



Special Voluntary Disclosure Program (“SVDP”) 2.0



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KPMG in Malaysia



Overview and Commentary

By

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“The long awaited Guidelines and Frequently Asked Questions (“FAQ”) for SVDP 2.0 have been issued by the Inland Revenue Board of Malaysia (“IRB”) and Royal Malaysian Customs Department (“RMCD”). The re-introduction of the successful SVDP sees a full waiver on penalties / surcharge provided in the Act.

Setting the scene for a higher cooperative compliance environment based on the concept of Awareness, Education, Service (“AES”) by the IRB, the kick off of SVDP 2.0 is an initiative by the Government of Malaysia on both direct and indirect taxes for taxpayers to come clean before the implementation of real time reporting through e-Invoicing.

With the SVDP initiative facilitating for a mutually beneficial situation for both taxpayers and the authorities, taxpayers should seriously consider participating in SVDP 2.0 as it is not known whether this program will continue in the future.

My colleagues, Ng Wei Wei and Ng Sue Lynn set out some of the salient points relating to the SVDP 2.0 from both direct tax and indirect tax perspectives in the following pages.

Should you have any queries relating to SVDP 2.0 or any other tax matters, please contact your KPMG consultants or send us an email at info@kpmg.com.my.

Happy reading!

SVDP 2.0 - Direct Taxes



Direct Taxes



Ng Wei Wei
Lead Partner
SVDP 2.0 - Direct Taxes

Key Message

“A full waiver of penalty will be given to those who partake in the SVDP 2.0, where the IRB will not carry out audit and investigation activity in the future on the relevant YAs where voluntary disclosure (“VD”) has been made.”

Guideline and FAQ on SVDP 2.0 – Direct Taxes



In an effort to support the tax administration of the country in line with the concept of Malaysia Madani, the IRB has reintroduced SVDP 2.0 to increase tax compliance amongst taxpayers. The long awaited SVDP 2.0 Guideline and FAQ which were announced during the 2023 Budget announcement has finally been released by the IRB.

Set out below is a summary of the key aspects.

Details	SVDP 2.0
Implementation period	6 June 2023 to 31 May 2024
Eligibility	All categories of taxpayers (<i>except the employer file category</i>)
Penalty rate / surcharge	0%
Legislation applicable	<ul style="list-style-type: none"> Subsections 112(3), 113(2) and 140A(3C) of the Income Tax Act 1967 (“ITA”) Subsection 29(3) of the Real Property Gains Tax Act 1976 (“RPGTA”) Subsection 47A(1) of the Stamp Act 1949 (“SA”)

Details (cont'd)	SVDP 2.0 (cont'd)
Applicability	<ul style="list-style-type: none"> Income declaration by new taxpayers¹ for YA 2022 and preceding YAs Income declaration by existing taxpayers for YA 2021 and preceding YAs Asset disposal declaration for YA 2022 and preceding YAs Stamping of documents / agreements for agreements that have been executed (signed) on or before 1 May 2023 for stamping from 6 June 2023 to 31 May 2024 VD resulting in an assessment / additional assessment raised on the taxpayer <i>[except for transfer pricing ("TP") cases]</i> VD for TP issues where the handling of this VD is subject to the VD Criteria and Procedures of TP Cases as set out in the TP Audit Framework that is currently in force
Non-applicability	<ul style="list-style-type: none"> Audit action taken on taxpayers have commenced for the YAs involved ² Non-taxable cases, reduced assessment, or tax repayment <i>(except for TP cases)</i> Investigation action has been initiated or prosecution proceedings following a criminal investigation has been filed in court ³
Submission method	<ul style="list-style-type: none"> Income Tax Return Form ("ITRF") and Real Property Gains Tax Return Form ("RPGTRF") <ul style="list-style-type: none"> Submission must be made online via the e-Filing and e-CKHT service at MyTax portal For ITRF / RPGTRF which is not available / accessible online, the submission of a manual ITRF / RPGTRF must be made to the IRB office handling the taxpayer's file / disposal file or the nearest IRB office SVDP 2.0 Additional Income Reporting Form (Appendix 1) <ul style="list-style-type: none"> Completed form together with the tax computation must be submitted through MyTax Portal Tax computations are only required to be submitted for the companies, businesses and partnerships file category VD Form for TP case (Appendix 2)⁴ <ul style="list-style-type: none"> Completed form together with the attachments must be submitted through the IRB office handling the taxpayer's file or the nearest IRB office

¹ Based on the FAQ, for the purpose of SVDP 2.0, new taxpayers are taxpayers who have yet to obtain or has obtained Tax Identification Number ("TIN") and will be declaring income for the first time.

² Based on the FAQ, the point of commencement of the audit / investigation is as stated in the Tax Audit Framework which is currently in force.

³ Pursuant to the provisions under the ITA, RPGTA, SA, or Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001.

⁴ All VD for TP cases must submit a Transfer Pricing Documentation (TPD) together with the VD Form for the TP cases unless the taxpayer is not required to furnish TP as provided under Paragraph 1.3.1 of the Malaysian TP Guidelines.

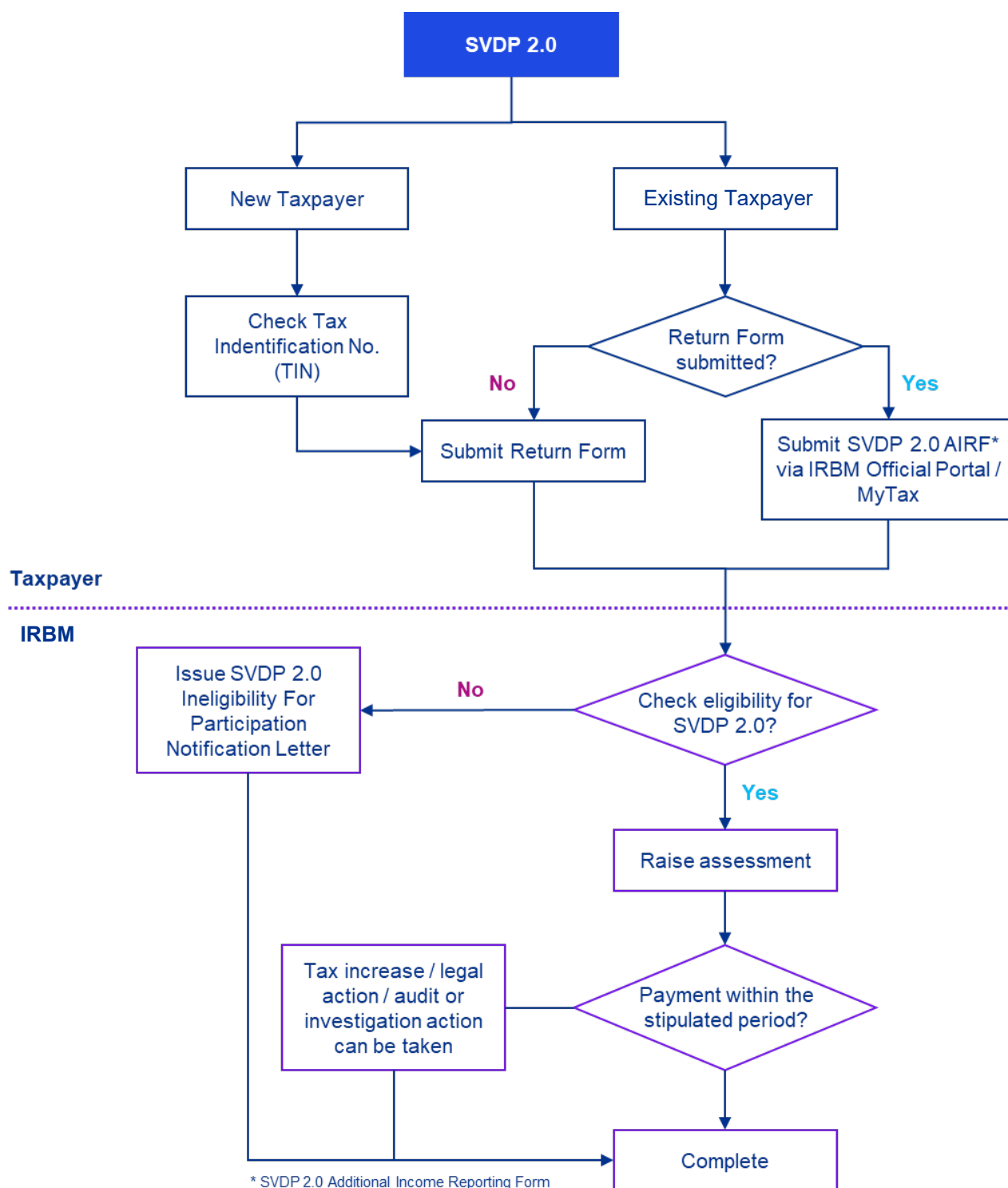
Details (cont'd)	SVDP 2.0 (cont'd)
Submission method (cont'd)	<ul style="list-style-type: none"> • Stamp duty <ul style="list-style-type: none"> – The stamping of the documents / agreements must be submitted online through the STAMPS service on the MyTax portal – Upon receiving the Notice of Assessment, appeal applications for penalty must be submitted online via STAMPS to be qualified for penalty offer under SVDP 2.0
SVDP 2.0 application processing time	<ul style="list-style-type: none"> • Within 14 working days (non-TP cases) from the receipt of completed applications • Within 30 working days (TP cases) from the receipt of completed applications
Payment rules	<ul style="list-style-type: none"> • A lump sum payment within 30 days from date of notice; or • Installments based on the agreed installment payment arrangements⁵ • Duty payers must pay stamp duty as per the Notice of Assessment within the stipulated period allowed in the Penalty Appeal Approval Letter • Default in payment will lead to imposition of tax increase and legal action may be taken for tax arrears unpaid • Defaulting taxpayers can be audited / investigated in the future for the YAs where VD has been made
IRB's practice	<ul style="list-style-type: none"> • IRB will accept information voluntarily disclosed during the SVDP 2.0 period in good faith • However, a review of the tax computation (mathematical / calculation error) will be carried out to ensure the accuracy of the VD submitted
Tax audit / investigation	Audit / investigation will not be carried out in the future for the YAs in which the VD is made (provided tax payment is made within the stipulated period)

⁵ Application for installment payment can be made during the submission of SVDP 2.0 application or within 30 days of the Notice of Assessment by submitting the SVDP 2.0 Installment Payment Application Form through the SVDP 2.0 link accessible on the IRB's Official Portal / MyTax. No supporting documents are required for applications made until 31 May 2024.

GPHDN 2/2023

Appendix 1

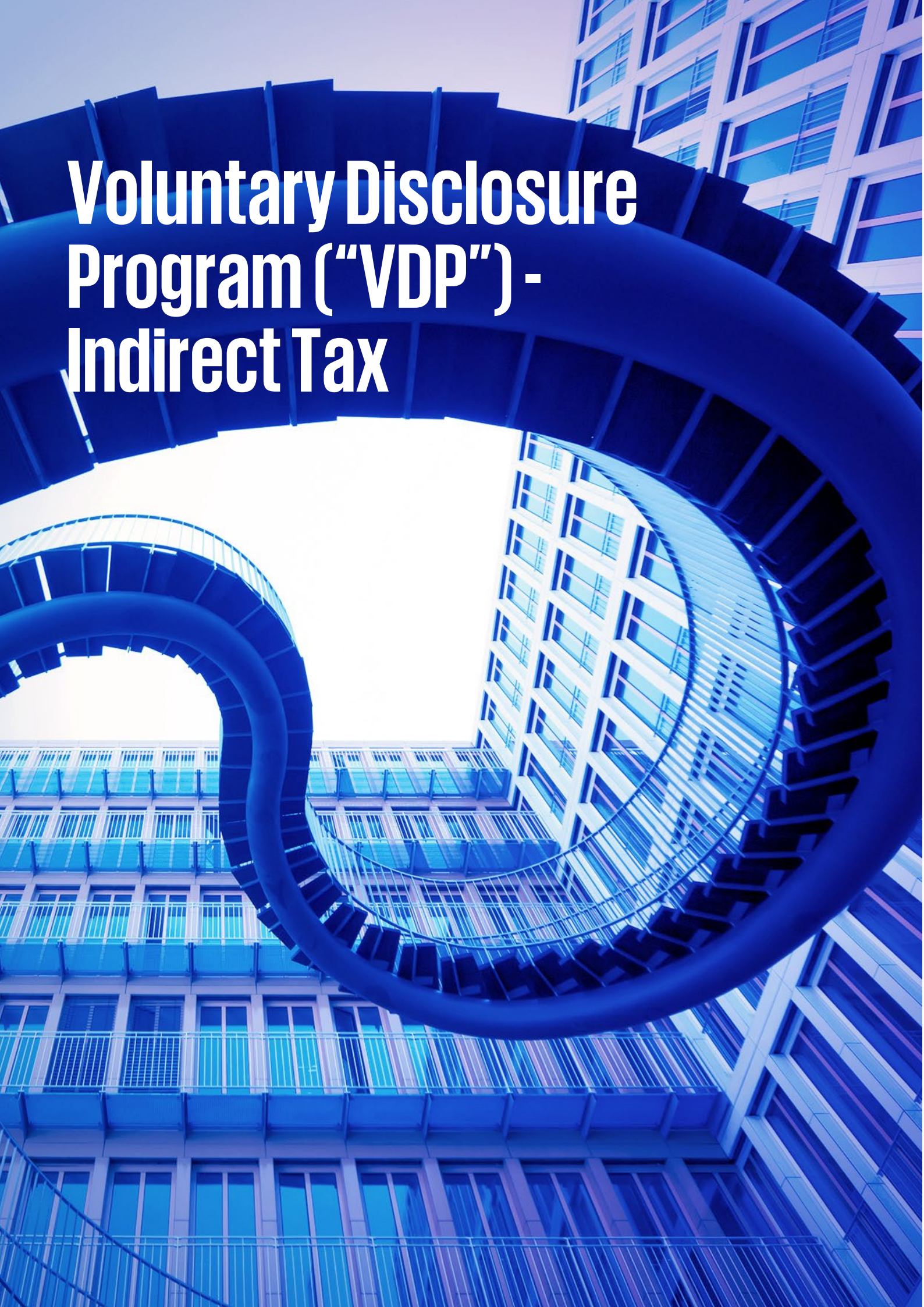
Flowchart of the implementation of Special Voluntary Disclosure Program (SVDP) 2.0



Extract of Appendix 3, Operational Guidelines No.2/2023, IRB

With this, taxpayers may consider taking on this opportunity to assess potential areas that they would like to report to the IRB during SVDP 2.0 to enjoy the 0% penalty rate / surcharge.

Voluntary Disclosure Program (“VDP”) - Indirect Tax



Indirect Tax



Ng Sue Lynn
Lead Partner
VDP – Indirect Tax

Key Message

“Last year, RMCD introduced the Voluntary Disclosure and Amnesty (“VA”) Program for the period from 1 January 2022 to 30 September 2022. Whilst the objective is the same, it should be noted that the upcoming VDP does not mirror the VA Program.

Notably, the VDP does not cover “amnesty” – for cases under audits/ errors known by RMCD/ Bill of Demand issued. By the name of the program, VDP is meant for voluntary disclosure of issues which are not known by RMCD. Also, the incentives available this round are different.

Taxpayers are encouraged to conduct an assessment, and where applicable, take this special opportunity to come clean to RMCD.”

Guideline and FAQ on VDP – Indirect Tax



Further to the 2023 Budget announcement on the re-introduction of VDP, RMCD has issued the Guideline and FAQ on VDP for Indirect Tax. Please click [here](#) for a copy of the Guideline (as at 2 June 2023) and FAQ.

Set out below are the salient points: -

VDP for Indirect Tax

Program period	6 June 2023 to 31 May 2024
Types of taxes covered	<ul style="list-style-type: none"> • Sales Tax Act 1972 • Service Tax Act 1975 • Goods and Services Tax Act 2014 • Tourism Tax Act 2017 • Sales Tax Act 2018 • Service Tax Act 2018

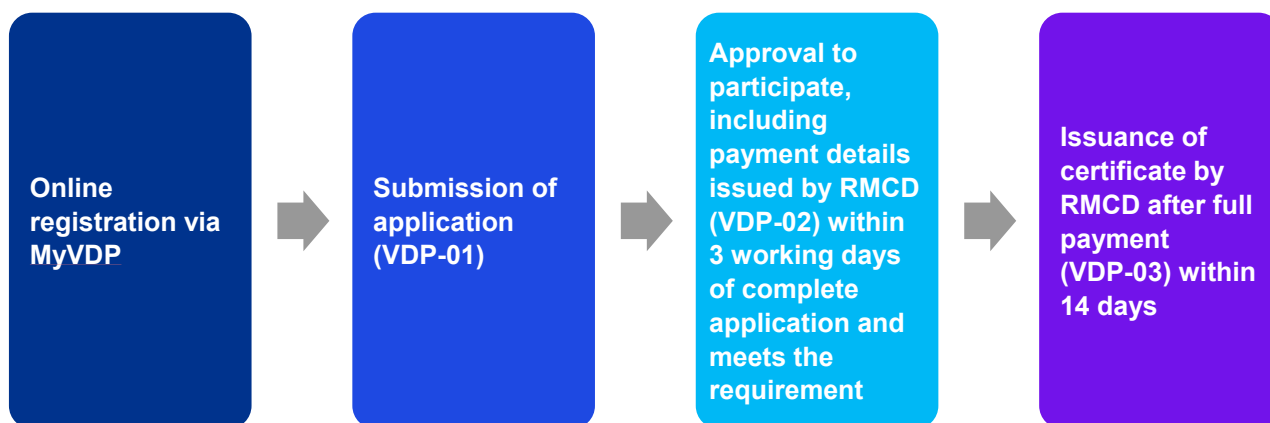
VDP for Indirect Tax (cont'd)

Tax liability period	<p>Only applicable for tax liabilities on or before 28 February 2023 excluding:-</p> <ul style="list-style-type: none"> • All tax liabilities that are/have been investigated by the RMCD Enforcement Division; • Bill of Demand issued by RMCD; • Tribunal/ court cases under trial; or • Any person under audit for the period up to 28 February 2023. "Under audit" refers to any person who has received a request for submission of documents/ records for audit purposes or audit visit has been conducted at the premise of the person by the audit team and the BOD has not been issued.
Incentives	<ul style="list-style-type: none"> • 100% penalty remission provided the tax is paid in full within the program period (i.e. by 31 May 2024). • No compound to be issued on compoundable offence. • Taxable periods declared under VDP will not be audited by RMCD's Compliance Division at the zone/ state level (unless there is an element of fraud).
Payment of tax	<p>One off or installment payments by 31 May 2024. For installment payments, extension of time may be applied, subject to RMCD's discretion.</p>
Persons that are eligible to participate in the VDP	<ol style="list-style-type: none"> Any person who is registered and:- <ul style="list-style-type: none"> • Submitted nil returns that should have tax payable; • Failed to submit returns although there was tax payable; • Submitted returns but there are underdeclared/ underpaid tax; or • Imposed tax on goods/ services that are not taxable, and the tax have not been remitted to RMCD. Any person who is liable to be registered but not registered and has imposed taxes which have not been remitted to RMCD. Any person who is liable to be registered but not registered and did not collect taxes from customers. Any person who acquired imported (taxable) services under the Goods and Services Tax Act 2014 and Service Tax Act 2018 but did not self account and pay the relevant tax to the RMCD. Any person who is licensed or registered under the Sales Tax Act 1972 or the Sales Tax Act 2018 that declared Sales Tax which is not in accordance to the Sales Tax valuation method under the Sales Tax (Determination of Sale Value of Taxable Goods) Regulations 2018 or the Sales Tax (Rules of Valuation) Regulations 2002 including transactions involving related parties.

- The declaration must be made in good faith based on the actual amount of taxes which the person is liable to pay. No supporting document or tax calculation is required.
- The periods declared under this VDP will not be re-audited by the Zone/ State Compliance Division. For the undeclared periods (covered under the Program), audit may be conducted from 1 June 2024. As for the periods after 28 February 2023, audit may be conducted from 1 June 2025.



- Investigation will be conducted by the Enforcement Division if there is element of fraud and the penalty remission under this Program will be withdrawn.
- The application to participate in the VDP shall be made online via the MyVDP: -



Note: For voluntary disclosure related to digital services provided by foreign registered persons, apart from the application via the MyVDP system, applicant shall also amend the return through the MySToDS system.

- Application to withdraw from the VDP must be made in writing via email or post to the RMCD office in which the application to participate was made and before the approval to participate (VDP-02) is issued by the RMCD.
- No refund is allowed under the VDP other than tax overpaid or erroneously paid (i.e. payment in excess of the amount stated in VDP-02).

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