

March 2026

Stamp Duty in Malaysia: The Reincarnation of a Forgotten Tax

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For decades, stamp duty was one of those taxes everyone knew existed, but few worried about.

Yes, it has been around since 1949, governed by the Stamp Act 1949 – one of the country's oldest tax statutes still in force.

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It has sat quietly in the background – technically present, legally binding, but often overlooked in day-to-day commercial practice. Many businesses treated stamping as a procedural afterthought, limiting stamping to instruments required for regulatory or registration purposes, while many other commercial documents remained unstamped without immediate repercussions.

That era has decisively ended.

Over the recent years, stamp duty has made a comeback – with the announcement of a **Stamp Duty Self-Assessment** regime (to be implemented in phases, effective **1 January 2026**) and the introduction of a formal **Stamp Duty Audit Framework** (which came into effect from **1 January 2025**).

Stamp duty has now transitioned from a historically dormant tax into an actively enforced compliance obligation. Those who fail to respond may find that a previously overlooked obligation becomes a material financial and litigation risk. For businesses, the message is clear – stamp duty is no longer a mere administrative formality. It is now a governance issue affecting internal controls, documentation, litigation readiness and tax risk management.

On 28 January 2026, the Inland Revenue Board of Malaysia ("IRBM") has officially issued and announced a **Stamp Duty Special Voluntary Disclosure Programme (SVDP 2026)** – a six-month penalty amnesty from **1 January to 30 June 2026**. This limited-time amnesty is both a warning and an opportunity.

This article revisits Malaysia's "long-forgotten" stamp duty – explains why it is back in focus and outlines practical steps businesses should now take.



What has Changed?

Theoretically, nothing is new.

Section 4 of the Stamp Act 1949 imposes duty on “**instruments**”, not transactions. An “instrument” includes every written document – basically, any form of written record, whether handwritten, typed, printed, or created and stored electronically, including electronic records and transmissions that can be read in digital form.

Stamp duty is applicable to a wide range of business documents – these include contracts, agreements, employment documents, leases, securities, service contracts etc.

Business documents are dutiable even if they are:

Internal / Between
related parties

Not intended
for court use

Despite the broad coverage of stamp duty, enforcement was historically focused on transaction-driven instruments, such as:



Property
transfers



Loan
agreements



Share
transfers

Other operational or commercial documents (e.g. employment contracts, service agreements, consultancy contracts, intercompany agreements) were often not prioritised for stamping.

In many organisations, the obligation and responsibility for stamp duty fell into the gaps between legal, finance and operation teams – there is no clear stamp duty ownership and accountability.



Over time, this has created a commonly held perception that stamp duty was:

Relevant only in certain transactions

and

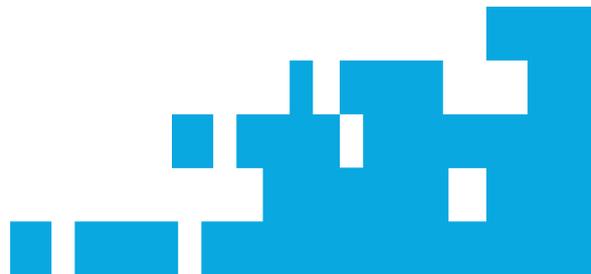
Not likely to be actively enforced (low enforcement risk)

Such understanding no longer holds.

It is important to note that the legal consequences of non-compliance **have always existed**. Under the Stamp Act 1949, an unstamped instrument cannot be admitted as evidence in the court, even though it may remain valid between the parties.

Late stamping, or failure to stamp within the stipulated timeline also attracts statutory penalties under Section 47A of the Stamp Act 1949, as set out below:

Stamping of Instruments	Penalties
Within three (3) months after time of stamping	RM50 or 10% of deficient duty (whichever is higher)
Any other case	RM100 or 20% of deficient duty (whichever is higher)



A Fundamental Shift in Stamp Duty Landscape

Transition from Official Assessment to Stamp Duty Self-Assessment System (Stamp Duty SAS)

The implementation of Stamp Duty SAS will be conducted in phases, effective **1 January 2026**: –

Phase	Effective Date	Types of Instrument
1	From 1 January 2026	Instruments or agreements in respect of rental or lease , general stamping and securities
2	From 1 January 2027	Instruments in respect of transfer of property ownership
3	From 1 January 2028	Instruments or agreements other than the above (i.e. Phases 1 and 2)

Under Stamp Duty SAS



Businesses are expected to independently determine the applicability of stamp duty – whether a document falls within the definition of "instrument" and subject to stamp duty (**the responsibility has shifted to taxpayers**).



Taxpayers are required to **submit stamp duty returns electronically** using prescribed forms together with the instruments (executed and chargeable with duty).

Duty payable is due and payable on the date of deemed assessment.



Errors or omissions are regarded as non-compliance and subject to penalties (**liability now sits with taxpayers**).

Transition from Official Assessment to Stamp Duty SAS (Cont'd)

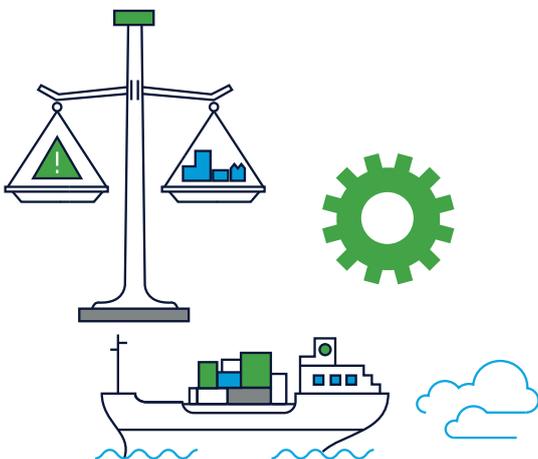
Stamp Duty SAS mirrors the current income tax self-assessment model and significantly increases taxpayers' compliance obligation. This basically means that the burden of computing taxpayers' stamp duty liability has now shifted from the IRBM to taxpayers.

Under the Stamp Duty SAS, taxpayers are expected to compute their stamp duty liability based on the tax laws, guidelines and rulings issued by IRBM.

The responsibility to assess, calculate and declare the stamp duty lies with the taxpayers (including timely payment of stamp duty) – any non-compliance will result in hefty penalties.

Briefly, key changes are outlined below: –

Feature	Official Assessment	Stamp Duty SAS
Who assess and calculate the duty?	IRBM calculates and determines the applicable duty	Taxpayer calculates and determines the correct duty
When duty is payable?	Issuance of notice by IRBM	Upon submission of return
Audit risk	Low	High – to ensure compliance
Risk of error	Low for taxpayer	High for taxpayer
Compliance	Less focus on taxpayer knowledge	High accountability – taxpayer must know the legislation and requirements





Enforcement is on the Way – Issuance of Stamp Duty Audit Framework

With effect from 1 January 2025, Stamp Duty Audit Framework comes into force – this framework formalises IRBM's audit powers and allows audits to cover instruments executed in the preceding three years, with no time limitation in cases involving fraud, evasion or negligence.

Stamp duty audits may take the form of:

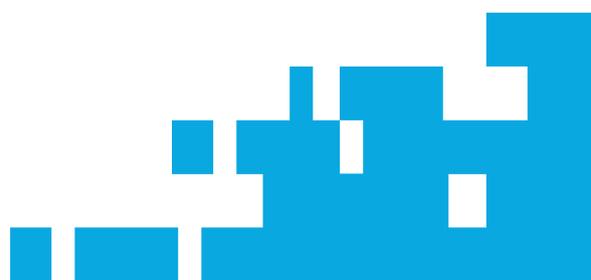
General reviews (desk-based audits)

or

Comprehensive reviews
(on-site visit and inspection by IRBM)

Case selection would be risk-based, and IRBM may rely on third-party information or carry out industry focused audits.

The Stamp Duty Audit Framework is a useful guide for taxpayers to be familiar with the stamp duty audits as it outlines the relevant procedures as well as the responsibilities and obligations of the IRBM and taxpayers.



A Special Offer from the IRBM – SVDP 2026 for Stamp Duty

To encourage voluntary disclosure and addressing historical non-compliance of stamp duty, a six-month penalty amnesty was introduced from 1 January to 30 June 2026.

Key features of SVDP 2026

Feature	Remarks
Eligible instruments	Instruments executed between 1 January 2023 and 31 December 2025
Relief granted	100% waiver of late stamping penalties under Section 47A of Stamp Act 1949 <i>Note: Penalties will be waived automatically (i.e. application for remission of penalties is not required) when stamp duty is paid.</i>
Condition	Stamping and full payment must be completed within the programme period
Audit protection	Instruments regularised under the programme will not be subject to stamp duty audit
Exclusion	Cases involving fraud

This initiative represents a golden opportunity for taxpayers to address legacy documentation risks before audit activities intensify under the Stamp Duty SAS.

SVDP 2026 offers a **one-time opportunity for taxpayers to reset stamp duty compliance at minimal cost**. Businesses that act early can resolve legacy issues with certainty.

In contrast, those who ignore it may later discover that the consequences of non-compliance (upon discovery during audits) can be severe and costly in the near future.





Why Stamp Duty Matters

With the roll-out of Stamp Duty SAS and Stamp Duty Audit Framework, stamp duty is no longer a “forgotten tax”.

In practice, stamp duty risk is not driven by major transactions; it typically accumulates quietly across routine and high-volume documentation.

Common risk areas include:

Employment contracts /
offer letters

Service / consultancy /
management agreements

Intercompany /
related-party arrangements

These documents are often executed by business units with minimal tax oversight. Individually, the stamp duty involved may appear insignificant, but, **collectively, such documents can represent substantial exposure during an audit** (particularly, when penalties are imposed for non-compliance).

In addition, there is also a **litigation risk** element – unstamped instruments may be inadmissible as evidence in the court, potentially weakening enforcement of contractual rights and obligations.

Practical Considerations for Businesses – What Businesses Should Do

Businesses must take **proactive steps in managing stamp duty** like any other tax or regulatory obligation.

Immediate actions:

1

Undertake a **comprehensive stamp duty compliance review / health check**

Review of documents executed from **2023 onwards**, focusing on:

- Identifying instruments which are subject to stamp duty.
- Compiling a list of unstamped instruments.
- Quantifying historical and ongoing exposure.

*Note: In assessing the applicability of stamp duty, the title of the document is not relevant – it is the "**substance**" which will determine the nature of that instrument and the applicable stamp duty rate.*

2

Assess the **applicability of SVDP 2026**

Where **gaps** are identified, businesses should assess and evaluate the applicability of SVDP 2026 to:

- Regularise affected instruments without penalties.
- Mitigate stamp duty audit exposure.
- Align historical practices with the requirements under Stamp Duty SAS.



Practical Considerations for Businesses – What Businesses Should Do (Cont'd)

Going forward:

3

Embed stamp duty requirements and obligations into **workflows / standard operating procedures**

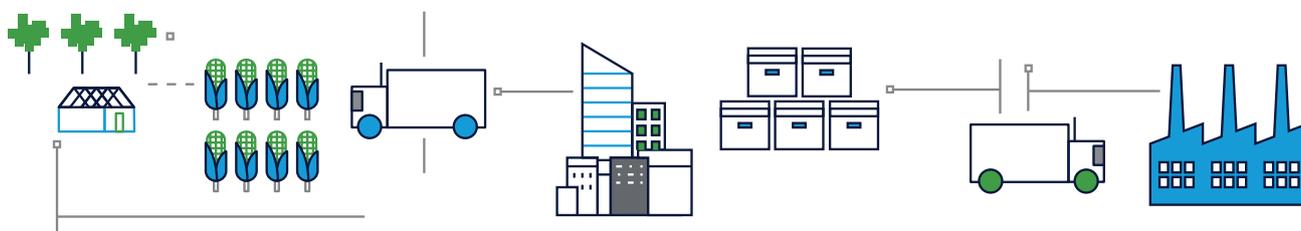
Stamp duty should be **integrated into day-to-day business processes**:

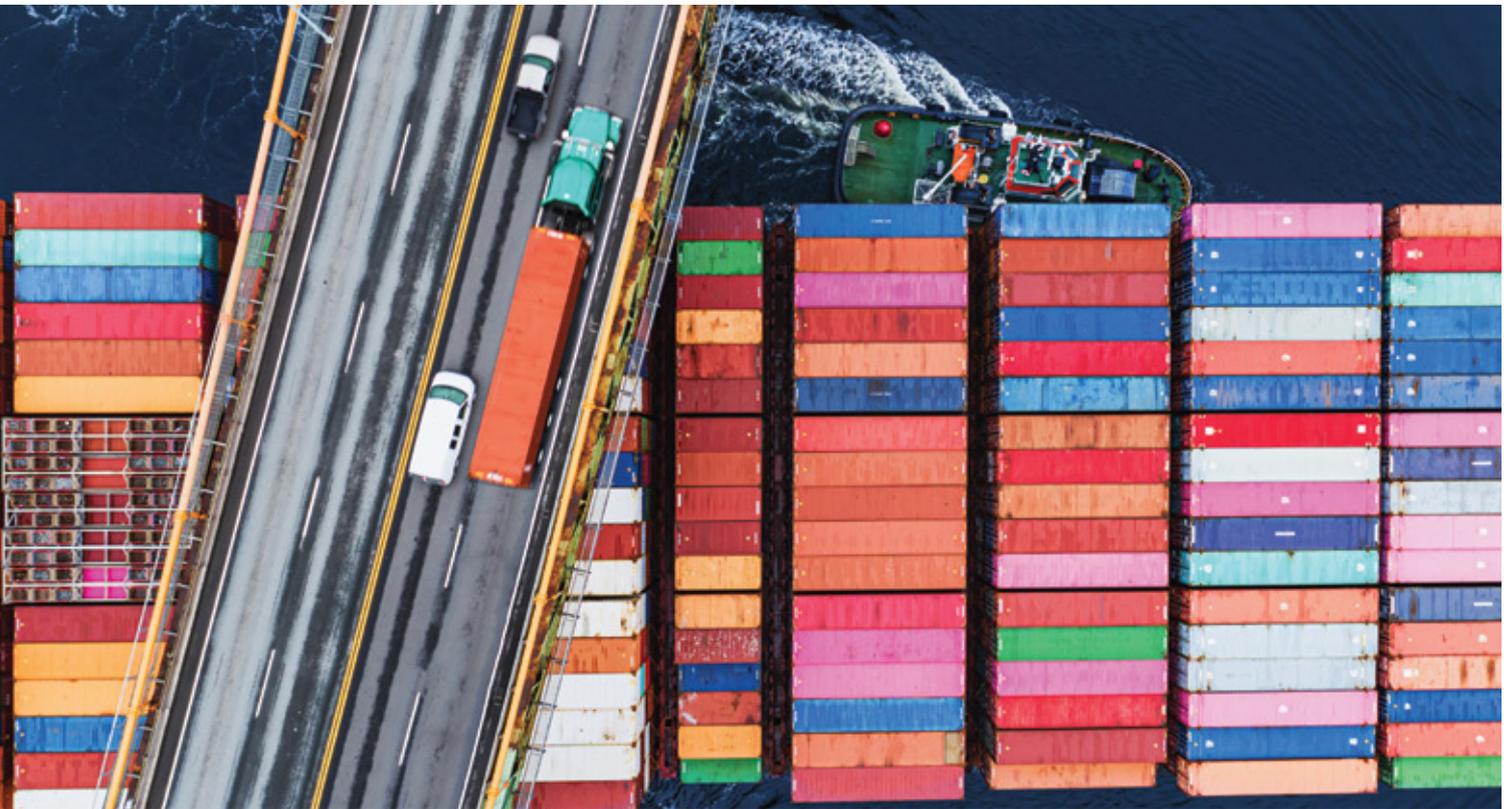
- Incorporate robust approval and review controls.
- Stamp duty ownership should be clearly defined and assigned – whether within legal, finance, operation or tax team.

4

Prepare for **audit readiness**

- Maintain accessible records of executed instruments.
- Ensure consistency of stamp duty basis and position adopted.
- Education and trainings on the importance of stamp duty, obligations and non-compliance consequences.
- Engage tax / legal advisors where required to ensure full compliance with the Stamp Duty SAS.



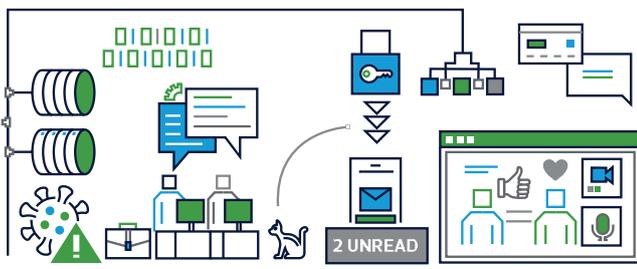


Conclusion: From “Forgotten Tax” to Compliance Priority

Stamp duty may have been the tax everyone has forgotten, but it is one the IRBM clearly remember. Recent regulatory developments have elevated it into a key compliance focus for businesses.

The convergence of Stamp Duty Audit Framework, Stamp Duty SAS and one-off amnesty signals a clear policy direction – “**Voluntary Compliance Now, Strict Enforcement Latter**”.

Act now before it is too late – time is running out.



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