SAIPA imposes penalties on members found violating one or other professional code of conduct. These codes are enshrined in the SAIPA constitution. It is also given that SAIPA is a registered vendor.

Question:
Should SAIPA levy output VAT on these fines?

Answer:
Generally, VAT is levied on the taxable supply of goods and services by a vendor. The term ‘taxable supplies’ includes all supplies made by SAIPA, for example, as a vendor - in the course or furtherance of its ‘enterprising activities’.

SAIPA is mandated in its constitution to supply the following services, amongst others:

• The development and enhancement of an accountancy profession able to provide services of consistently high quality in the public interest.
• To promote and develop common interest of members and the welfare of the accountancy profession having regard to the broader interest of the public;
• To endeavour to reconcile where there may be conflicts, in the interest of members and the accountancy profession and the public;
• To maintain and enhance the prestige and standing of the accountancy profession and its members, both nationally and internationally.
• To consider and comment on existing and proposed legislation in the Republic affecting the accountancy profession or otherwise;
• To provide for research into all accountancy-related matters
• To provide members with relevant information on developments in the accountancy profession.
• To provide opportunities for an exchange of views amongst the membership and related organisations.
• To cooperate with IRBA and to comply with the provisions of the Audit Professions Act, 2006 and to ensure that members, where applicable, also comply with the provisions of this Act;
• To participate in IFAC and ECSAFA, and apply for membership of any other relevant bodies and to cooperate with national and international bodies;

The supply of goods and services by a vendor lies at the heart of the VAT act. A supply of goods and services, in the course of furtherance of any enterprise is fundamentally a precondition before VAT can be triggered. It has been demonstrated above that the levying of fines and penalties on defaulting SAIPA members, does not constitute taxable supply of goods and services.

It is, therefore, likely that fines and penalties do not fall within the ambit of VAT, and output VAT should not be taken into account when fines and penalties are imposed upon defaulting members.