

eNewsletter 02/2022

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Indirect Tax – Special Alert (Update)

Special Voluntary Disclosure And Amnesty Programme (VA)

Opportunity to enjoy reduced tax and penalties

Greetings fellow readers and wishing you a Happy New Year 2022!

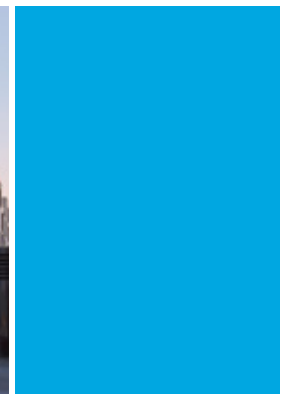
The Royal Malaysian Customs Department (RMCD) has recently issued the guideline and Frequently Asked Questions (FAQ) on the VA Programme. We would like to share the insights and salient points of the programme.

Scope

- ✓ The VA Programme is divided into two (2) categories: –
 - Voluntary Disclosure – For errors unknown or undiscovered by RMCD; and
 - Amnesty – For offences that have been identified by RMCD and a Bill of Demand (BOD) is issued.
- ✓ The scope of the VA Programme covers the following indirect taxes: –
 - Customs Act 1967 – Import Duty / Export Duty;
 - Sales Tax Act 1972 and 2018 – Sales Tax;
 - Service Tax Act 1975 and 2018 – Service Tax including Imported Taxable Services and Digital Services;
 - Excise Act 1976 – Excise Duty;
 - Goods and Services Tax Act 2014 – GST;
 - Tourism Tax Act 2017 – Tourism Tax; and
 - Departure Levy Act 2019 – Departure Levy.

Note: Anti-Dumping Duty, Safeguard Duty and Windfall Profit Levy are not included in this Programme.

- ✓ Any duty/tax/penalty/surcharge involved in this programme are incurred by or before 31 October 2021.
- ✓ Those company/individual which are being / have been investigated by the Enforcement Division are not included in this programme.
- ✓ Companies/Individuals who have been approved for duty/tax/levy remission by the Ministry of Finance are not eligible to participate in this programme.



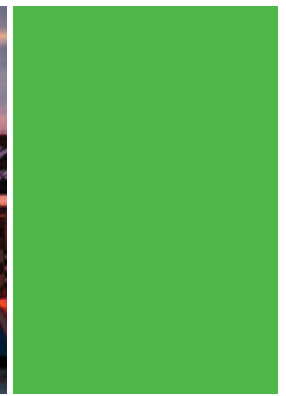
Duration

Phase 1	Phase 2
1 January 2022 – 30 June 2022 (6 months)	1 July 2022 – 30 September 2022 (3 months)

Who is eligible?

Companies/individuals eligible to participate in the voluntary disclosure programme includes: –

- ✓ Who have registered and performed the following activities: –
 - Submitted incorrect return;
 - Not submitted any return/declaration on a timely manner;
 - Under declared and under paid duty/tax/levy; or
 - Charged tax (e.g. sales tax, service tax or GST) on goods/services that are not subject to tax.
- ✓ Who are liable to be registered or licensed but are not registered/licensed, under the relevant Acts, and have collected tax/levy but not paid tax/levy to RMCD;
- ✓ Who are liable to be registered or licensed but are not registered /licensed, under the relevant Acts, and did not collect the tax/levy from customers;
- ✓ Who are not liable to be registered or licensed, under the relevant Acts, but have collected tax/levy and not paid to RMCD;
- ✓ Who acquired imported taxable services under the Goods and Services Tax Act 2014 & Service Tax Act 2018 but have not accounted for tax payable to RMCD;
- ✓ Who has not been audited but earmarked for an audit in 2022;
- ✓ Who are being audited;
- ✓ Who has been audited;
- ✓ Any Bill of Demand (BOD) issued by the Compliance Division and other divisions on or before 31 August 2022 for duty/tax/levy liable for the audit coverage period on or before 31 October 2021 is eligible to participate in the Amnesty Programme; and
- ✓ Bill of Demand (BOD) issued on or before 31 October 2021;



Incentives Offered (Cont.)

CATEGORY/ELIGIBILITY OF VA PROGRAMME APPLICATION	TAX INCENTIVES		PENALTY INCENTIVES	
	PHASE 1	PHASE 2	PHASE 1	PHASE 2
Company / individuals who have registered and performed the following activities: –				
a) Submitted nil returns incorrectly;	10%	5%	100%	50%
b) Failed to submit a return/ declaration;				
c) Under declared and underpaid taxes; or				
d) Charged tax on goods / services not subject to tax.				
Company/individual who is liable to be registered but not yet registered and has charged tax but not paid to RMCD.	10%	5%	100%	50%
Company/individual who is liable to be registered but not yet registered and did not collect tax from customers.	30%	15%	100%	50%
Company/Individual who is not liable to be registered but has charged tax and not remitted to RMCD.	10%	5%	NA	NA
Companies that acquired imported taxable services under the Goods and Services Tax Act 2014 and the Service Tax Act 2018 but have not accounted and paid for the tax to RMCD.	10%	5%	100%	50%
A company registered under the Sales Tax Act 1972 or the Sales Tax Act 2018 which declares sales tax not according to the sales tax valuation under Regulation 7 PU (A) 205 involving sales between related parties.	10%	5%	100%	50%
Company/Individual who is entitled for tax facilities/ exemptions but did not fulfil the prescribed conditions.	10%	5%	NA	NA



Incentives Offered (Cont.)

CATEGORY/ELIGIBILITY OF VA PROGRAMME APPLICATION	DUTY/ TAX/ LEVY INCENTIVES		PENALTY / SURCHARGE INCENTIVES	
	PHASE 1	PHASE 2	PHASE 1	PHASE 2
The company has arrears of duty/tax/levy and penalty /surcharge.	10%	5%	100%	50%
The company has arrears of duty/tax/levy only.	10%	5%	NA	NA
The company has penalty / surcharge arrears only.	NA	NA	90%	80%
BODs issued during the Programme period from 01 January 2022 to 31 August 2022 involving tax & penalty liability for which arose on or before 31 October 2021.	10%	5%	100%	50%
BODs issued during the Programme period from 01 January 2022 to 31 August 2022 involving duty or tax liability for which arose on or before 31 October 2021.	10%	5%	NA	NA



Imposition of Compound on Compoundable Offenses

- ✓ A minimum compound will be imposed on compoundable offence and must be paid within fourteen (14) days from the date of the compound offer letter.
- ✓ The compound values are as follows:
 - RM1,000.00 for each voluntary disclosure amounting to RM100,000.00 and above; or
 - RM500.00 for each voluntary disclosure amounting to less than RM100,000.00.

The company/individual need to pay the compound first in order to enjoy the programme incentives.

Benefits of VA Programme

- ✓ Taxpayers who had / may have underpaid any indirect taxes will be able to voluntarily disclose the information to RMCD and enjoy tax and penalty remission as mentioned above.
- ✓ It allows the businesses to rectify error and omissions, make good unpaid indirect taxes and move forward with a clean slate.
- ✓ RMCD will not audit the taxable periods for which VA is made unless it is found that there is an element of fraud.

A word of caution – RMCD will enhance enforcement actions and impose penalties and compounds as provided in the legislation once the VA period is over.

How can we help you?

Businesses are encouraged to undertake indirect tax reviews and health checks. Those who wish to participate in this programme are required to submit an application with RMCD which is subject to RMCD's approval.

We can support you in the conduct of review, confirmation of technical positions undertaken and most importantly identify any errors. If based on our review, we have identified any errors, we can then support you in quantifying the amount of tax underpaid and in the application for SVDP process with the RMCD.

As this program lasts for 9 months, we have set specific timelines to conduct our review of within 3 – 5 weeks to quantify the findings and highlight any errors faced by businesses. Therefore, we would encourage business to come forward soonest and take advantage of this once in a lifetime opportunity!

If you are interested in hearing more about our services, please feel free to contact our Indirect Tax Director, Mayadevi at mayadevi@rsmmalaysia.my / Indirect Tax Manager, Kalvinder at kalvinders@rsmmalaysia.my

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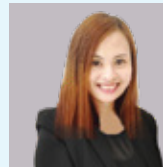


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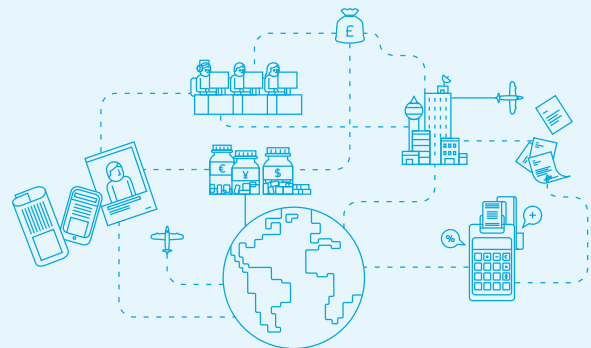
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Transfer Pricing

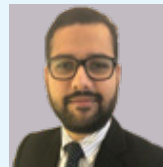


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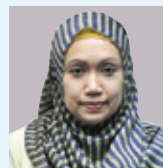


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