



Malaysia 2018/2019 Special Voluntary Disclosure Program

1. What is the Special Voluntary Disclosure Program (SVDP)?

- The SVDP is a special program announced by the Ministry of Finance that offers all taxpayers an opportunity to recalibrate their tax affairs by coming forward and voluntarily disclose any prior tax shortfall to the Inland Revenue Board of Malaysia (“IRBM”).
- The SVDP is not a tax amnesty i.e. there is no forgiveness of tax liability. It is a program that offers low penalty rates during the SVDP period.
- The SVDP has no specific qualification criteria. All taxpayers, companies and individuals, residents and non-residents, are allowed to participate.
- The SVDP does not require funds kept outside Malaysia to be repatriated to Malaysia.

2. What we know so far

The IRBM has announced a **target of an estimated RM10 billion in tax collection** from 1 million taxpayers under the SVDP.

The IRBM has formed a task force to scrutinise and **investigate unexplained extraordinary wealth** of high net worth individuals.

The IRBM had already begun to send out letters to certain individuals requesting them to **explain their sources of funds** used to finance their assets, and to reply to the IRBM within 14 days.

3. What are the key SVDP features?

The SVDP offers the following reduced penalty rates:

Period the voluntary disclosure is made	Penalty Rate	Payment Date
From 3 November 2018 to 31 March 2019	10%	On or before 1 April 2019
From 1 April 2019 to 30 June 2019	15%	On or before 1 July 2019
From 1 July 2019 (post SVDP)	80% / 100% / 300%	Not applicable

- All payments of tax and penalties must be made within the stipulated period in order to enjoy the lower penalty rates offered under the SVDP.
- Upon the expiry of the SVDP period and where selected for audit by the IRBM, the penalties could range from 80% - 100% for incorrect tax returns and 80% - 300% for non-submission of tax returns.

4. What types of taxes does SVDP cover?

The SVDP is available for taxes and duties falling under the following legislation:

- Income Tax Act, 1967
- Petroleum (Income Tax) Act, 1967
- Real Property Gains Tax Act, 1976
- Stamp Act, 1949

5. What situations does the SVDP cover?

- Income not previously declared / under declared;
- Expenses over claimed / not allowed;
- Reliefs / deductions / rebates over claimed;
- Gains on disposal of assets (real properties and shares in real property companies);
- Instruments not previously stamped; or
- Withholding tax not previously complied with.

However, the SVDP does not cover the following:

- An amendment to claim an expense previously not claimed which result in a reduced assessment or refund - Such cases should follow existing appeal procedures instead of the SVDP.

6. What is the SVDP period?

- Voluntary disclosure can be made at any time from **3 November 2018 until 30 June 2019** and covers:
 - Year of Assessment ("YA") 2017 and preceding YAs; and
 - Instruments not stamped after six (6) months from the stamping period.

7. Who should consider the SVDP, and what are the procedures?

All categories of taxpayers, resident and non-resident, company and individuals, including:

	Categories	Procedures
(i)	Taxpayers who are not registered with the IRBM	Register for an income tax reference number and thereafter submit the relevant tax returns manually or via e-Filing system online.
(ii)	Taxpayers who are registered but have not submitted the relevant tax return for any YA to the IRBM	Submit the relevant tax returns manually or via e-Filing system online.
(iii)	Taxpayers who have submitted the relevant tax return but have not reported the correct information of the income / gains on disposal of asset(s) for any YA	There is no specific SVDP form but submission must be made in writing (letter or e-mail) to the IRBM offices.
(iv)	Persons who fail to stamp executed instruments after six (6) months from the stamping period	Instruments can be stamped via manual submission or e-Stamps system online.

Exceptions:

- While the SVDP is also applicable to taxpayers under tax audit or tax investigation by the IRBM, if a tax audit has already commenced, the tax audit may continue if the voluntary disclosed information is not in line with the issues under the tax audit. The voluntary disclosure which has been submitted is subject to any findings of the tax audit or investigation.
- The SVDP is not applicable for tax issues currently on appeal to the Special Commissioners of Income Tax (SCIT), or any court in Malaysia.
- The SVDP is not applicable to cases where criminal investigation has commenced or prosecution proceeding as a result of criminal investigation has been instituted in courts.

8. What are the assurances provided by the IRBM?

- IRBM will **accept in good faith** all voluntary disclosures made under the SVDP.
- **No further review** will be made on the reported information.
- The conditions for voluntary disclosure and the penalty imposed for the years of assessment made under the SVDP are **final**.
- Information provided to the IRBM would be kept **confidential** and used for tax purposes only.

9. Why should the taxpayers consider opting for SVDP?

- Under the Automatic Exchange of Information (AEOI), IRBM will have access to financial information maintained in reportable accounts in over 100 offshore jurisdictions. The taxpayer must be in a position to explain his wealth and source of funds, both in and out of Malaysia. If taxpayers anticipate difficulties to do so or have insufficient documentation, taxpayers should consider the SVDP.
- The IRBM represented that the assessment and penalties imposed under the SVDP are final for those YA.
- The IRBM will acknowledge in their database that the taxpayers have participated in the SVDP, hence reducing their risk for future audits on periods under SVDP.

10. Summary

- Each taxpayer should evaluate their facts and circumstances to determine whether the SVDP is suitable for them.
- It is timely to carry out a health check on your tax affairs in order to take full advantage of the SVDP **by 30 June 2019**.
- For more information, please see the Operational Guideline provided by the IRBM at: http://www.hasil.gov.my/bt_qoindex.php?bt_kump=5&bt_skum=5&bt_posi=3&bt_unit=7000&bt_sequ=1
- It is highly recommended that taxpayers engage the assistance of an independent tax consultant.

The information in this document has been prepared by an external consultant and is for general guidance only. Given the complexity of the Special Voluntary Disclosure Program as well as the various conditions and implications thereof, we highly recommend that taxpayers engage the assistance of an independent legal or tax counsel.