‘Stamp duty reform must come with stiffer penalties’

However, education, simplified processes and support for groups such as first-time homebuyers, elderly and those without online access critical: Experts

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Starting tomorrow, the penalty for late stamping will increase to a maximum of 10% if it is done within three months of the due date and 20% thereafter.

PETALING JAYA: Tax professionals agree that there is a need to strengthen enforcement measures to ensure the success of significant changes to the stamp duty regime in 2025, including introducing penalties that are sufficient to deter fraud and encourage compliance.

Further, public education, simplified online compliance processes and support for certain groups, such as first-time homebuyers, the elderly and those without online access, are critical.

Industry stakeholders, such as real estate agents, developers and lawyers should assist in the transition, though this could involve additional professional fees.

RDS Partnerships partner and RDS Advocates and Solicitors head of SST & Customs Saravana Kumar said this shift, outlined in Budget 2025 and detailed in Part IV of the Tax Measures Bill, aims to modernise the stamp duty process and reduce reliance on the Inland Revenue Board (IRB) for duty assessments.

He said an important aspect of this reform is the proposed amendment under Section 36CA of the Bill, which grants the collector the power to recover duties on insufficiently stamped instruments, even in cases of inadvertence, fraud, wilful default, or negligence.

“This would mark a significant shift as the government looks to strengthen its oversight over stamp duty enforcement. However, while this proposal addresses some critical compliance issues, there is a notable gap in the current penalty structure,” he told *SunBiz*.

Additionally, he said, the penalty of RM5,000 for committing fraud related to stamp duty, outlined in Section 74 of the Stamp Act, has been deemed insufficient given the scale of potential evasion.

“Tax professionals believe that the maximum penalty should be increased to align with the seriousness of the offence. With growing efforts to tighten tax compliance, a higher penalty would serve as a more effective deterrent against fraud and negligent behaviour,” he added.

Saravana said the upcoming reforms, while promising greater efficiency and transparency in Malaysia’s tax system, must be accompanied by stronger enforcement measures. “For the self-assessment system to succeed, the government must ensure that penalties for non-compliance are both sufficient to deter fraud and clear enough to encourage adherence to the new rules.”

Starting tomorrow, the penalty for late stamping will increase to a maximum of 10% if it is done within three months of the due date and 20% thereafter. All documents must be stamped within 30 days of execution to comply with the law.

Thanees Tax Consulting Services Sdn Bhd managing director SM Thanneermalai said under the official assessment system, documents are sent for adjudication before the duty is determined and payable.

“With the self-assessment system, adjudication will only occur after the taxpayer files a self-assessed return, which will be treated as an official assessment upon submission. Any additional duty resulting from adjudication will trigger further assessments,” he said.

KPMG Malaysia head of tax Soh Lian Seng said the amendments make stamp duty mandatory and allow the IRB to audit agreements up to five years after payment. Taxpayers must accurately classify instruments, as misclassification can lead to incorrect duties and penalties.

“Under the self-assessment system, taxpayers are responsible for calculating stamp duties, with errors or underpayments risking significant penalties. This requires businesses to be more vigilant, potentially increasing compliance costs. Companies must review and properly stamp documents to avoid penalties and ensure smooth operations,” said Soh.

Nextdoor Property Communications Sdn Bhd founder and executive director Imran Clyde said the transition to a self-assessment system will definitely have an initial learning curve for buyers, sellers and industry professionals. “Many property buyers may not be fully prepared to take on this responsibility, which could result in transactional delays, especially for property ownership transfers when Phase 2 begins in 2027.”

He said the government should invest in simplifying compliance with public education and making it easy to do online.

“Support will be important to guide key groups such as first-time home buyers, small-scale investors, the elderly, and those without regular online access. Industry stakeholders like real estate agents, developers, and lawyers will also need to play this support role (which may or may not result in additional professional fees),” he noted.

Imran remarked that property buyers and sellers may rush to complete property transactions before 2027 when the second phase of the self-assessment system takes effect.