



Tax Whiz

Stamp duty in Malaysia: Are you ready for the self-assessment era?



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KPMG in Malaysia

Stamp Duty

Stamp duty is a form of tax imposed on instruments and not transactions. Instruments include every written documents. “Writing” or “written” includes any handwriting, typewriting, printing, electronic record or transmission which is in an electronically readable form. In Malaysia, stamp duty is governed by the Stamp Act 1949 (“Stamp Act”), which mainly outlines the types of instruments subject to duty, the rates applicable, the person who is responsible to pay the duty and the procedures for stamping.

Traditionally, the Inland Revenue Board (“IRB”) has been responsible for assessing and collecting stamp duty. Duty payers would submit their instruments, and the IRB would determine the duty payable. However, in a move toward modernizing the tax administration, the government has announced in the 2025 Budget a phased transition to a self-assessment system, beginning 1 January 2026.

Phase	Effective Date	Types of Instruments
Phase 1	From 1 January 2026	Instruments or agreements related to rental or lease, general stamping and securities
Phase 2	From 1 January 2027	Instruments for transfer of property ownership
Phase 3	From 1 January 2028	Instruments or agreements other than stated in Phase 1 and Phase 2

This shift means that duty payers will soon be responsible for calculating, declaring, and paying stamp duty themselves, without the need to wait for the IRB’s assessment. The 2026 Budget reaffirmed this timeline, with no further postponement announced on the implementation. With the countdown underway, the question is – are you ready?



Key points to watch out for

1. Myth: only instruments intended to be admissible in court are dutiable

A common misconception is that only documents intended for use in court need to be stamped. While it's true that unstamped instruments may be inadmissible as evidence, this doesn't mean that stamp duty applies only to instruments that might potentially be subjected to litigation.

Stamp duty applies to any instruments that fall within the list of First Schedule of the Stamp Act, regardless of its intended use. For example, agreements between two related companies are still dutiable even if it is perceived that the risk of litigation is low. The determining factor of the stamp duty amount payable is based on the content and nature of the document, and not whether it will be presented in court.

2. Substance over title: don't be misled by labels

Another frequent oversight in stamp duty compliance is assuming that the title or heading of a document dictates its chargeability. In reality, the IRB evaluates the substance of the document, rather than its label.

For instance, a document titled "Memorandum of Understanding" ("MoU") may appear informal or non-binding at first glance. However, if it contains clauses or elements like an offer, acceptance or intention to be bound, it may be deemed a binding agreement and therefore subject to stamp duty.

The principle of "substance over form" is central to how IRB administers stamp duty. Duty payers must not rely solely on document titles or templates. Instead, the actual terms and conditions should be carefully reviewed to determine whether the instrument falls within the scope of the Stamp Act.

3. Multiple instruments for a single transaction

In certain transactions, it is common for more than one instrument to be executed to document or complete the arrangement. For instance, in a financing transaction, a bank may first issue a letter of offer outlining the terms of the loan, which is then formalized through a loan agreement.

Under the Stamp Act, only the principal instrument is subject to duty at the rate prescribed in the First Schedule. Any additional or subsidiary instruments executed to supplement or complete the same transaction are generally subject to a nominal fixed duty of RM10.

In this respect, it is crucial for duty payers to determine which document constitutes the principal instrument.

4. Employment contract is subject to stamp duty

The IRB has issued its FAQ this year to clarify that an employment contract is a dutiable instrument under Item 4 of the First Schedule of the Stamp Act. This includes worker contract, temporary, short-term or part-time employment contract, as well as letter of offer which is the only or principal agreement that binds the employer-employee relationship.

Currently, a general exemption is given for service or personal employment agreements where the wage threshold does not exceed RM300 per month. It is proposed in the Finance Bill 2025 that the abovementioned wage threshold be increased to RM3,000 per month, effective from 1 January 2026.

5. Exempt instruments still require stamping

A commonly misunderstood aspect of stamp duty compliance is the treatment of exempt instruments. Where an instrument is exempted from stamp duty, it must still be submitted to the IRB for adjudication or endorsement.

Even if no duty is payable, the endorsement serves as a formal confirmation that the instrument is exempted from stamp duty. Without this, the instrument may be treated as unstamped, which could affect its admissibility in legal proceedings or raise compliance issues during audits.

It is worth noting that during the 2025 National Tax Seminar, the IRB clarified that remission or exemption cases will continue to be subject to formal assessment, even under the upcoming self-assessment regime. This means instruments claiming remission or exemption from duty must still be submitted to the IRB for review and/or endorsement. As the self-assessment regime evolves, it remains to be seen whether the coming e-Duti Setem module will incorporate dedicated features to facilitate the stamping of exempt instruments. Further clarification is expected from the IRB in the form of official guidelines or announcements, which will be crucial in helping duty payers navigate the new system.

6. Payment due date: a crucial operational detail

Under the existing stamp duty self-assessment framework, the duty on an instrument shall be due and payable on the same day the assessment is deemed, which is immediate upon submission of return. While this may seem efficient on paper, it places undue pressure on duty payers, particularly for organisations with segregated roles where the person responsible for submitting the return is not the same individual authorized to execute payments. In practice, this can lead to operational bottlenecks and exposure to late payment penalties.

It is therefore reassuring to note that the government has proposed a more practical approach in the Measures for the Collection, Administration and Enforcement of Tax Bill 2025 ("Tax Bill 2025"). It is proposed that, effective 1 January 2026, the payment due date will be 30 days from the date the return is submitted. This change is a welcome relief, offering duty payers a more reasonable window to make the necessary duty payment.

Penalties provisions under self-assessment



Generally, duty payers are required to submit a return for dutiable instruments within 30 days of execution, or if executed outside Malaysia, within 30 days after the instrument is first received in Malaysia. If the instrument is received electronically, it will be deemed as accepted in Malaysia. The date of receipt is to be verified by the production of a copy or print out of the electronic transmission.

Any stamp duty payable must then be settled within 30 days from the date the return is submitted based on Tax Bill 2025.

Failure to comply with the stamp duty provisions may result in fines or penalties under the self-assessment system, amongst other:

1. Penalties for late stamping

Failure to submit the return or to pay the duty within the prescribed period will attract penalties, which vary according to the length of delay, as follows:

- Stamped within 3 months after the deadline: the higher of RM50 or 10% of the deficient duty
- Stamped beyond 3 months after the deadline: the higher of RM100 or 20% of the deficient duty

The IRB's recent guideline clarifies how to compute the length of delay in determining the rate of late stamping penalty. In summary:

Scenario	Length of delay
Return filed on time	Commences from the expiry of the 30-day payment period following submission of the return
Return filed late	<p>The sum of:</p> <ul style="list-style-type: none"> • The number of days the return was filed late; and • The number of days the payment was made late after the return was filed* (if any) <p>Note*: Stamp duty is payable within 30 days from the date the return is deemed to be an assessment (i.e. when the return is filed)</p>

2. Failure to submit return without reasonable excuse

A person may, on conviction, be liable to a fine not exceeding RM10,000. Where no prosecution has been initiated, a penalty ranging from RM200 to RM2,000 can be imposed.

3. Submission of an incorrect return which affects its chargeability to duty

A person may, on conviction, be liable to a fine ranging from RM1,000 to RM10,000 plus a special penalty equivalent to the amount of underpaid duty. Where no prosecution has been initiated, a penalty equivalent to the amount of underpaid duty can be imposed.

4. Offense of executing and signing documents that have not been duly stamped

A person may be liable to a fine of not exceeding RM1,500. However, it is proposed in the Tax Bill 2025 that, effective from 1 January 2026, the fines be amended to not less than RM1,000 and not exceeding RM10,000.

A graceful transition: remission of penalty under Section 72D of the Stamp Act

In recognition of the practical challenges duty payers may face during the initial phase of the stamp duty self-assessment system, it is announced by the IRB in the National Tax Seminar 2025 that a one-year

grace period from 1 January 2026 will be granted, where no penalties will be imposed for incorrect returns or incomplete information submitted.

This transitional relief is a welcome move, especially for small businesses and individuals who may be unfamiliar with the complexities of stamp duty. It reflects the government's commitment to support duty payers through education and leniency, rather than immediate enforcement.

The IRB is expected to issue guidelines to provide further information on the proposed remission.

The countdown begins

The shift to a stamp duty self-assessment system is more than a procedural update – it represents a fundamental change in compliance culture. Duty payers must now take a more active role in understanding their obligations and ensuring timely and accurate submissions.

Currently, stamp duty adjudication is done through the Stamp Assessment and Payment System (“STAMPS”) portal. Based on the IRB's announcement, the access to the STAMPS portal will be terminated after 31 December 2025. All STAMPS users must access the Stamp Duty Services using the e-Duti Setem (“e-DS”) via the MyTax Portal starting 1 January 2026. We understand that there will be nine prescribed stamp duty return forms in the e-DS. To allow a smooth transition to the new system, the new system will be made accessible to duty payers from 15 December 2025.

The existing users of the STAMPS portal are advised to make early preparation so that the stamping will run smoothly throughout the system transition stage.

With 1 January 2026 fast approaching, duty payers are advised to:

- Review the existing instruments to ensure proper stamping, including those involving related parties.
- Update internal processes and implement internal controls to manage stamping and payment timelines.
- Seek professional advice or clarification from the IRB where there is uncertainty regarding the dutiability of an instrument or the correct calculation of duty.
- Maintain proper record to demonstrate compliance and facilitate a smooth audit.
- To familiarize with the new e-DS portal.
- Stay informed by monitoring updates, guidelines and announcements issued by the IRB.

The government and the IRB are modernizing the tax systems, and duty payers must keep pace. The self-assessment system offers flexibility and efficiency – but only for those who are prepared.

So, are you ready?

Contact Us

To explore further on stamp duty related matters,
you may contact:



Ong Guan Heng

Partner
Corporate Tax

T: + 6 03 7721 7027

E: guanhengong@kpmg.com.my



Kelly Tan

Director
International and Domestic
Tax Advisory

T: + 6 03 7721 7222

E: kellysctan@kpmg.com.my



James How Wei Jie

Associate Director
Tax Dispute Resolution

T: + 6 03 7721 7570

E: jameshow@kpmg.com.my

KPMG Offices

Petaling Jaya

Level 10, KPMG Tower,
8, First Avenue, Bandar Utama,
47800 Petaling Jaya, Selangor
Tel: +603 7721 3388
Fax: +603 7721 3399
Email: info@kpmg.com.my

Penang

Level 18, Hunza Tower,
163E, Jalan Kelawei,
10250 Penang
Tel: +603 7721 3388
Fax: +604 238 2299
Email: info@kpmg.com.my

Kuching

Level 2, Lee Onn Building,
Jalan Lapangan Terbang,
93250 Kuching, Sarawak
Tel: +603 7721 3388
Fax: +6082 530 669
Email: info@kpmg.com.my

Miri

1st Floor, Lot 2045,
Jalan MS 1/2,
Marina Square, Marina Parkcity,
98000 Miri, Sarawak
Tel: +603 7721 3388
Fax: +6085 321 962
Email: info@kpmg.com.my

Kota Kinabalu

Lot 3A.01 Level 3A,
Plaza Shell,
29, Jalan Tunku Abdul Rahman,
88000 Kota Kinabalu, Sabah
Tel: +603 7721 3388
Fax: +6088 363 022
Email: info@kpmg.com.my

Johor

Level 3, CIMB Leadership Academy,
No. 3, Jalan Medini Utara 1,
Medini Iskandar,
79200 Iskandar Puteri, Johor
Tel: +603 7721 3388
Fax: +607 266 2214
Email: info@kpmg.com.my

Ipoh

Level 17, Ipoh Tower,
Jalan Dato' Seri Ahmad Said,
30450 Ipoh, Perak
Tel: +603 7721 3388
Email: info@kpmg.com.my

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