



OPERATIONAL GUIDELINES NO. 1/2018
INLAND REVENUE BOARD OF MALAYSIA

SPECIAL PROGRAM FOR VOLUNTARY DISCLOSURE

1. INTRODUCTION

- 1.1 These Guidelines outline the implementation procedures of the Special Program for Voluntary Disclosure (Special Program) for eligible taxpayers following the 2019 Budget announcement by The Honorable Minister of Finance Malaysia on 02 November 2018.
- 1.2 The establishment of the Tax Reform Committee is part of the government's effort in reforming the tax system to address tax leakages, reduce the existing tax gap and explore new sources of revenue to increase tax collection.
- 1.3 Hence, this Special Program is offered to encourage taxpayers to make voluntary disclosure in reporting their income and paying tax within the stipulated period. Besides Malaysia, countries offering voluntary disclosure programs include the United States of America, United Kingdom, Australia, Japan, Singapore and Indonesia to name a few.
- 1.4 The Special Program also gives an opportunity to taxpayers to report the correct income in view of the implementation of the Common Reporting Standard (CRS) on 30 September 2018 where Malaysia will be receiving financial information of taxpayers from other foreign tax administrations.

- 1.5 This Special Program covers voluntary disclosure and payment within the stipulated period on:
- i. income not previously declared / under declared, expenses over claimed / not allowed and reliefs / deductions / rebates over claimed;
 - ii. gains on disposal of assets (real properties and shares in real property companies); and
 - iii. stamping of instruments not previously stamped.

2. OBJECTIVE

These guidelines intend to:

- 2.1 provide explanation on the method of implementation of this Special Program;
- 2.2 provide information on the implementation period of this Special Program and the reduction in penalty; and
- 2.3 outline the payment procedure with respect to voluntary disclosure.

3. LEGISLATION APPLICABLE

- 3.1 Income Tax Act 1967 (ITA 1967)
- 3.2 Petroleum (Income Tax) Act 1967 (PITA 1967)
- 3.3 Real Property Gains Tax Act 1976 (RPGTA 1976)
- 3.4 Stamp Act 1949 (SA 1949)

4. IMPLEMENTATION PERIOD

Voluntary disclosure can be made at any time commencing from 03 November 2018 until 30 June 2019.

5. IMPLEMENTATION

5.1 This Special Program is open to all categories of taxpayers.

5.2 Voluntary disclosure includes:

i. **Taxpayers who are not registered with the Inland Revenue Board of Malaysia (IRBM)**

New taxpayers have to firstly register for an income tax number. The Income Tax Return Form (ITRF) / Petroleum Return Form (PRF) / Real Property Gains Tax Return Form (RPGTRF) must be submitted within the Special Program period either via e-Filing / e-Lodgement or manually.

With effect from year of assessment 2014, the ITRF of a company must be submitted by way of e-Filing.

ii. **Taxpayers who are registered with IRBM but have not submitted the ITRF / PRF / RPGTRF for any year of assessment**

The ITRF / PRF / RPGTRF must be submitted within the Special Program period either via e-Filing / e-Lodgement or manually.

With effect from year of assessment 2014, the ITRF of a company must be submitted by way of e-Filing.

iii. **Taxpayers who have submitted the ITRF / PRF / RPGTRF but have not reported the correct information of the income / gains on disposal of asset(s) for any year of assessment.**

Taxpayers are required to submit a written declaration within the Special Program period either via letter or e-mail of the income / gains on disposal of assets not previously declared.

This letter or e-mail shall state that the taxpayer makes a full declaration on the income / gains on disposal of assets that has not been previously reported.

iv. **Persons who fail to stamp executed instruments after six (6) months from the stamping period.**

Instruments not stamped exceeding six (6) months after the stamping period (30 days from the date the instrument is executed) are to be submitted online or manually for stamping within the Special Program period.

- 5.3 This Special Program only applies to income reported or gains on disposal of assets for the year of assessment 2017 and preceding years of assessment as well as instruments not stamped after six (6) months from the stamping period.
- 5.4 All voluntary disclosures of income for year of assessment 2017 and preceding years of assessment will be assessed based on the year in which the income is received / receivable. However, where the year to which the income relates cannot be verified, the reporting of the income in the year of assessment 2017 may be allowed. The ITRF / PTRF for preceding years of assessment still has to be submitted by entering the amount zero ("0") in the income column.
- 5.5 This Special Program is applicable to cases under audit / investigation. However, the voluntary disclosure which has been submitted is subject to any findings of the audit / investigation.
- 5.6 This Special Program is not applicable to cases where criminal investigation has commenced or prosecution proceeding as a result of criminal investigation has been instituted in courts pursuant to the provisions of the ITA 1967, PITA 1967, RPGTA 1976, SA 1949 or Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001.

5.7 If estimated assessments have been raised and income reported in the ITRF / PTRF / RPGTRF during the Special Program period is higher, the difference will be considered as voluntary disclosure.

5.8 Voluntary disclosure can be made at any IRBM office.

5.9 Penalty rates applicable to voluntary disclosure are as follows:

Categories of Voluntary Disclosure	Penalty	Method of Implementation	Period of Voluntary Disclosure and Rate of Penalty	
			03/11/2018 - 31/03/2019	01/04/2019 - 30/06/2019
Taxpayers who are not registered with IRBM	<ul style="list-style-type: none"> • Subsection 112(3) of the ITA 1967 • Subsection 51(3) of the PITA 1967 • Subsection 29(3) RPGTA of the 1976 	<ul style="list-style-type: none"> • Income tax number will first be registered. • Taxpayers are required to file their ITRF / PRF / RPGTRF for the relevant year(s) of assessment 	10%	15%
Taxpayers who are registered with IRBM but have not submitted the ITRF / PRF / RPGTRF for any year of assessment		<ul style="list-style-type: none"> • Taxpayers are required to file their ITRF / PRF / RPGTRF for the relevant year(s) of assessment 		
Taxpayers who have submitted the ITRF / PRF / RPGTRF but have not reported the correct income / gains on disposal of assets for any year of assessment	<ul style="list-style-type: none"> • Subsection 113(2) of the ITA 1967 • Subsection 52(2) of the PITA 1967 • Subsection 30(2) of the RPGTA 1976 	<ul style="list-style-type: none"> • Taxpayers are required to submit their full declaration in writing via letter or e-mail 		

Categories of Voluntary Disclosure	Penalty	Method of Implementation	Period of Voluntary Disclosure and Rate of Penalty	
			03/11/2018 - 31/03/2019	01/04/2019 - 30/06/2019
Persons who present an instrument for stamping exceeding six (6) months from the stamping period (30 days from the date of the instrument's execution)	<ul style="list-style-type: none"> Subsection 47A(1) of the SA 1949 	<ul style="list-style-type: none"> Not applicable 	10% or a minimum of RM50	15% or a minimum of RM100

- 5.10 The implementation period of this Special Program also applies to transfer pricing issues. However, the implementation method and penalty rates are in accordance with the Transfer Pricing Audit Framework currently in force.
- 5.11 IRBM will accept in good faith all voluntary disclosures made during the Special Program period. Further review will not be made on the reported information.
- 5.12 The conditions for voluntary disclosure and the penalty imposed under this Special Program are final.

6. PENALTY RATES AFTER THE SPECIAL PROGRAM PERIOD

The penalty rates after the Special Program are as follows:

- 6.1 Taxpayers who fail to submit the ITRF / PRF / RPGTRF may be liable to penalties under subsection 112(3) of the ITA 1967 / subsection 51(3) of the PITA 1967 / subsection 29(3) of the RPGTA 1976 at a minimum rate of 80% and up to 300%.
- 6.2 Taxpayers who fail to report the correct income may be liable to penalties under subsection 113(2) of the ITA 1967 / subsection 52(2) of the PITA 1967 / subsection 30(2) of the RPGTA 1976 at a minimum rate of 80% and up to 100%.
- 6.3 Persons who present instruments for stamping after the stamping period will be liable to penalty under subsection 47A(1) of the SA 1949 on amount of the deficient duty.

7. PAYMENT REQUIREMENT

Payment for voluntary disclosure during the Special Program period has to be made in the following manner:

- i. Taxpayers must settle the tax due as follows:

Period of Voluntary Disclosure	Payment to be made on or before
03/11/2018 - 31/03/2019	01/04/2019
01/04/2019 - 30/06/2019	01/07/2019

- ii. If the taxpayer fails to settle the tax in full at the end of the stipulated period on 01/04/2019 or 01/07/2019, an increase in tax will be imposed based on the prevailing provisions of the law. If tax arrears are still unpaid, legal action will be taken accordingly.

8. FLOW CHART

Flow chart for the implementation of the Special Program is shown in **Appendix 1**.

9. CONTACT US

For further information on this Special Program, please contact us:

- i. At the nearest IRBM office;
- ii. Hasil Care Line LHDNM at 1-800-88-5436 or 603-7713 6666 (Overseas);
or
- iii. e-Mail : pengakuansukarela@hasil.gov.my.

INLAND REVENUE BOARD OF MALAYSIA

30 November 2018

FLOW CHART FOR THE IMPLEMENTATION OF THE SPECIAL PROGRAM

