

TECHNICAL

Direct Taxation

LHDNM'S RESPONSE TO CTIM ON ISSUES ARISING ON TAX AUDIT AND INVESTIGATION ON THE SPECIAL VOLUNTARY DISCLOSURE PROGRAMME ("SVDP")

The Institute has submitted a letter dated 21 December 2020¹ to the Inland Revenue Board of Malaysia ("LHDNM") on the tax audit and investigation issues on the Special Voluntary Disclosure Programme ("SVDP") raised by members for the LHDNM's consideration. The LHDNM has responded to the Institute in a letter dated 5 January 2021² which was received by the Institute recently.

The LHDNM has stated that the guarantee that no audit and investigation will be carried out on SVDP cases is subject to the following stipulations of the Operational Guidelines No.1/2019 on SVDP ("GPHDN 1/2019") dated 24 April 2019³:

Para 1.4

This Special Programme is offered to encourage taxpayers to make voluntary disclosure in reporting their FULL income and paying tax within the stipulated period.

Para 5.3.4

This Special Programme applies to cases under audit / investigation. However, the voluntary disclosure which has been submitted is subject to audit / investigation findings.

Para 5.4

This Special Programme does not apply to voluntary disclosures made involving non-taxable cases, reduced assessment or repayment; or cases where criminal investigation has commenced or prosecution proceedings as a result of criminal investigation that has been instituted in courts pursuant to the provisions of the Income Tax Act 1967, Petroleum (Income Tax) Act 1967, Real Property Gains Tax Act 1976, Stamp Act 1949 or Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001.

Para 5.8

Taxpayers must make sure that ALL taxable income has been accounted for in the voluntary disclosure made.

Para 5.9

LHDNM will accept information voluntarily disclosed under the Special Programme in good faith. However, the computation of tax will be checked to ensure the accuracy of the voluntary disclosure made.

LHDNM reiterated that the intention of stipulating the terms for reporting the full income voluntarily is to prevent the fraudulent reporting of income by any taxpayer who misuses this programme. The guarantee offered by the LHDNM is still based on the responsibility of the taxpayer to ensure that the voluntary declaration made has taken into account all taxable income. The situation and circumstances for the application of this programme have been explained clearly in the GPHDN 1/2019. As such, based on the powers given under the law, the LHDNM has the power to implement an audit or investigation if the taxpayer is found not to fulfil the terms and stipulations as issued.

References (available in the [Institute's website – Members Only section](#)):

1. [CTIM's letter dated 21 December 2020](#).
2. [LHDNM's letter dated 5 January 2021](#) (in Bahasa Malaysia only).
3. [GPHDN 1/2019 dated 24 April 2019](#) and [e-CTIM TECH-DT 38-2019](#) dated 8 May 2019.

You may write to the Institute at technical@ctim.org.my in respect of any suggestions, concern or comments you may have on the above.

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