Voluntary Disclosure Program (VDP) and e-Invoicing:
Are they linked?

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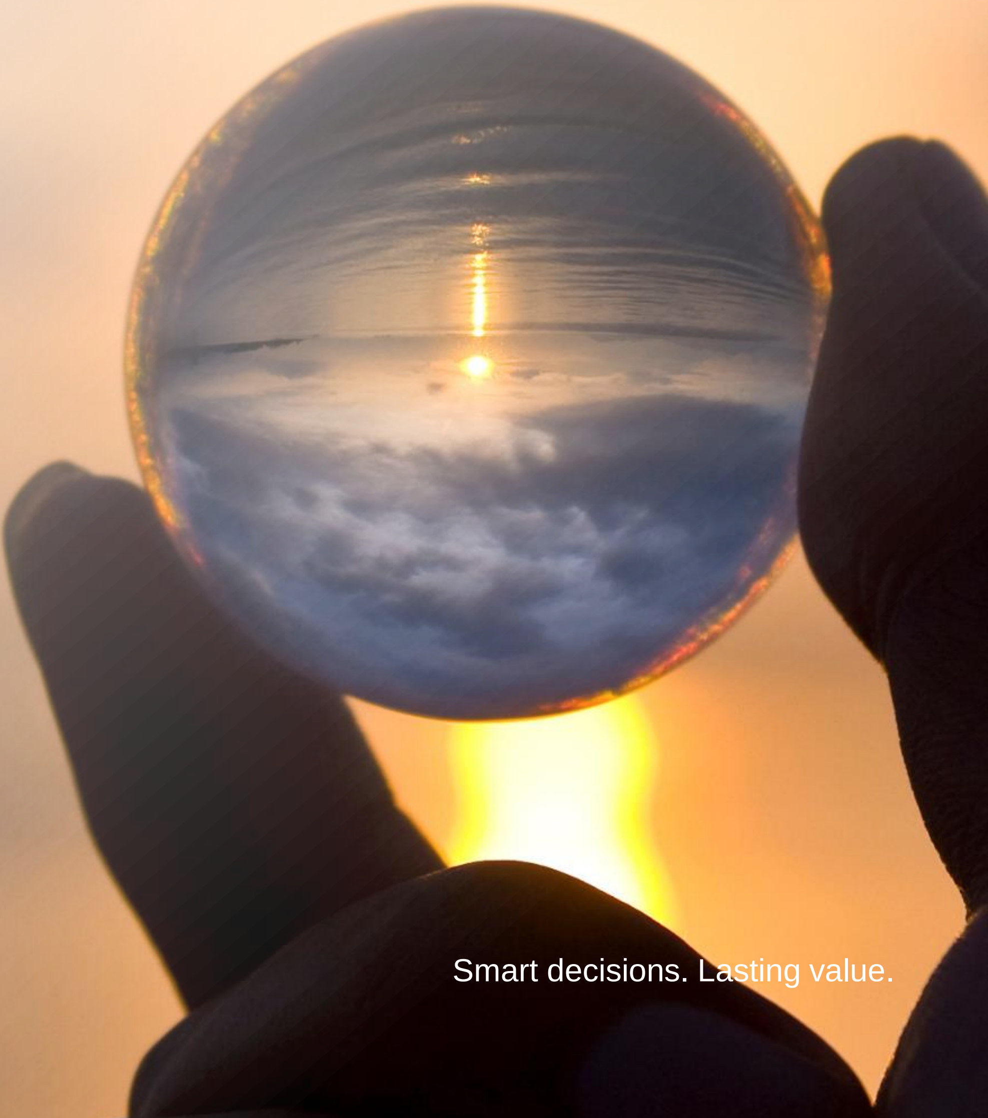

Audit / Tax / Advisory

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Introduction

In the past, the Malaysian government relied heavily on oil revenue as a significant source of income to be used towards further developing the nation. Upon recognizing the need to diversify its revenue streams and reduce dependence on a single source, the government has since taken progressive steps to increase revenue through taxation.

In line with this objective, the government has recently introduced two new initiatives: the Special Voluntary Disclosure Program 2.0 (“SVDP 2.0”) and e-invoicing. These initiatives aim to encourage greater compliance amongst taxpayers and streamline tax administration processes. By embracing these measures, the Malaysian government is laying the foundation for a more efficient taxation system that promotes economic growth and fiscal resilience.

The two initiatives appear to be designed to achieve complementary objectives within the broader goal of widening the tax net and enhancing the Malaysian taxation system. In this article, we will provide a brief overview of the SVDP 2.0 and e-invoicing initiatives and consider whether there is a link between the two.

What is SVDP 2.0?

In the tabling of the Revised Budget 2023, our Prime Minister and Finance Minister (as he then was), YAB Dato' Seri Anwar bin Ibrahim announced the reintroduction of the SVDP 2.0 to incentivize taxpayers who have unpaid or underpaid taxes to proactively rectify any past tax discrepancies and fulfil their tax obligations.

A Special Voluntary Disclosure Program ("SVDP") is a tax amnesty or compliance program offered by governments to encourage taxpayers to voluntarily come forward and disclose any previously undisclosed income, assets, or liabilities. The objective of SVDP is to increase tax compliance, enhance revenue collection, and promote transparency within the tax system. Through the last voluntary disclosure program (SVDP 1.0) that ran between 3 November 2018 to 30 September 2019, the Inland Revenue Board of Malaysia ("IRB") collected RM 7.88 billion in taxes and penalties from close to 290,000 taxpayers.

SVDP 2.0 as an initiative which is designed to support the pillars of sustainability in the national tax administration. It was introduced with the following key points announced during the Revised Budget 2023:

- Companies and individuals are eligible to participate
- The SVDP 2.0 period will run from 6 June 2023 to 31 May 2024
- 0% Penalty and Surcharge Rate
- Covers Direct and Indirect Taxes

What is SVDP 2.0? (cont.)

From the Operational Guidelines No. 2 Year 2023 (Amended) issued by the IRB on 22 August 2023, the following salient points are summarised.

Item	Direct taxes	Indirect taxes
Application period	From 6 June 2023 to 31 May 2024	From 6 June 2023 to 31 May 2024
Taxpayers	All categories of taxpayers except Employer's File Returns	Any person, including foreign service provider
Covered Years of Assessment (YAs)	• New taxpayers – YAs 2022 and preceding YAs • Existing taxpayers – YAs 2021 and preceding YAs • For RPGT – Assets disposed in YA 2022 and preceding YAs • For stamp duty – agreements executed on or before 1 May 2023	Indirect taxes payable up to 28 February 2023
Taxes covered under SVDP	• Corporate income tax • Personal income tax • Real property Gains Tax (RPGT) • Stamp Duty • Transfer Pricing	• Sales Tax • GST • Service Tax • Tourism Tax
Penalties/ surcharge/ compound	0% penalty and 0% surcharge	• Remission of 100% of penalty • No compound to be charged

However, the IRB has stated that SVDP 2.0 is not applicable to voluntary disclosures involving cases where:

- Audit action on taxpayers has commenced for the YAs involved;
- Non-taxable, reduced assessment, or tax repayment, except for transfer pricing cases; or
- Investigation action has been initiated or prosecution proceedings following a criminal investigation have been filed in court based on the provisions under Income Tax Act 1967, Real Property Gains Tax Act 1976, Stamp Act 1949 or the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001.

What is e-invoicing?

In line with the Twelfth Malaysia Plan (“12MP”), Malaysia is moving towards implementing e-invoicing as part of its efforts to modernize its tax system and enhance efficiency in business transactions. E-invoicing, or electronic invoicing, refers to the creation, transmission, and storage of invoices in a structured digital format, thus eliminating the need for paper invoices.

An e-Invoice will contain the same essential information as a traditional document which records transaction data for daily business operations, such as the supplier’s and buyer’s details, item description, quantity, price excluding tax, tax, and total amount. Under the new e-Invoicing system, e-Invoices shall be required to be generated in a standardized format as prescribed by the IRB, and all the information in relation to the transaction shall be transmitted directly to the IRB be validated on a real-time basis.

Objective:

The primary objective of implementing e-invoicing in Malaysia is to streamline business processes, increase the level of tax compliance and enhance operational efficiency. By digitizing the invoicing process, the government aims to reduce paperwork, minimize errors, and facilitate faster processing of invoices, leading to cost savings for businesses and the government alike.

Target implementation:

The scope of e-invoice implementation covers all types of local and international business transactions, namely:

- Business-to-Government (B2G)
- Business-to-Business (B2B)
- Business-to-Consumer (B2C)

What is e-invoicing? (cont.)

Mandatory adoption of e-Invoicing shall progressively be rolled-out for all businesses through a phased implementation timeline based on a business's annual turnover or revenue threshold. The implementation dates set by the IRB are as follows:

Annual sales turnover (Reference year: Financial year ended 2022) (RM)	Target implementation date
Above RM100 million	1 August 2024
From RM25 million to RM100 million	1 January 2025
Below RM25 million	1 July 2025
New businesses commencing from 2023 or after	1 July 2025

E-invoices can be transmitted to the IRB via the IRB's own e-Invoicing platform (MyInvois portal) or through an Application Programming Interface, i.e. API. Taxpayers can choose to adopt the most appropriate mechanism for them based on their own business needs.

Points to take note of under e-invoicing and SVDP

Director of the Operation Policy Section at the IRB, Dr. Rasyidah Che Rosli, has reminded the general public that the opportunity is still available for taxpayers to participate in the ongoing SVDP 2.0 initiative, which runs from 6 June 2023 to 31 May 2024.

In a bid to incentivise taxpayers to fulfil their tax obligations to the country, SVDP 2.0 provides that the taxpayers who make voluntarily disclosures under the program will not face any legal actions such as penalties or tax audits. Audit and investigation actions will not be carried out in the future for the Year of Assessment in which the voluntary disclosure is made, except under the following specific circumstances:

a. where voluntary disclosure is made on non-transfer pricing issues only and it is found that there is a risk on transfer pricing issues, audit/investigation can be taken on the transfer pricing issues, and vice versa.

b. where tax payment on the voluntary disclosure fails to be made within the stipulated time period.

For SVDP 2.0, tax computations are only required to be submitted by taxpayers who fall within the companies, businesses and partnerships category. Although a review of the tax computation shall be carried out to ensure that no mathematical or calculation errors are made, the IRB states that the information voluntarily disclosed by taxpayers during SVDP 2.0 shall be accepted in good faith.

This contrasts with a tax investigation, where it is common for the IRB to request an individual taxpayer to prepare a capital statement. A capital statement is essentially a taxpayer's statement of net worth, and typically sets out the taxpayer's assets, liabilities, income and expenses to be compared and reconciled against the taxpayer's declared income to uncover whether there is any understatement, omission or unreported income.

The IRB's Operational Guidelines No. 2/2023 for SVDP 2.0 advises taxpayers to take the opportunity to update their tax reporting position by participating in SVDP 2.0 before the full implementation of e-Invoicing. Upon the end of the SVDP 2.0 period, more stringent measures can be expected to be imposed on all businesses with the new e-Invoicing system to stem leakages in tax revenue.

55 Fields Required in e-invoicing

Based on Version 2.2 of the IRB's e-invoice Guideline dated 9 February 2024, the e-Invoicing system mandates the inclusion of 55 specific fields in each e-Invoice. These fields ensure comprehensive and accurate documentation of transactions within the digital invoicing framework. With access to this breadth of information in real time, the IRB will be better equipped with transactional data and can gain better insights of a taxpayer's business activities. The clear trail of data will allow the IRB to detect any discrepancies, errors, or omissions being made in the filing of invoices.

In addition, the IRB's e-invoice Guideline dated 9 February 2024 also mention that e-invoice could be used for benchmarking the taxpayer's performance against the objectives and industry best practices. This information may contribute significantly to the IRB's tax audits or investigations to uncover whether there is any understatement, omission or unreported income or profit.

	PARTIES
1	Supplier's Name
2	Buyer's Name
	SUPPLIER'S DETAILS
3	Supplier's TIN
4	Supplier's Registration / Identification Number / Passport Number
5	Supplier's SST Registration Number
6	Supplier's Tourism Tax Registration Number
7	Supplier's e-mail
8	Supplier's Malaysia Standard Industrial Classification (MSIC) Code
9	Supplier's Business Activity Description
	BUYER'S DETAILS
10	Buyer's TIN
11	Buyer's Registration/ Identification Number / Passport Number
12	Buyer's SST Registration Number
13	Buyer's e-mail
	ADDRESS
14	Supplier's Address
15	Buyer's Address

	CONTACT NUMBER
16	Supplier's Contact Number
17	Buyer's Contact Number
	INVOICE DETAILS
18	e-Invoice Version
19	e-Invoice Type
20	e-Invoice Code/ Number
21	Original e-Invoice Reference Number
22	e-Invoice Date and Time
23	Issuer's Digital Signature
24	Invoice Currency Code
25	Currency Exchange Rate
26	Frequency of Billing
27	Billing Period
	PRODUCTS / SERVICES
28	Classification
29	Description of Product or Service
30	Unit Price
31	Tax Type

32	Tax Rate
33	Tax Amount
34	Details of Tax Exemption
35	Amount Exempted from Tax
36	Subtotal
37	Total Excluding Tax
38	Total Including Tax
39	Total Net Amount
40	Total Payable Amount
41	Rounding Amount
42	Total Taxable Amount Per Tax Type
43	Quantity
44	Measurement
45	Discount Rate
46	Discount Amount
47	Fee / Charge Rate
48	Fee / Charge Amount

	PAYMENT INFO
49	Payment Mode
50	Supplier's Bank Account Number
51	Payment Terms
52	Prepayment Amount
53	Prepayment Date
54	Prepayment Reference Number
55	Bill Reference Number

Legend:
Optional field (20)
Mandatory field (35)

Source: IRB's E-Invoice Guidelines (Version 2.2) dated 9 February 2024

Self-billed for Certain Types of Transaction

Certain types of transactions are eligible for self-billing within the e-invoicing system. Self-billing allows the buyer to generate the invoice on behalf of the supplier, streamlining the invoicing process for designated transaction types. This also means that buyers shall be required to submit information relating to the suppliers to the IRB.

Circumstances in which a buyer would have to issue a self-billed e-Invoice to document an expense for use as a proof of expense for tax purposes are summarised in the table below:

No	Transaction	Supplier	**Buyer** (assumes the role of Supplier to issue self-billed e-Invoice)
1	Payment to agents, dealers, distributors, etc	Agents, dealers, distributors, etc.	Taxpayer that makes the payment
2	Goods sold or services rendered by foreign suppliers	Foreign Seller	Malaysian Purchaser
3	Profit distribution (e.g., dividend distribution)	Recipient of the distribution	Taxpayer that makes the distribution
4	e-Commerce	Merchant, service providers (e.g., driver, rider)	e-Commerce/ Intermediary platform
5	Pay-out to all betting and gaming winners	Recipient of the pay-out	Licensed betting and gaming provider
6	Acquisition of goods or services from individual taxpayers who are not conducting a business	Individual taxpayer providing goods or services	Person acquiring goods or services
7	Payment/Credit to taxpayers recorded in a statement/bill issued on a periodic basis (e.g. rebate)	Recipient of the payment/ credit	Taxpayer that makes the payment/ credit
8	Interest payment	Recipient of interest payment	Taxpayer that makes the interest payment

Source: IRB's E-Invoice Specific Guidelines (Version 2.0) dated 9 February 2024

No Consolidation for Certain Industries

Although Suppliers shall be required to issue e-Invoices for all of its transactions, certain Buyers (particularly end consumers) may not necessarily require e-Invoices as a proof of expense for tax purposes. In this regard, the IRB allows the Suppliers to issue a normal receipt to the Buyer, similar to current business practices. The Supplier shall then be allowed to record the transactions to such customers into a consolidated e-Invoice to be submitted to the IRB on a monthly basis.

However, consolidated e-Invoices are not allowed for certain transactions within the e-Invoicing framework. The list of industries and the types of transactions where the consolidation of e-Invoices is not allowed by the IRB are as follows:

	Industry	Type of transaction
1	Automotive	Sales of motor vehicles
2	Aviation	Sales of flight tickets and private charter
3	Luxury goods and jewellery	Details will be released in due course. *Note that this is currently being put on hold until such time when the details are made available.*
4	Construction	Construction contracts defined in the Income Tax (Construction Contracts) Regulations 2007
5	Wholesalers and retailers of construction materials	Sales of materials for use in the construction industry as specified under Lembaga Pembangunan Industry Pembinaan Malaysia Act 1994
6	Licensed betting and gaming	Pay-out to winners for betting and gaming activities (except for payouts to winners in relation to betting and gaming (i) in casinos and (ii) from gaming machines, which are exempted from e-Invoice until further notice)
7	Businesses making payments to agents, dealers, or distributors	This relates to those agents, dealers and distributors falling within the provisions under Section 83A(4) of the Income Tax Act 1967, i.e. *“any person who is authorized by a company to act as its agent, dealer or distributor, and who receives payment (whether in monetary form or otherwise) from the company arising from sales, transactions or schemes carried out by him as an agent, dealer or distributor.”*

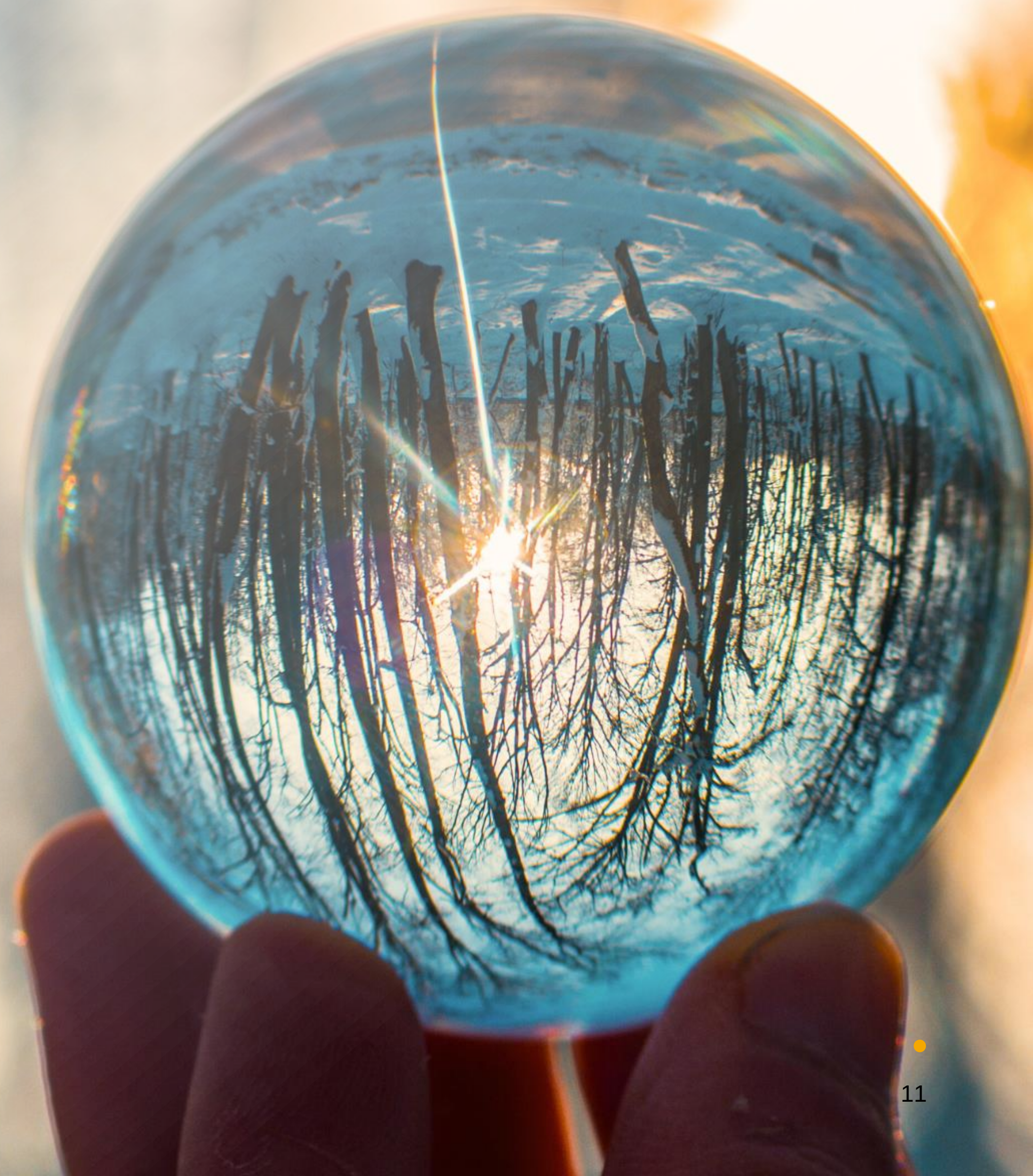
Source: IRB’s E-Invoice Specific Guidelines (Version 2.0) dated 9 February 2024

This regulation ensures that each transaction is documented and processed individually, thus maintaining transparency and compliance within the designated sectors.

No Time Bar for Cases Under Fraud, Willful Default or Negligence

The statute of limitation does not apply to cases involving fraud, willful default, or negligence in relation to e-invoicing. This is provided for under Section 91(3) of the ITA. This provision allows authorities to investigate and take appropriate action against taxpayers in order to recover any tax loss attributable to any instances of misconduct or non-compliance regardless of how many years it has been since the fraud, willful default or negligence in question was committed.

Therefore, taxpayers who fail or neglect to report their taxes accurately pursuant to their tax obligations may need to be cautious as these outstanding taxes may resurface in the future and they may have to face the consequences.



How can Crowe assist you?

We can assist in SVDP 2.0 by providing the following services:

- Develop tailored solutions to meet your needs.
- Review taxpayer's prior year tax computations, tax returns and transfer pricing documentation to identify potential non-compliance.
- Highlight the potential non-compliance areas and quantify the amount of under-paid taxes.
- Assist with the submission of voluntary disclosure applications and obtaining tax clearance from the IRB.
- Assist with application for the installment payment plan, if required.

We can also assist in e-invoicing implementation:

Phase 1: **Discovery**

1. Project team formation
2. Understand the compliance requirements
3. Business model, transaction and process analysis
4. System review
5. Review of strategic issues
6. Gap analysis and proposed implementation plan

Est. timeline: 2 months

Phase 2: **Implementation**

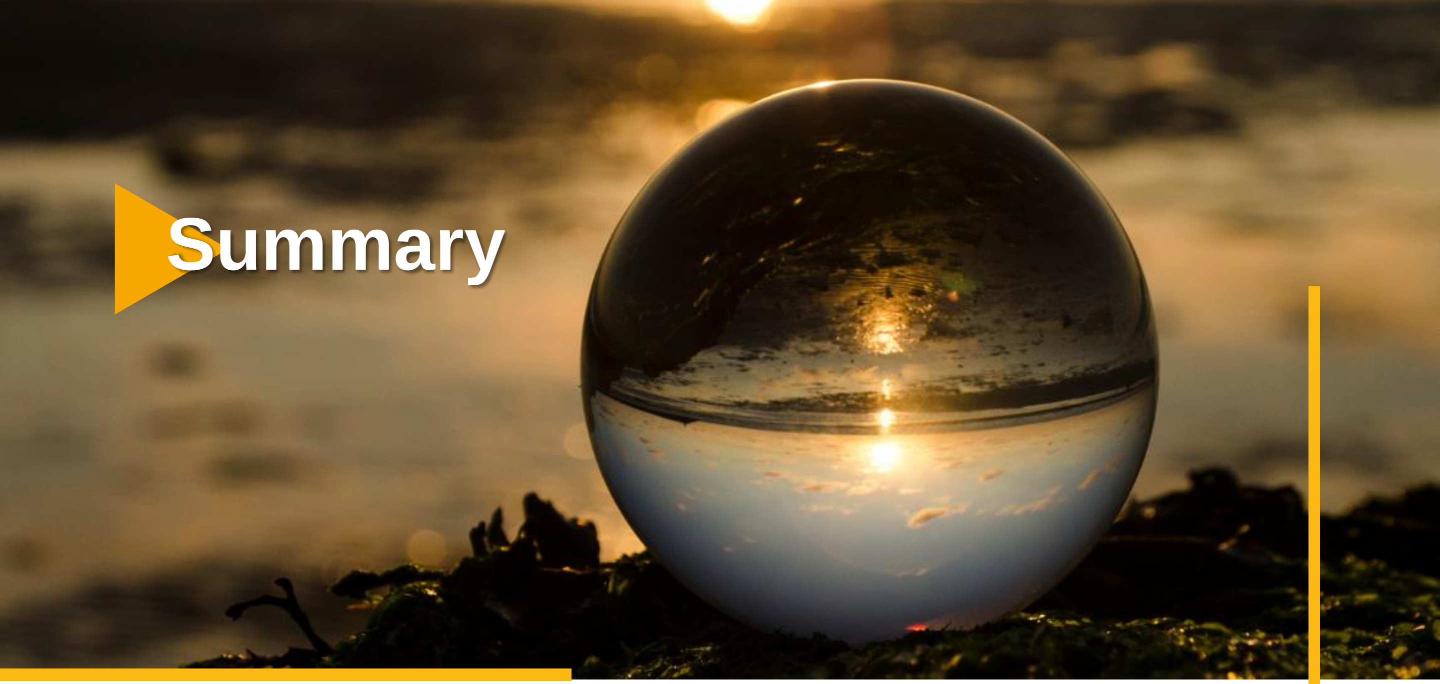
7. Action plan on the system modification / integration and progress monitoring
8. Action plan on the process change, stakeholder communication and progress monitoring

Est timeline: 2 to 3 months

Phase 3: **Review**

9. Final review, users' acceptance test and trial run to ensure that the interface is working well and processes run smoothly
10. Staff manual and training
11. Go live and operate

Est. timeline: 2 months



Summary

Whether intentional or not, the implementation schedule for the two initiatives is well-coordinated – the SVDP 2.0 initiative comes to an end on 31 May 2024, and e-Invoicing commences shortly after from 1 August 2024.

SVDP 2.0 encourages taxpayers to voluntarily disclose any previously undeclared income or assets, thereby increasing transparency and compliance within the tax system. This initiative aims to bring more individuals and businesses into the tax net by addressing potential tax evasion or non-compliance issues that may have occurred in previous Year of Assessments.

On the other hand, the pivot towards e-invoicing facilitates electronic documentation and transaction recording, with the aim to streamline future tax administration processes and enhance the efficiency and accuracy of tax reporting in this digital era. By implementing e-invoicing, the government seeks to reduce opportunities for potential tax evasion and improve the overall effectiveness of tax collection efforts for future Year of Assessments.

While SVDP 2.0 and e-invoicing are distinct initiatives, it is evident that they work in tandem to achieve the common objective of broadening the tax base and strengthening the nation's fiscal foundation. Together, they contribute to a more robust and sustainable taxation system in Malaysia.

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