



# Indirect Tax

**Special Voluntary Disclosure Programme**

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KPMG in Malaysia

# Overview and Commentary



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### Key Message

“The much anticipated SVDP will be a booster shot for tax, a shot to revitalise indirect tax collection whilst a remedy for taxpayers to right what is wrong. The effectiveness and efficacy would depend on the framework and mechanism, which is hoped will be released soon.

Based on the budget speech, there will be remission of penalties (100% and 50% according to phases), as well as remission of taxes will be considered in certain cases. Initial observations suggest that this appear to be an equitable measure to take up. As the programme appears to be for a specific timeframe and indirect tax is a transactional tax which can involve significant volume, taxpayers should start assessing their indirect tax compliance and consider whether participating in the SVDP would be beneficial in the long run.”

## Indirect Tax: Special Voluntary Disclosure Programme (“SVDP”)



The much anticipated SVDP for indirect tax, which was briefly mentioned in the Pre-Budget Statement (PBS) by the honourable Finance Minister, has finally been confirmed in the Budget 2022 speech. Though limited specifics were mentioned, it is noted that the SVDP will be introduced in 2 phases, where full remission of penalties (in Phase 1) and 50% remission of penalties (in Phase 2) will be accorded to taxpayers who come forward voluntarily. Notwithstanding this, it is also possible that remission of taxes may be considered as well under the SVDP.

Voluntary disclosure programmes are no stranger to taxpayers, as it has been implemented in many countries around the world with a common objective – to encourage compliance amongst the taxpayers. At present, the Malaysian indirect tax regime does not have a formal or comprehensive voluntary disclosure programme available in its prevailing legislations, thus the timely introduction of a SVDP for Malaysian indirect tax would likely be welcomed by many.

Although the name “special” may reasonably suggest that this could be a one-off and time-specific event, a more sustainable mechanism should be put in place to encourage continuous compliance from the taxpayers.

Given that the specific details of the SVDP is unknown just yet (apart from the full/ half remission of penalties involved, and possibly remission of taxes too), it is hopeful that the framework will be as comprehensive and fair as possible as this would be vital for it to be successful. The typical concerns of taxpayers with regard to such programmes are:-

- What “benefits” are there?
- What types of taxes will it cover?
- Any conditions that need to be satisfied to qualify for the SVDP?
- Processes involved for making disclosure

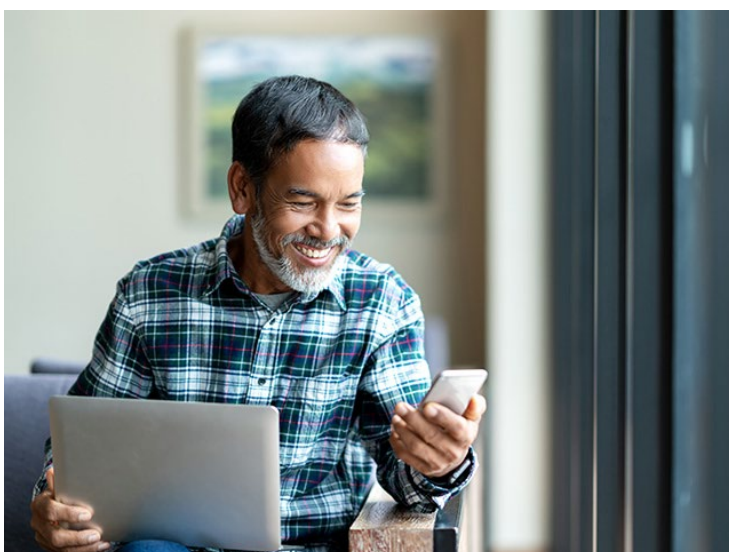
The common incentive that makes any SVDP attractive, is the waiver or reduced penalties upon making such disclosures. Certain countries, like the UK as an example, may reduce/ waive the penalties involved depending on the reason that the error has occurred – whether it is a mere “oversight” or a blatant avoidance of taxes. Linking it to the circumstances of why the mistake occurred would certainly provide a certain degree of fairness to the case at hand and motivation for taxpayers to come forward.

Closer to home, Singapore also has a voluntary disclosure programme in place where the penalties/ fines are staggered, depending on the timing of when the disclosure is made. In short, the longer the taxpayer takes to make such disclosure of error, the heftier the penalty is. Such move would encourage taxpayers to diligently regulate their tax affairs in a timely manner and it is hoped that the Malaysian indirect tax SVDP framework will have similar characteristics notwithstanding the phased penalty approach mentioned above.

Regarding the applicable taxes under the Malaysian indirect tax SVDP, although not mentioned yet, it is speculated that all the taxes under the administration of RMCD will be covered. With such a variety of taxes across multiple tax legislations, this may prove to be one of the more complex SVDP in terms of administration. On the other hand, covering all indirect taxes at one go would also ensure that there are no ‘surprises’ in the future.

It is also anticipated that there would be underlying conditions attached to the SVDP, as it is possible that the authorities would not be accepting all the SVDP applications made by taxpayers, especially where there is evidence of fraud or willful avoidance of taxes. Also, similar with other countries, cases which are already under audit scrutiny may also not be eligible under such programme.

The simplicity of the disclosure programme would also play a pivotal role in determining the success of the SVDP.



A clear, concise and straightforward process will not only ease the hassle of taxpayers having to approach the authority in a disorganized manner but will also facilitate the collection of revenue from the Government's perspective.

In the past, taxpayers' confidence has been dampened by promises that in their eyes were not fulfilled – i.e. audits being initiated after a voluntary disclosure was made. This may yet be the most important factor for taxpayers to consider before deciding whether to take up such an "offer" which may then lead to more exposures or adopt the "sit and wait" approach with high risk associated.

All in all, regardless of any SVDP for the matter, taxpayers should focus on having the right processes in place in regulating their tax affairs to avoid facing unnecessary challenges or even litigations that may result in a huge tax and penalty bill. Constant effort and sound professional advice would prove to be a boost in ensuring the interest of the taxpayer is properly safeguarded at all times. Pending the announcement of the framework, businesses should start looking at any potential exposures at hand so that informed business decisions on participation in the SVDP programme can be made in a timely manner.

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