It was only a year ago when we witnessed the fervent practices and frequent field audits conducted by the Inland Revenue Board (“IRB”) in their efforts to increase tax compliance of taxpayers through tax audits and investigations. A stark contrast can now be gradually observed as we move forward under a new regime where non-intrusive tax audits come in replacement. Having heard the grievances and grousers from taxpayers, evidently, a softer approach is now being employed by the IRB in resolving disputes with taxpayers.

The Minister of Finance, YB Tuan Lim Guan Eng, has introduced a special program in the recently announced Budget 2019 ie. Special Voluntary Disclosure Program (“SVDP”) to provide an opportunity for taxpayers to voluntarily come forward in declaring any unreported income for tax purposes, including offshore accounts.

By participating in this SVDP program, the tax penalty rate would be as below (refer page 4).

The SVDP penalty rates are much lower as compared to the existing voluntary disclosure rates in which incorrect returns attract not more than 35% of the undercharged, according to the Tax Audit Framework.

It is also worth to note that similar voluntary disclosure programs have also been implemented by other countries such as United States of America, United Kingdom, Australia, Japan, Singapore and Indonesia.

Further, under the Organisation for Economic Co-Operation and Development (“OECD”) initiative to increase transparency of taxation, starting from 2018, Malaysia has implemented Automatic Exchange of Information (“AEOI”) with other foreign tax authorities to obtain information to support their tax audit and tax investigation activities.

With the strength of technology capable of being employed today, the IRB will be able to garner an ocean of information about taxpayers on top of the additional information received from the AEOI. Hence, taxpayers are now being urged to be transparent and come forward voluntarily to the IRB where non-compliant in the process of self-assessment.

In addition to the SVDP program, the IRB will scrutinise and investigate any unexplained extraordinary wealth displayed by the possession of luxury goods such as jewelry, handbags or property. The IRB will use all the necessary measures permitted by the law to recover such monies whether either in the form of additional taxes, penalties or fines.

Will taxpayers be ready to accept the SVDP? Here are some of the possible challenges that may be anticipated:-

1. What is the level of confidence in the SVDP? Taxpayers may still have concerns of confidentiality and the use of information disclosed.
2. How likely is the IRB going to stop at the voluntary disclosure items and proceed with detailed review on other areas? Taxpayers could be concerned about the relevant documentation and uncertain tax positions.
3. The taxpayers may have the concern on the ability to pay the taxes and penalties if the timeframe for the settlement is short.

Taxpayers need to understand the process of the disclosure, what entails from the full disclosure, the confidentiality of information shared and reassurance that the program would be conducted in a timely and cost effective manner.

Above all, the ultimate responsibility lies with the taxpayers to ensure tax records are veracious and abide by the rule of law. As such, a thorough tax risk assessment should be conducted.

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## Budget 2019 – Special Program for Voluntary Disclosure

<table>
<thead>
<tr>
<th>Categories of Voluntary Disclosure</th>
<th>Penalty</th>
<th>Method of Implementation</th>
<th>Period of Voluntary Disclosure and Rate of Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxpayers who are not registered with IRB</td>
<td>· Subsection 112(3) of the Income Tax Act 1967 (“ITA”)</td>
<td>· Income tax number will first be registered.</td>
<td>03/11/2018 - 31/03/2019 10% 15%</td>
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<tr>
<td></td>
<td>· Subsection 51(3) of the Petroleum (Income Tax) Act 1967 (“PITA”)</td>
<td>· Taxpayers are required to file their ITRF / PRF / RPGTRF for the relevant year(s) of assessment</td>
<td>01/04/2019 - 30/06/2019</td>
</tr>
<tr>
<td></td>
<td>· Subsection 29(3) Real Property Gains Tax Act 1976 (“RPGTA”)</td>
<td>· Taxpayers are required to file their ITRF / PRF / RPGTRF for the relevant year(s) of assessment</td>
<td></td>
</tr>
<tr>
<td>Taxpayers who are registered with IRB but have not submitted the Income Tax Return Form (“ITRF”) / Petroleum Return Form (“PRF”) / Real Property Gains Tax Return Form (“RPGTRF”) for any year of assessment</td>
<td>· Subsection 113(2) of the ITA</td>
<td>· Taxpayers are required to submit their voluntary declaration in writing via letter or e-mail</td>
<td></td>
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<tr>
<td></td>
<td>· Subsection 52(2) of the PITA</td>
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<tr>
<td></td>
<td>· Subsection 30(2) of the RPGTA</td>
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<tr>
<td>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</td>
<td>· Subsection 47A(1) of the Stamp Act 1949 (“SA”)</td>
<td>· Not applicable</td>
<td>10% or a minimum of RM50 15% or a minimum of RM100</td>
</tr>
<tr>
<td>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)</td>
<td>· Subsection 47A(1) of the Stamp Act 1949 (“SA”)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Source: Extracted from IRB Operational Guidelines No. 1/2018)