

## Client Alert

November 2018

### 2018 Special Voluntary Disclosure Programme

On 2 November 2018, a new special voluntary disclosure programme ("**SVDP**") was announced by the Minister of Finance during the Budget 2019, to encourage taxpayers to voluntarily disclose their previous undeclared income accurately and to settle tax arrears, if any. This was announced in view of Malaysia's participation in the Automatic Exchange of Information with foreign tax authorities where the Inland Revenue Board ("**IRB**") should have already received the first batch of information on the bank accounts in foreign countries held by Malaysian tax residents. As such, the SVDP provides taxpayers with an opportunity to report and pay Malaysian tax on undeclared income.

Under the SVDP, any taxpayer who makes a voluntary disclosure during the period from 3 November 2018 to 30 June 2019 will be offered reduced penalty rates. The IRB is expected to accept the voluntary disclosures in good faith, where a further review will not be made on the information disclosed by the taxpayer, unless additional information is received from third parties indicating otherwise.

Malaysia had, in the past, implemented several tax amnesty programmes, the last of which had expired on 15 December 2016.

#### Eligibility for the SVDP

The IRB has issued operational guidelines on the implementation of the SVDP on 3 November 2018 ("**Guidelines**") and a set of frequently asked questions on the SVDP. Under the Guidelines, the SVDP applies to the following cases:

- (a) unreported income, under-declared income and over-claimed reliefs/deductions/rebates for the year of assessment ("**YA**") 2017 and the preceding years, under the Income Tax Act ("**ITA**") and the Petroleum Income Tax Act ("**PITA**");
- (b) unreported real property gains for YA 2017 and the preceding years, under the Real Property Gains Tax Act ("**RPGTA**");
- (c) unstamped instruments (where such instruments were not stamped after six (6) months from the due date for stamping); and
- (d) where tax audits or tax investigations have commenced.

The SVDP does not apply to withholding tax cases.

All taxpayers (both Malaysian tax residents and non-residents) may take advantage of the SVDP.

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## Concessionary rates under the SVDP

The reduced penalty rates under the SVDP are as follows:

Category	Period of Voluntary Disclosure and Reduced Penalty Rates (% of tax payable)		
	3 November 2018 – 31 March 2019	1 April 2019 – 30 June 2019	After 30 June 2019
Unreported income, under-declared income and over-claimed reliefs / deductions / rebates under the ITA and PITA	10%	15%	80% - 300%
Unreported real property gains under the RPGTA			
Unstamped instruments exceeding six (6) months from the due date for stamping	10% or a minimum of RM 50	15% or a minimum of RM 100	20% or RM 100, whichever is greater

Under the SVDP, the underpaid tax and reduced penalties must be paid by the following deadlines:

Period of Voluntary Disclosure	Payment to be Made on or Before
3 November 2018 – 31 March 2019	1 April 2019
1 April 2019 – 30 June 2019	1 July 2019

Failing to pay according to the deadlines will result in penalties imposed based on the prevailing provisions of the law and legal action may be taken accordingly.

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### What this means for you

The SVDP offered this time around encourages taxpayers to approach the IRB in good faith given the willingness of the IRB to accept the information disclosed on the face value. Individuals and businesses considering taking advantage of the SVDP should undertake a comprehensive review of their tax compliance affairs to date, and seek further advice where necessary to ensure that the benefits of the SVDP are applicable to them.