every case. Early provision of the correct factual account is increasingly important when later appeal-stage attempts are made to introduce a new factual theory.

9. After the response: decision tree

SARS next step	Practitioner action
SARS accepts the response	Confirm any changes in writing; verify final assessment or closure notification and accounting effect.
SARS requests further relevant material	Test the request against s 46; provide relevant material within agreed deadline and preserve proof of submission.
SARS issues additional assessment	Compare with findings and response; check s 96 reasons; calendar formal dispute deadlines and any collection exposure.
Reasons inadequate after assessment	Consider a prescribed Rule 6 request for reasons within 30 business days; follow the authorised SARS process.
SARS maintains disputed liability	Prepare Rule 7 objection within the ordinary 80-business-day period as applicable, addressing specific adjustments.
Debt collection presents risk	Consider a separate s 164 request for suspension of payment; filing a dispute is not automatic suspension.

A follow-up complaint about lack of engagement is not a substitute for the formal statutory dispute process. Track the assessment and objection time limits even while chasing correspondence.

10. Practical worked exercise: disallowance of all operating expenses

Scenario (illustrative, not a decided case): Alpha Services (Pty) Ltd claims R1 200 000 in operating expenditure. SARS's findings propose disallowing R900 000 as "not substantiated"; it also proposes a 25% understatement penalty. The audit file contains 170 invoices, bank statements and contract extracts, but the findings do not identify which invoices SARS rejected.

Suggested response approach

1. Ask SARS to identify the disputed transactions and precise reasons, without treating that request as automatically extending the s 42(3) period.
2. Reconcile the R900 000 to the expense ledger; classify the expenses and flag genuine exceptions.
3. Identify the substantive Income Tax Act provisions applying to each category (for example s 11(a), read with relevant prohibitions or restrictions).
4. Create an indexed invoice schedule: document number, counterparty, tax period, business purpose, amount and supporting payment.
5. Submit a factual and legal response to each known finding, requesting deletion of the unsupported or mistaken adjustments.
6. Address the proposed understatement penalty in separate paragraphs, including the legal basis, evidence and proposed classification.
7. If SARS assesses anyway, compare each final adjustment to the response and follow the formal post-assessment process.

11. Trainer discussion questions

1. How is a section 42 findings document different from an additional assessment?
2. What would you do if SARS lists a total adjustment but no transaction details?
3. Would sending 300 pages of invoices without an index constitute an effective response?
4. What documents are needed to disprove a bank-deposit-as-income adjustment?
5. When is an extension justified, and what must be contained in the request?
6. What is the difference between proving a deduction and challenging an understatement penalty?
7. If SARS does not acknowledge the response, what formal deadlines still need protection?
8. Can a “verification finalised, no adjustments” communication prevent a later lawful audit or assessment?

12. Checklist: before sending

- Correct taxpayer, tax type, period, letter/case reference and authorised representative.
- Actual statutory response deadline calculated and calendared.
- Each proposed adjustment identified, with a response on facts and conclusions.
- Applicable tax law checked for the particular assessment period.
- Calculation schedule reconciles return, proposed adjustment and requested treatment.
- Penalties and interest addressed as independent questions.
- Annexure index corresponds to files uploaded or delivered.
- Request for missing grounds or extension made expressly, if necessary.
- Submission proof and acknowledgement retained.
- Post-assessment Rule 6 / Rule 7 / section 164 contingencies calendared.

13. Letter source map

Original reference	Subject
Letter 26	Brief/neutral response to audit outcome
Letter 27	Detailed factual and legal response
Letter 28	Inadequate findings document
Letter 29	Audit findings and possible penalties
Letter 30	Specific proposed understatement-penalty challenge
Element 18	Further penalty representations
Element 19	VAT-registration / input-tax issues
Letter 69	Extension to respond under section 42(3)

14. Selected primary and explanatory sources

SARS | Tax Administration Act 28 of 2011 (as amended), ss 40–46, 96, 102, 104, 164 and 221–223.

SARS | Being Audited or Selected for Verification — sars.gov.za.

SARS | Request for Reasons — sars.gov.za.

SARS | Objections; and Guide to Submit a Dispute via eFiling (April 2026) — sars.gov.za.

SARS | Amendment Acts, including Tax Administration Laws Amendment Act 4 of 2026 — sars.gov.za.

Costa Divaris | Specimen Letters to SARS (November 2020), Chapter 4, printed pp. 170–178 and 278 onward.