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Special Voluntary Disclosure Programme SVDP 2.0

3 June 2023

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Introduction

What is the Special Voluntary Disclosure Programme?

In the tabling of the Revised Budget 2023, our Prime Minister and Finance Minister, YAB Dato' Seri Anwar bin Ibrahim announced the reintroduction of the Special Voluntary Disclosure Programme ("SVDP2.0) to incentivize taxpayers who have not paid or have underpaid their taxes.

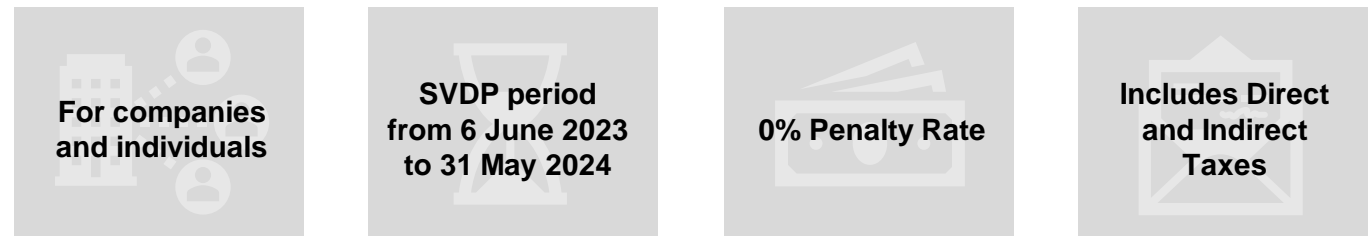
Back in 2018, the Malaysian government introduced SVDP1.0 which was for applications made during the period between 3 November 2018 to 30 September 2019. The objective of introducing SVDP1.0 was to incentivize taxpayers who have not paid their taxes or have under-paid their taxes. Some key statistics from SVDP1.0 were:



In 2022, the Malaysian government has further expended efforts to promote tax compliance by introducing the Voluntary Disclosure and Amnesty Programme ("VAP1.0"), specifically targeting underpayment of indirect taxes. This VAP1.0 allowed taxpayers to rectify any underpaid indirect taxes by submitting applications between 1 January 2022 and 30 September 2022.

What is SVDP 2.0?

SVDP2.0 was introduced with the following key points announced during the Revised Budget 2023:



Comparison between **SVDP 1.0** and **SVDP 2.0** for **DIRECT TAXES**

Based on the Operational Guidelines No. 2 Year 2023 issued by the IRB on 2 June 2023, we have summarized the key points of SVDP2.0 and its comparisons with SVDP1.0 in the table below.

Item	SVDP 1.0	SVDP 2.0
Application period	From 3 November 2018 to 30 September 2019	From 6 June 2023 to 31 May 2024
Taxpayers	Companies and individuals	All categories of taxpayers except Employer's File Returns.
Covered Years of Assessment (YAs)	Individuals – up to YA 2017 Companies – up to financial year ended 31 March 2018	<ul style="list-style-type: none"> • New taxpayers – YAs 2022 and prior • Existing taxpayers – YAs 2021 and prior • For RPGT – Assets disposed in YA 2022 and prior • For stamp duty – agreements executed on or before 1 May 2023
Taxes covered under SVDP	<ul style="list-style-type: none"> • Corporate income tax • Personal income tax • Real Property Gains Tax (RPGT) • Stamp Duty • Withholding Tax 	<ul style="list-style-type: none"> • Corporate income tax • Personal income tax • Real Property Gains Tax (RPGT) • Stamp Duty • Transfer Pricing (new)
Penalties	<ul style="list-style-type: none"> • 10% penalty – SVDP made between 3 November 2018 and 30 June 2019 • 15% penalty – SVDP made between 1 July 2019 and 30 September 2019 	<ul style="list-style-type: none"> • 0% penalty and 0% surcharge

Comparison between **VAP 1.0** and **SVDP 2.0** for **INDIRECT TAXES**

Based on the announcement published by the Royal Malaysian Customs Department (“RMCD”) on 18 May 2023 and the seminar conducted by the RMCD, we have summarized the key points of SVDP2.0 and its comparisons with VAP1.0 in the table below.

Item	VAP 1.0	SVDP 2.0
Application period	Phase 1: From 1 January 2022 to 30 June 2022 (6 months) Phase 2: From 1 July 2022 to 30 September 2022 (3 months)	From 6 June 2023 to 31 May 2024
Taxpayers	Any person, including foreign service provider	Any person, including foreign service provider
Covered periods	Indirect taxes payable up to 31 October 2021	Indirect taxes payable up to 28 February 2023
Taxes covered	<ul style="list-style-type: none"> • Import duty • Sales Tax • Tourism Tax • Export duty • Service Tax • Departure levy • Excise duty • Goods and Services Tax (“GST”) 	<ul style="list-style-type: none"> • Sales Tax • GST • Service Tax • Tourism Tax
Incentives	Phase 1: Remission up to 30% of indirect taxes and 100% of penalty Phase 2: Remission up to 15% of indirect taxes and 50% of penalty	Remission of 100% of penalty
Compound	<ul style="list-style-type: none"> • RM500 for voluntary disclosure amounts of less than RM100,000; or • RM1,000 for voluntary disclosure amounts of RM100,000 and above 	No compound will be charged

Note: The information about SVDP2.0 for indirect taxes is currently in the proposal stage and remains subject to potential changes.

Exclusion List

SVDP2.0 does not apply to the following:

Direct taxes:

1. Taxes for the years of assessment which are currently undergoing audit or investigation by the IRB.
2. Revision of tax returns for which no additional tax payable is to be made.
3. Applications for reduced assessment or tax refund cases.
4. Taxpayers for which criminal prosecutions or legal proceedings have been instituted under ITA, RPGTA, Stamp Act, and Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001.
5. Employers' returns including monthly tax deductions (i.e. Form E and Monthly Tax Deductions).
6. Taxpayers engaged in controlled transactions with each other who are both assessable to tax in Malaysia, and where it can be demonstrated that any adjustments made under the Guidelines will not change the amount of tax payable or borne by the parties.

Indirect taxes:

1. Bills of Demand ("BOD") have been issued by the RMCD.
2. Taxpayers whose investigations have been completed or who are currently undergoing investigations conducted by the Enforcement Division of the RMCD.
3. Taxpayers engaged in tribunal or court cases with the RMCD that are currently under trial.



What are the potential **benefits** of joining SVDP 2.0?

Here are 5 reasons why taxpayers should consider capitalizing on SVDP 2.0:

1

A chance for taxpayers to update their prior year tax positions and to make good on any under-paid taxes.

2

Documentation required for a voluntary disclosure application is less than for a tax audit. Generally, the IRB and RMCD do not request supporting documents to be submitted together with the SVDP application.

3

Finalisation of a voluntary disclosure application is much faster than a tax audit.

4

Submitting a voluntary disclosure application may protect the taxpayer from future tax audits on the submitted year(s) of assessment or periods, subject to conditions.

5

No penalty to be imposed by the IRB and RMCD for the voluntary disclosure applications.

Actions Required

What Should Taxpayers Do?

Taxpayers should review their prior year tax returns (up to the last 5 years for direct taxes or up to the last 7 years for indirect taxes), assess their tax affairs and identify any potential non-compliance with tax rules that may result in under-paid taxes.

How Crowe Can Assist You

Tailored Solutions to Meet Your Needs

- Review of taxpayer's prior years tax computations, tax returns and transfer pricing documentation to identify any potential non-compliance.
- Highlight the potential non-compliance areas and quantify the amount of under-paid taxes.
- Assist with the submission of voluntary disclosure application and obtaining tax clearance from the IRB.
- Assist with application for instalment payment plan, if required.



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