



**OPERATIONAL GUIDELINES NO. 1/2019**  
**INLAND REVENUE BOARD OF MALAYSIA**

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**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 2 November 2018.
- 1.2 These guidelines are prepared to replace the Operational Guidelines No.1/2018 dated 29 March 2019 following the press release issued by the Ministry of Finance Malaysia on 7 April 2019.
- 1.3 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.
- 1.4 Hence, this Special Program is offered to encourage taxpayers to make voluntary disclosure in reporting their **FULL** 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.

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

## **2 OBJECTIVE**

These guidelines intend to:

- 2.1 provide explanation on the implementation method 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 3 November 2018 until 30 September 2019.

## 5 IMPLEMENTATION

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

5.2 Voluntary disclosure includes:

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

New taxpayers have to first 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 by making full disclosure of income / gains on disposal of assets either through 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.

5.2.2 **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 by making full disclosure of income / gains on disposal of assets either through 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.

**5.2.3 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 has made **FULL DECLARATION** on the income / gains on disposal of assets that has not been previously reported.

**5.2.4 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 applies to:**

**5.3.1** Income or gains on disposal of assets not previously declared 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.

**5.3.2** Declaration of income for year of assessment 2018 by companies with accounting year ending on 31 January 2018, 28 February 2018 and 31 March 2018 that:

- a) fail to submit the ITRF for year of assessment 2018; or
- b) have submitted the ITRF for the year of assessment 2018 prior to the announcement of this Special Program during the tabling of the 2019 Budget. This includes companies that have requested to participate in this Special Program but was earlier declined by IRBM.

- 5.3.3 Voluntary disclosures that would result in original assessments / additional assessments being raised.
- 5.3.4 Cases under audit / investigation. However, the voluntary disclosure which has been submitted is subject to audit / investigation findings.
- 5.4 This Special Program does not apply to voluntary disclosures made involving:
- 5.4.1 non-taxable cases, reduced assessment or repayment; or
- 5.4.2 cases where criminal investigation has commenced or prosecution proceedings 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.
- 5.5 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.
- 5.6 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.
- 5.7 All voluntary disclosures for companies with accounting year ending on 31 January 2018, 28 February 2018 and 31 March 2018 is to be assessed based on the year in which the income is received / receivable.
- 5.8 Taxpayers must make sure that **ALL** taxable income has been accounted for in the voluntary disclosure made.
- 5.9 IRBM will accept information voluntarily disclosed under the Special Program in good faith. However, the computation of tax will be checked to ensure the accuracy of the voluntary disclosure made.

5.10 Audit / investigation will not be carried out on the years of assessment where voluntary disclosure has been made.

5.11 For cases where estimated assessments have been raised:

5.11.1 if income / gains on disposal of assets reported in the ITRF / PTRF / RPGTRF during the Special Program period is higher, the difference will be considered as voluntary disclosure;

5.11.2 paragraph 5.6 will not be applicable. Hence, voluntary disclosure has to be made by submitting ITRF / PTRF / RPGTRF for each related year of assessment; and

5.11.3 If a taxpayer is aggrieved by the estimated assessment raised, the appeal procedure as mentioned in the Public Rulings No. 12 / 2017 (Appeal Against an Assessment and Application for Relief) is applicable.

5.12 Voluntary disclosure can be made at any IRBM office.

5.13 Penalty rates applicable to voluntary disclosure are as follows:

Categories of Voluntary Disclosure	Penalty	Implementation Method	Period of Voluntary Disclosure and Rate of Penalty	
			03/11/2018 - 30/06/2019	01/07/2019 - 30/09/2019
Taxpayers who are <b>not registered</b> with IRBM	<ul style="list-style-type: none"> <li>• Subsection 112(3) of the ITA 1967</li> <li>• Subsection 51(3) of the PITA 1967</li> <li>• Subsection 29(3) of the RPGTA 1976</li> </ul>	<ul style="list-style-type: none"> <li>• Income tax number will first be registered.</li> <li>• Taxpayers are required to file their ITRF / PRF / RPGTRF for the relevant year(s) of assessment</li> </ul>	10%	15%

Categories of Voluntary Disclosure	Penalty	Method of Implementation	Period of Voluntary Disclosure and Rate of Penalty	
			03/11/2018 - 30/06/2019	01/07/2019 - 30/09/2019
Taxpayers who are <b>registered with IRBM but have not submitted the ITRF / PRF / RPGTRF</b> for any year of assessment	<ul style="list-style-type: none"> <li>• Subsection 112(3) of the ITA 1967</li> <li>• Subsection 51(3) of the PITA 1967</li> <li>• Subsection 29(3) of the RPGTA 1976</li> </ul>	<ul style="list-style-type: none"> <li>• Taxpayers are required to file their ITRF / PRF / RPGTRF for the relevant year(s) of assessment</li> </ul>		
Taxpayers who have <b>submitted the ITRF / PRF / RPGTRF but have not reported the correct income / gains on disposal of assets</b> for any year of assessment	<ul style="list-style-type: none"> <li>• Paragraph 44A(9)(b) of the ITA 1967</li> <li>• Subsection 113(2) of the ITA 1967</li> <li>• Subsection 52(2) of the PITA 1967</li> <li>• Subsection 30(2) of the RPGTA 1976</li> </ul>	<ul style="list-style-type: none"> <li>• Taxpayers are required to submit their full declaration in writing via letter or e-mail</li> </ul>	10%	15%
Persons who <b>present an instrument for stamping</b> exceeding six (6) months from the stamping period (30 days from the date of the instrument's execution)	<ul style="list-style-type: none"> <li>• Subsection 47A(1) of the SA 1949</li> </ul>	<ul style="list-style-type: none"> <li>• Duty payers are required to furnish the instrument for stamping</li> </ul>	10% or a minimum of RM50	15% or a minimum of RM100

- 5.14 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.
- 5.15 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 45%.
- 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 45%.
- 6.3 The surrendering company that gives incorrect information may be required under paragraph 44A(9)(b) of the ITA 1967 to pay a penalty of 100%, which is equal to the amount of tax undercharged (as in the tax computation of the claimant company).
- 6.4 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:

7.1 Taxpayers must settle the tax due as follows:

<b>Period of Voluntary Disclosure</b>	<b>Payment to be made on or before</b>
03/11/2018 - 30/06/2019	01/07/2019
01/07/2019 - 30/09/2019	01/10/2019

7.2 If the taxpayer fails to settle the tax in full at the end of the stipulated period on 01/07/2019 or 01/10/2019, 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

The flow chart for the implementation of the Special Program is shown in **Appendix**.

## 9 CONTACT US

For further information on this Special Program, please contact:

- 9.1 the nearest IRBM office;
- 9.2 IRBM's Hasil Care Line at 1-800-88-5436 or 603-7713 6666 (Overseas); or
- 9.3 e-mail: [pengakuansukarela@hasil.gov.my](mailto:pengakuansukarela@hasil.gov.my).

**INLAND REVENUE BOARD OF MALAYSIA**

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### FLOW CHART FOR THE IMPLEMENTATION OF THE SPECIAL PROGRAM

