



## TAX FLASH

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### Royal Malaysian Customs Department

#### - Voluntary Disclosure Programme 2.0 for Indirect Taxes

The Royal Malaysian Customs Department ["RMCD"] has published the *Guideline on Voluntary Disclosure Programme ["VD Programme"] for Indirect Taxes dated 2<sup>nd</sup> June 2023* and *Frequently Asked Questions in respect of the VD Programme*. The salient points extracted from the aforesaid documents are as follows:-

- The implementation of the VD Programme involves penalty remission covering the following acts (including any relevant subsidiary legislations thereof) except for taxes imposed on importation of taxable goods [hereinafter referred to as "the Excluded Taxes"]:-
  - Sales Tax Act 1972;
  - Service Tax Act 1975;
  - Goods and Services Tax Act 2014;
  - Tourism Tax Act 2017;
  - Sales Tax Act 2018; and
  - Service Tax Act 2018.
- The implementation period of the VD Programme is from 6<sup>th</sup> June 2023 to 31<sup>st</sup> May 2024.
- 100% penalty remission on taxes (excluding the Excluded Taxes) that are liable to be paid up to 28<sup>th</sup> February 2023 will be granted with a blanket approval, provided that the taxes are fully paid by 31<sup>st</sup> May 2024.
- On top of the Excluded Taxes, taxes that are excluded from enjoying the full penalty remission will include the following:-
  - Tax liabilities that are being or have been investigated by the Enforcement Division of RMCD;
  - Taxes arose from a bill of demand ["BOD"] issued by RMCD;
  - Taxes that are under trial at the level of tribunal/court; or

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- Cases that are currently being audited by the Compliance Division of RMCD for the taxable period up to 28<sup>th</sup> February 2023 (note: any person who has received a Letter of Request to Submit Documents or Records for auditing purposes or an audit visit has been conducted to any person's premises by the audit team but the BOD has not been issued yet is not eligible to participate in the VD Programme).
- The payment of taxes can be settled via an instalment scheme provided that all the instalment payments are fully settled within the VD Programme period.
- Persons who are eligible to participate under the VD Programme are:-
  - Any person who has registered and—
    - submitted NIL return for a return in which taxes should have been declared and paid;
    - failed to submit a return despite taxes are being due for payment;
    - submitted tax returns but there are shortfalls in the existing declaration that result in underpayment of taxes; or
    - imposed tax on goods/services that are not taxable, but did not pay it to RMCD;
  - Any person who is liable to be registered but failed to register and has charged taxes but failed to pay them to RMCD;
  - Any person who is liable to be registered but not registered and did not collect tax from his customers;
  - Any person who acquires imported taxable service under the Goods and Services Tax Act 2014 or Service Tax Act 2018 but has not accounted for tax and paid it to RMCD; or
  - Any person who is licensed or registered under the Sales Tax Act 1972 or the Sales Tax Act 2018 and has declared sales tax that is not in accordance with the valuation method under the Sales Tax (Valuation) Regulations 2002 or the Sales Tax (Determination of Value of Taxable Goods) Regulations 2018, including transactions involving related parties.

One of the key features of the VD Programme is that RMCD will accept the voluntary disclosure as a declaration made in good faith. A declaration made in good faith refers to a genuine admission of the amount of tax that should have been paid by any person. No supporting document is required to be submitted when making an application for the voluntary declaration. The penalty remission will be revoked if there is any element of fraud discovered by RMCD.

It is interesting to note that for any taxable periods declared under the VD Programme, no audit will be conducted by the Compliance Division of RMCD at the zone or state level. For taxable periods that are not declared under the VD Programme, audits may be conducted starting from 1<sup>st</sup> June 2024. While for the taxable periods after 28<sup>th</sup> February 2023, audits may be conducted starting from 1<sup>st</sup> June 2025.

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