



Indirect Tax

Voluntary Disclosure and Amnesty Programme ("VA")

On 29 October 2021, the 2022 Budget was tabled and amongst the notable tax measures announced is the highly anticipated indirect tax Special Voluntary Disclosure Programme.

Following from this, the Royal Malaysian Customs Department (RMCD) has just released the guidelines on the Voluntary Disclosure and Amnesty Programme (also known as "VA").

Viewed as part of the government's strategy to optimise tax collection, the indirect tax VA is a one-off special programme administered by the RMCD covering import duty, excise duty, export duty, Sales Tax and Service Tax (SST 1.0 and 2.0), Goods and Services Tax (GST), tourism tax and departure levy.

From the taxpayers' perspective, the VA provides a channel to come forward and voluntarily disclose any unreported taxes or duties with up to 100% remission of penalty plus potential tax remission.

From the Government's perspective, it serves as an additional avenue to increase tax revenue using relatively limited administrative resources whilst saving costly and contentious audits, litigation and criminal proceedings.

Given the specific timeframe, taxpayers are encouraged to take advantage of the VA to correct their indirect tax affairs before it expires.

Key Takeaways

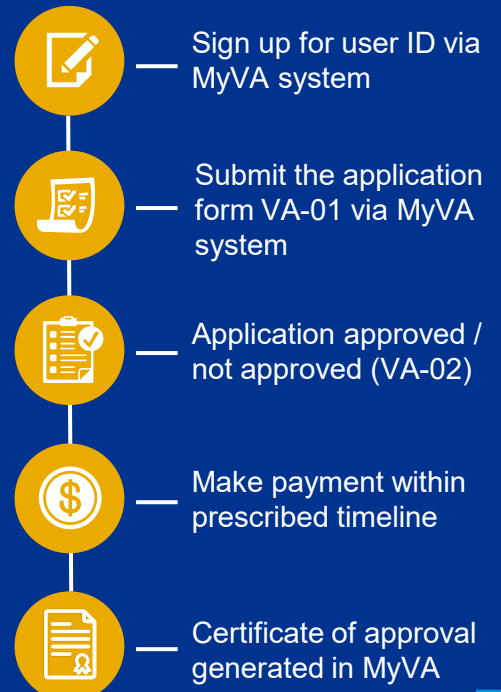
- There are 2 categories of VA i.e. a Voluntary Disclosure as well as an Amnesty.
- Effective 1 January 2022, the VA will be introduced in phases with the following incentives:

Phase 1	Phase 2
1 January – 30 June 2022	1 July – 30 September 2022
100% penalty remission	50% penalty remission
10%, 20% or 30% tax remission *	5%, 10% or 15% tax remission *

* Depending on case by case, subject to meeting criteria.

- Penalty remission is automatic during the programme with no prior application for remission required. This also applies to tax remission, where applicable.
- A minimum compound of RM500 or RM1,000 may be imposed on compoundable offences.
- The VA is only applicable to tax, duty, levy, penalty or surcharge incurred on or before 31 October 2021. This excludes those under investigation by the Enforcement Division.

VA Application Process Flow



Common Indirect Tax Risk Areas

- Disclosure due to Transfer Pricing adjustments, particularly for Import Duties and Sales Tax
- Late registration for Sales Tax, Service Tax or any other indirect taxes and the corresponding late payment of taxes
- Under-reporting of duties and taxes which were missed out or due to inaccurate classification
- Omission to charge and collect taxes
- Non-compliance with duties and tax exemption conditions
- Omission to account for imported taxable services
- Errors found during internal health checks
- Underpayment of GST (although note that a penalty remission program for GST was introduced from 1 May 2021 to 31 August 2021)

What You Should Do

- Have discussions with your tax consultants to verify your tax positions and ascertain potential non-compliance or contentious / grey areas
- Check if the tax positions adopted are supported by the relevant law or ruling obtained from RMCD
- Perform an internal review to identify potential non-compliance or contentious / grey areas, or reporting errors
- Quantify the tax exposure from the reporting errors, under-estimated or potential unpaid taxes
- Ascertain if you are eligible for the VA
- Gather the information on hand and strategise the approach to RMCD before making a disclosure under the VA
- If not eligible for the VA, consider other ways to bridge the gaps or disclosure under other possible manner

How KPMG Can Assist

- Have discussions with your team to assess your tax positions and identify key risk areas that may give rise to potential underpaid or unpaid taxes
- Review the tax positions adopted and advise if correctly supported by the relevant law and ruling
- Conduct a health check to identify and evaluate potential non-compliance or contentious / grey areas, or reporting errors
- Review and validate your tax exposure computation
- Advise on the eligibility and criteria for the VA
- Advise on the VA procedures and assist with reviewing your VA application for submission to RMCD
- If not eligible for the VA, advise on remedial actions to bridge the gaps or disclosure under other possible manner

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