



# **GUIDELINES**

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## **VOLUNTARY DISCLOSURE PROGRAM FOR INDIRECT TAXES**

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This information is intended to provide a general understanding of the relevant treatment under Voluntary Disclosure Program and aims to provide a better general understanding of taxpayer's tax obligations. It is not intended to comprehensively address all possible tax issues that may arise. While RMCD has taken the initiative to ensure that all information contained in this Guide is correct, RMCD will not be responsible for any mistakes and inaccuracies that may be contained, or any financial loss or others incurred by individuals using the information from this Guide. All information is current at the time of preparation and is subject to change when necessary.

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## 1. INTRODUCTION

- 1.1. In accordance with the announcement made by the Minister of Finance during the Budget 2023 speech on 24th February 2023, a Voluntary Disclosure Program (Hereinafter referred to as “VDP”) for indirect taxes will be reintroduced by the Royal Malaysian Customs Department (RMCD) on certain legislation under the administration of RMCD.
- 1.2. This program will cover mistakes or omissions related to indirect taxes were previously unknown or undiscovered by the RMCD.
- 1.3. The implementation of this program involves penalty remission incentive under the acts and subsidiary legislation as follows, excluding taxes imposed on the importation of goods:-
  - 1.3.1. Sales Tax Act 1972;
  - 1.3.2. Service Tax Act 1975;
  - 1.3.3. Goods and Services Tax Act 2014;
  - 1.3.4. Tourism Tax Act 2017;
  - 1.3.5. Sales Tax Act 2018; and
  - 1.3.6. Service Tax Act 2018.
- 1.4. The purpose of this guidelines is to:
  - 1.4.1. Explain the implementation of this program;
  - 1.4.2. Provide information on the duration of this program; and
  - 1.4.3. Provide information on the incentives offered under this program.

## **2. PROGRAM OBJECTIVES**

- 2.1. To offer any person an opportunity to voluntarily disclose their outstanding taxes in good faith;
- 2.2. Encourage tax payments with incentive offers; and
- 2.3. Expanding the tax base, particularly by increasing the number of registrants.

## **3. SCOPE OF TAXES**

- 3.1. The taxes encompassed in this program are all taxes liable up to 28 February 2023, **excluding**: -
  - 3.1.1. Tax liabilities that are being or have been investigated by the Enforcement Division of RMCD;
  - 3.1.2. Taxes where a bill of demand (BOD) has been issued by RMCD;
  - 3.1.3. Tribunal / court cases that are currently under trial; or
  - 3.1.4. The cases being audited by Compliance Division of RMCD.
- 3.2. Any person who makes a declaration for any period or amount as mentioned in paragraphs 3.1.1, 3.1.2, 3.1.3 or 3.1.4 is not eligible to participate in this program. If any participation in the program is inadvertently approved by the RMCD, it will be automatically deemed revoked.

## **4. PROGRAM DURATION**

- 4.1. This program will be implemented for twelve (12) months starting **from 06 June 2023 to 31 May 2024**.

## 5. VOLUNTARY DISCLOSURE PROGRAM

5.1. The key features of the VDP are as follows:

- 5.1.1. RMCD will accept the voluntary disclosure as a declaration made in good faith. A declaration made in good faith refers to a genuine admission of the amount of tax that should have been paid by any person.
- 5.1.2. The incentives offered under this program are only applicable for voluntary disclosures made and paid within the program period.
- 5.1.3. The offered incentives will be cancelled and the penalty remission will be revoked if there is any element of fraud.
- 5.1.4. Any person who participates in the VDP may only make voluntary disclosure on taxes which have been underreported and any deficiencies in tax amounts.

5.2. Persons who are **ELIGIBLE** to participate under VDP are:

- 5.2.1. Any person who have registered and: -
  - i. Submitted NIL return for a return in which taxes should have been declared and paid;
  - ii. Failed to submit a return despite taxes being due;
  - iii. Tax returns have been submitted, but there are underdeclaration and underpayment of tax; or
  - iv. Imposed tax on goods / services that are not taxable, but not paid it to RMCD.

- 5.2.2. Any person who is liable to be registered but failed to register and has charged taxes but failed to pay them to RMCD.
- 5.2.3. Any person who is not liable to be registered but not registered and did not collect tax from customers.
- 5.2.4. Any person who acquire imported taxable service under the Goods and Services Tax Act 2014 or Service Tax Act 2018 but have not accounted for tax payable to RMCD; or
- 5.2.5. Any person who is licensed / registered under the Sales Tax Act 1972 or the Sales Tax Act 2018 and has declared sales tax that is not in accordance with the valuation method under Sales Tax (Valuation) Regulations 2002 or Sales Tax (Determination of Value of Taxable Goods) Regulations 2018, including transactions involving related parties.
- 5.3. Any person who is under audit for the taxable period until 28 February 2023 is **NOT ELIGIBLE** to participate in VDP.
  - 5.3.1. Under audit means any person who has received a Letter of Request to Submit Documents / Records for auditing purposes or an audit visit has been conducted to any person's premises by the audit team and the Bill of Demand (BOD) has not been issued yet.
- 5.4. An investigation will be conducted by the Enforcement Division, if there is information received regarding fraud.

## **6. IMPOSITION OF COMPOUNDS FOR OFFENCES THAT ARE COMPOUNDABLE**

- 6.1. **No compounds** will be imposed under this program.

## 7. INCENTIVES OFFERED

7.1. Incentives offered by RMCD are as follows: -

7.1.1. 100% penalty remission, granted with blanket approval, on taxes that are liable up to 28 February 2023 and fully paid within the program period.

7.1.2. The taxable periods declared under this program will not be audited by the RMCD's Compliance Division at the zone / state level. For taxable periods that are not declared under the program, audits may be conducted starting from 1 June 2024. While for taxable periods after 28 February 2023, audits may be conducted starting from 1 June 2025.

7.2. Following are the eligibility conditions for the incentives:

7.2.1. Involves any person as stated in paragraph 5.2;

7.2.2. Does not involve taxes as stated in paragraph 3.1.1, 3.1.2, 3.1.3 and 3.1.4; and

7.2.3. Taxes have been fully paid within the program period.

7.3. Payment of tax in installment from the total amount is allowed only within the program period.

7.4. If any person fails to make full tax payment within the program period, audit actions may be taken for the related taxable periods. In the event of additional tax discoveries, it will be subject to the provisions of the prevailing laws. However, the penalty remission incentive for the tax amount declared under the VDP can still be enjoyed if the tax amount is settled.

7.5. The incentives offered by RMCD will be revoked, and applicant will be subject to existing legal actions, including recovery of tax and penalties if it is proven that there is an element of fraud.



## **8. APPLICATION AND REGISTRATION FOR VOLUNTARY DISCLOSURE PROGRAM**

- 8.1. Applications must be submitted online using **Form VDP-01** as in **Appendix 1** through MyVDP system. Applicant may walk-in to nearest RMCD zone / state office to seek for further assistance regarding online registration via MyVDP system.
- 8.2. After obtaining the Login ID and Password, applicant shall submit the application by filling in the information required in **Form VDP-01** via MyVDP system.
- 8.3. MyVDP system will generate a reference number and an Application Receipt Confirmation will be sent to the applicant via email provided in Form VDP-01.
- 8.4. If the application information received by RMCD is incomplete, the officer in charge will send a letter via email or manually or by phone call to complete the required information. The response period given to the applicant is 14 working days.
- 8.5. If the application is complete and meets the requirements, officer will identify the revenue code (any person who are not registered or have no record with the RMCD) and approve the application in MyVDP system.
- 8.6. The VDP Participation Eligibility Letter (VDP-02) containing the payable amount and revenue code will be generated and sent via email through the MyVDP system.
- 8.7. Approval will be granted within a period of three (3) working days for complete applications and registrations.
- 8.8. The VDP Approval letter (VDP-03) will be issued within 14 days after the applicant has fulfilled the prescribed conditions under this program.

## 9. WITHDRAWAL FROM PARTICIPATION IN THE VOLUNTARY DISCLOSURE PROGRAM

- 9.1. Applicant who wishes to withdraw from participating in VDP must apply **BEFORE** the issuance of the VDP Participation Eligibility Letter (VDP-02).
- 9.2. Application must be made **in writing** and sent via email or by post to RMCD headquarters / zone / state office, depending on the location of the application to participate in the program is made.
- 9.3. Withdrawal from participating in VDP after the issuance of the VDP Participation Eligibility Letter (VDP-02) is not allowed. If payment has been made, no refund will be given.

## 10. METHOD OF DECLARATION

- 10.1. Applicant must make a declaration of the actual amount pertaining to the respective types of taxes using Form VDP-01 through the MyVDP system. No supporting document or tax calculation is required.
- 10.2. For voluntary disclosure related to digital services provided by foreign registered persons (SToDS), apart from the application mentioned in paragraph 10.1, applicant shall also amend the return through the MySToDS system.

## 11. PAYMENT RULES

- 11.1. Payment of tax shall be paid in full within program period and the deadline for the payment is on 31 May 2024.
- 11.2. Payment must be made by cheque or bank draft at the RMCD zone / state office which has Pusat Tanggungjawab (PTJ) counters. While for Service Tax on Digital Services (SToDS), payment must be made via FPX or

Telegraphic Transfer (TT).

11.3. Payment can be made using the following methods:

11.3.1. Lump sum payment (one-off): Full tax amount under this program to be paid in a single payment; or

11.3.2. Payment in instalment - Payment of tax can be made based on the prescribed installment schedule.

11.4. The first month of the installment payment is the month where the VDP Participation Eligibility Letter (VDP-02) is issued, or any other designated date.

11.5. The instalment payment schedule will be specified in VDP-02 letter for any eligible person participating in the program. Applicant who wish to pay in instalment must make monthly payments according to the instalment schedule specified in the VDP-02 letter.

11.6. If the applicant fails to settle the tax payment within the program period due to a reasonable ground, they are required to notify RMCD and apply for approval to extend the installment payment period. The application for extension should be submitted at least thirty (30) days before the last month indicated in the instalment payment schedule.

11.7. Payments at the PTJ counter must be made in accordance with the operating hours of the respective PTJ counter.

11.8. No refund is allowed under this program except in the cases of overpayment or erroneous payment.

## **12. POWER OF DIRECTOR GENERAL OF CUSTOMS TO DETERMINING MATTERS RELATED TO THE PROGRAM.**

- 12.1. The Director General of Customs has the absolute power to determine matters related to the eligibility of applicant under VDP, including the acceptance of disclosures, amount of penalty remission, and any issues related to VDP.

## **13. CONTACT US**

For more information on this VDP Program, please contact:

- Nearest RMCD office;
- Email: [ccc@customs.gov.my](mailto:ccc@customs.gov.my) /[mystods@customs.gov.my](mailto:mystods@customs.gov.my) (SToDS only); or
- Contact Customs Call Centre at 1-300-88-8500

**ROYAL MALAYSIAN CUSTOMS DEPARTMENT**

**02 June 2023**