



Indirect Tax Alert

Special Voluntary Disclosure Program for Indirect Tax

Following on from the Budget 2022 announcement about the Special Voluntary Disclosure Program (“SVDP”) and our [previous alert](#), the Royal Malaysian Customs Department (“RMCD”) have released further information about the proposed model of the upcoming SVDP.

The objective of the SVDP is to encourage companies or individuals to come forward to disclose any indirect taxes and penalties that they would have been liable for on or before 31 October 2021.

Benefits and conditions

	Phase 1	Phase 2
Program duration	1 January – 30 June 2022 (6 months)	1 July – 30 September 2022 (3 months)
Remission of penalty	100%	50%
Remission of tax	30%	15%
Payment of tax	Full payment of taxes must be made within the SVDP period	

The RMCD has taken the incentives offered a step further by proposing the 30% and 15% remission of all taxes payable based on the disclosures made under the program. While the RMCD granted waivers of penalties due in past cases, this proposed reduction of the tax payable itself, is an unprecedented and positive move that should provide an impetus to the SVDP.

Which taxes are applicable for this SVDP?

- Import Duty
- Export Duty
- Excise Duty
- Sales Tax 1.0 and 2.0
- Service Tax 1.0 and 2.0
- Goods and Services Tax
- Tourism Tax
- Windfall Profit Levy
- Departure Levy

Who is eligible for this SVDP?

Who	Common errors
Company/individual has been registered	<ul style="list-style-type: none"> • Submit 'nil' return • Did not submit a return • Under declaration and underpayment of tax/levy
Company/individual liable to be registered	<ul style="list-style-type: none"> • Not registered • Did not collect tax/levy from customers • Has collected tax/levy but has not paid to RMCD
Company/individual not liable to be registered	Has imposed tax/levy but has not paid to RMCD
Company acquired imported taxable services	Has not accounted for GST or service tax
Company licensed/registered under the Sales Tax Act 1972 or the Sales Tax Act 2018	Declaration of sales tax is not in accordance with the sales tax assessment under Regulation 7 P.U. (A) 205 involving sales between related parties
Local Importer/ Exporter/ Manufacturer/ Licensed Manufacturing Warehouse/ Licensed Warehouse	<ul style="list-style-type: none"> • Underpayment of duty/tax during import & export declaration of goods • Tariff code error during declaration • Error while using exemption facility • Amendments to cost changes in the determination of excise value
Importer under section 2 of Customs Act 1967 who has obtained AP for new/classic/used imported CBU vehicles.	Post Importation VD for vehicles that have been assessed.
Importer under section 2 of Customs Act 1967 relating to Multinational Enterprise (MNE)	<ul style="list-style-type: none"> • Adjustment in accordance with Regulation 5 of the Customs (Valuation Methods) Regulations 1999 • Related party transactions under Regulation 4 of the Customs (Valuation Methods) Regulations 1999 such as Year End Adjustment by MNE
Company/individual who obtained duty/tax facility/exemption	Did not fulfil the conditions for the exemption

Company/individual who have paid duty/tax on vehicles	<ul style="list-style-type: none">• Lack of pledge of vehicle value• Underpayment of duties/taxes
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Application process

Applicants who wish to participate in this SVDP are required to register by submitting the Form SP-01 online via the SVDP system.

A One Stop Centre (“OSC”) will be set up in RMCD State/Controlling Station Offices to assist applicants with all matters pertaining to the SVDP. The OSC will also provide consultancy services in relation to any SVDP matters.

Audit Matters

RMCD has stated that they will accept this voluntary disclosure in good faith, provided that the amount declared and disclosed is the actual amount of tax that was liable to be paid by the applicant, and will not conduct audits for the activities and periods involved.

However RMCD has stated that any incentives offered under the SVDP will be cancelled and any duty/tax/levy/penalty/surcharge will be reclaimed, if it is proven that there are elements of fraud.

The above details have currently been proposed by the RMCD. However, the final details are expected to be released in a SVDP Guide & FAQ before 31 December 2021.

Key considerations for business

The SVDP provides an opportunity for businesses to correct any past indirect tax non-compliance while enjoying incentives of full or partial remissions of taxes penalties under the SVDP.

To take full advantage of this program, businesses should consider undertaking a review of their business to identify potential areas of non-compliance and the tax liabilities arising. Once these exposures have been identified and quantified, the strategy and approach can be developed on participating in the SVDP, and availing itself to the available benefits.

If you are interested in hearing more about our services on how we can help, please get in touch with any of our indirect tax professionals listed below or your usual indirect tax contact.

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Best regards,

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