Stamp duty framework simplification underway as businesses grapple with self-assessment

BY **ESTHER LEE**

Summary

- The transition to the Stamp Duty Self-Assessment System has given rise to uncertainty among businesses over which documents are subject to stamping
- The Ministry of Finance aims to restructure the Stamp Act 1949 to clarify dutiable instruments, applicable rates and liable parties, addressing ambiguities in legislation that has changed little for over 70 years
- MOF has pledged that no penalty will be imposed on specified errors in instruments stamped in 2026, while a special voluntary disclosure programme will run until Dec 31, 2026, to encourage compliance

The Ministry of Finance (MOF) is working to simplify the stamp duty framework as it seeks to support digital transformation and eliminate operational ambiguity while it undergoes a phased transition to a self-assessment system.

Minister of Finance II Datuk Seri Amir Hamzah Azizan, in a written response to *The Edge*, says legislative enhancements are underway to restructure the First Schedule of the Stamp Act 1949.

No date was given for when the enhancements will be introduced. However, the restructuring is expected to be announced in the upcoming Finance Bill.

Stamp duty is a tax imposed on certain legal and financial instruments under the Stamp Act 1949. Malaysia officially transitioned to the Stamp Duty Self-Assessment System on Jan 1, 2026. The transition will be undertaken over three phases in as many years.

A self-assessment system means the responsibility for determining whether a document should be subject to stamping and at which rate now lies with taxpayers. This has certainly raised many questions among businesses, owing to their unfamiliarity with a tax that has been largely overlooked.

"Everybody has this perception that if you want a piece of document to be admissible evidence in court, then you must get it stamped. If it is not stamped, it is inadmissible in court. So, for the longest time, people had this impression that if they're not going to sue somebody, why should they stamp it? Of course, everyone knows that certain things like share transfer forms or property sales and purchase agreements must be stamped," says a tax professional.

Determining what actually requires stamping is just one hurdle for the general public. There is also a general lack of understanding of stamp duty and the instruments chargeable under the Stamp Act 1949, he adds.

"It wasn't an area of focus. So, nobody knows much about it. But if you read the Stamp Act 1949, it does say that every instrument under the First Schedule must be stamped. So, you can't run away from it — it has been there since 1949," the tax professional points out.

KPMG Malaysia head of tax Soh Lian Seng says the key principle of stamp duty is that it is imposed on the legal or financial instrument, not on the underlying transaction.

"In layman's terms, stamp duty is not a tax on what you do but a tax on the document that records what you do. For example, you do not pay stamp duty because you pay rent, but you pay stamp duty because there is a tenancy agreement that records or documents that arrangement," he explains.

Notably, the provisions in the Act have remained largely unchanged since 1949, say tax professionals. While there may have been some deletions or changes to the rates, not much has changed.

However, the issue in contention today is whether the long list of instruments listed under the First Schedule of the Act is still practical and relevant today. Tax professionals say there are over 60 paragraphs in the First Schedule.

"Businesses, their arrangement, mechanism and methodology have evolved so much since 1949. So, some of the provisions that are stated in the Act may need to be updated, or some of the wording may need to be upgraded. That itself will help taxpayers understand the language first before even deciding whether this particular document is chargeable to stamp duty," says Soh.

In a bid to ease duty payers into the self-assessment system, the Inland Revenue Board (LHDN) has released several guidelines to help the public better understand stamp duty. Nevertheless, these guidelines ended up causing discontentment among businesses instead, after being made aware of the voluminous list of instruments that could potentially be chargeable under the Act.

Businesses could face an increase in cost should they be liable to the duty as such instruments may not have been stamped previously. This includes purchase orders, application forms, intercompany loan agreements and subscription forms. Depending on the nature of the document, it could require stamping.

Tax consultants say the guidelines are not the law, but they are there to provide guidance to duty payers. They emphasised that it is important to evaluate the nature of the said document in determining whether it is chargeable to stamp duty, rather than just making a decision based on the title of the document.

Soh argues that the guidelines, despite the anxiety they may have caused among businesses, are actually useful. He adds that duty payers can always seek confirmation from LHDN after building their case.

"I think LHDN's intention is to educate taxpayers. The guide has spelt out very clearly that one must look at the content of the document [to determine whether it requires stamping]," he continues.

MoF is cognisant of the challenges duty payers are confronted with and is working to restructure the grey areas of the Act. In his written response, Amir Hamzah says, "This restructuring directly addresses previously grey areas by clearly specifying:

i. **Dutiable instruments:** An explicit listing of all legal documents subject to stamp duty;
ii. **Applicable duty rates:** Clear, standardised rates for each instrument category to simplify self-computation; and
iii. **Liable parties:** Precise identification of the party legally responsible for paying the duty, removing uncertainty and preventing disputes between contracting parties."

The simplification of the stamp duty regime is something that has been called for by businesses and tax consultants.

Thenesh Kannaa, executive director of Tratax Sdn Bhd, says he is looking forward to the First Schedule (that determines both the instrument chargeable to stamp duty and its rates) and the Third Schedule (that determines the party responsible for the payment of duty) being consolidated into a single reference point within the Act, as it would eliminate ambiguities and improve certainty for duty payers.

He adds that businesses have also called for stamp duty exemption or remission with respect to instruments such as management service agreements and financing agreements entered into between groups of companies.

While there are existing remission orders to avoid cascading effects in relation to services, a similar mechanism does not exist with regard to pass through loans, making this a particular pain point for businesses, says Thenesh.

"The policymakers certainly have the difficult job of striking the right balance between the objective of preserving the nation's fiscal base with the objective of preventing taxation from becoming an impediment to economic activity," he adds.

Notably, Amir Hamzah highlights in his reply that LHDN will not impose penalties on instruments stamped in 2026 under the self-assessment system for incorrect stamp duty return form or providing any incorrect or inaccurate information that may affect duty liability. "This special concession serves as an educational measure and transitional support to foster awareness and encourage voluntary compliance among duty payers," he explains.

The finance minister II further says that the Stamp Duty Special Voluntary Disclosure Programme has been introduced to encourage voluntary stamping compliance while providing duty payers with additional time to adapt to the execution of the self-assessment system. The programme will end on Dec 31, 2026.

Some tax experts have suggested that the Act would require a total revamp, having been around for over 70 years, in order for it to match today's business environment.

"I think we should look at how Singapore is charging stamp duty. It is very simple and applied to certain instruments — big-ticket items only," comments the tax professional. However, this would lead to lower revenue collection from stamp duty if Malaysia were to adopt the Singapore route.

It is worth noting that revenue collection from stamp duty is estimated to have expanded to RM11.7 billion in 2026, according to the Fiscal Outlook 2027 report. This segment of revenue is projected to increase by 5.6% to RM12.4 billion in 2027 in tandem with the gradual transition to a self-assessment system. E