

KEY LAWYERS

3 JULY 2026

STAMP DUTY 2026: SVDP GETS EXTRA TIME AS NEW IRB GUIDELINES CALL FOR A FRESH INSTRUMENT REVIEW

by Alvin Chong Jian Loong & Charlene Woon Zi Xuan

On 26 June 2026, the Inland Revenue Board of Malaysia (“**IRB**”) announced a six-month extension of the Special Voluntary Disclosure Programme for Stamp Duty 2026 (“**SVDP**”), from 1 July 2026 to 31 December 2026. The extension applies to instruments executed from 1 January 2023 to 31 December 2025, provided that stamping and payment of stamp duty are completed within the extended SVDP period.

At first glance, the extension gives Duty Payers additional time to regularise unstamped or late-stamped instruments. However, the position has become more nuanced following the IRB’s issuance of the Guidelines on the Imposition of Stamp Duty on Instruments Chargeable under the First Schedule of the Stamp Act 1949 (“**New Guidelines**”) on 30 June 2026.

DATO' NITIN NADKARNI
Consultant
nn@lh-ag.com



JASON TAN JIA XIN
Partner
tjx@lh-ag.com



IVY LING YIENG PING
Partner
il@lh-ag.com



CHRIS TOH PEI ROO
Partner
tpr@lh-ag.com



The New Guidelines set out the IRB's current administrative approach to various categories of instruments, including leases, transfers of unlisted shares, transfers of real property, business transfers, assignments, security instruments and instruments falling under general stamping. In doing so, the New Guidelines appear to identify a broader range of instruments which may require stamp duty consideration than what some Duty Payers may have previously understood.

The result is that the SVDP extension should not be viewed merely as extra time to complete an existing review. Rather, it may require Duty Payers to revisit some of the instruments which may have previously been reviewed or treated as not chargeable, exempt, nominally dutiable or low-risk.

A. What the SVDP Extension Means

The Stamp Duty SVDP extension is a significant opportunity for Duty Payers to regularise instruments executed between 1 January 2023 and 31 December 2025.

The IRB has stated that no penalty appeal application is required, and that penalties will be waived automatically upon payment of stamp duty. Instruments stamped under the SVDP will also not be audited, although this does not preclude the IRB from auditing other instruments not stamped under the SVDP. The SVDP does not apply to fraud cases.

In practice, the SVDP may be relevant to, among others:

- financing documents, shareholder loans, intercompany loans and advances;
- service agreements, management agreements and commercial contracts;
- assignments, guarantees, indemnities and undertakings;
- tenancy, lease and licence arrangements;
- business transfer, asset transfer and restructuring documents; and
- documents previously treated as exempt, nominally dutiable or not chargeable without detailed review.

Given the new 31 December 2026 deadline, Duty Payers should not wait until the end of the extended SVDP period before commencing or refreshing their review, particularly where a large volume of historic instruments may need to be assessed.

B. Why A Fresh Review May Be Needed

The key development is not merely that the SVDP has been extended. The New Guidelines may affect how Duty Payers previously understood the stamp duty treatment of their historic and current instruments.

The New Guidelines emphasised that stamp duty is determined based on the contents and legal effect of an instrument, and not merely by its title¹. They also state that the examples of instruments listed are not exhaustive².

[1] Paras. 1.3 & 2.2, Introduction of New Guidelines @ p.2 & 3

[2] Para. 2.1, Introduction of New Guidelines @ p.3

C. Key Observations on the New Guidelines

The New Guidelines cover a wide range of instruments, including leases, share transfers, transfers of real property, business transfers, assignments, security instruments and instruments falling under general stamping.

Our immediate observations focus on two areas with significant practical implications:

- (i) security instruments; and
- (ii) instruments involving the transfer of property or interests in property.

These areas are important because they may affect instruments which businesses have historically treated as ordinary commercial documents or nominally dutiable instruments.

i. Security Instruments

The New Guidelines describe a security instrument as one containing a clear undertaking to create a liability or obligation to pay money, repay money, guarantee payment of money or guarantee repayment of money.³

Significantly, the New Guidelines further state that an instrument need not contain a pledge, charge or other traditional security interest to be regarded as a security instrument. According to the IRB, it is sufficient if the instrument contains an obligation or undertaking to make payment.⁴

This appears to reflect a broad administrative approach by the IRB. In particular, Duty Payers should be careful with instruments that contain payment undertakings, repayment obligations, indemnities, guarantees, set-off arrangements, deferred payment terms, or obligations to make future payments. The Guidelines do not appear to expressly confine the concept of a “security” instrument to documents with fixed repayment periods, specified maturity dates, fixed instalments, periodic payment obligations, or formal security over assets.

In addition to traditional financing and loan documentation, the New Guidelines include an extensive list of examples of instruments which may fall within the security category. These include, among others⁵:

- Service Agreements;
- Property Management Agreements;
- Factoring Agreements;
- Letters of Award;
- Authorised Dealer Agreements and Dealer Agreements;
- Sponsorship Agreements;
- Shareholder Agreements;
- Assignment;
- Deed/Letter of guarantee and indemnity;
- Letters of Undertaking;

[3] Para. 1.1, Section F of New Guidelines @ p.20

[4] Para. 1.3, Section F of New Guidelines @ p.20

[5] Para. 4, Section C of New Guidelines @ p.12

- Letters of Set-Off; and
- various financing, banking and Islamic financing documents⁶.

Some of these instruments, particularly letters of award and letters of undertaking, have historically been regarded by many businesses as ordinary commercial documents and, in practice, were frequently stamped with nominal duty of RM10. Their inclusion in the list of examples under the security category is therefore likely to attract considerable attention from Duty Payers.

This may create uncertainty in cases where an agreement contains payment obligations but is not traditionally regarded as a financing or security document. For example, commercial agreements, service agreements, letters of undertaking, sponsorship agreements, dealer agreements, investment agreements, assignments or indemnities may need to be reviewed carefully to determine whether they merely record commercial obligations, or whether they create a liability, repayment obligation, guarantee or other security-like undertaking for stamp duty purposes.

That said, the inclusion of a particular document type in the New Guidelines does **not**, in our view, automatically determine its stamp duty treatment. As the New Guidelines themselves emphasise, stamp duty is determined by the contents and legal effect of an instrument rather than its title. Accordingly, the critical question remains whether the instrument merely records commercial rights and obligations or whether, properly construed, it creates a liability, repayment obligation, guarantee or other security-like undertaking falling within the First Schedule of the Stamp Act.

ii. Transfer of Property Instrument

Another significant development in the New Guidelines is the IRB's treatment of instruments involving the transfer of property.

The New Guidelines indicate that *ad valorem* stamp duty under Item 32 is not confined to instruments effecting the transfer of legal ownership. Instead, the IRB takes the position that Item 32 may also apply to instruments that have the effect of transferring, assigning or disposing of any property or interest in property, whether a legal interest or any other interest, including a beneficial interest.⁷

The Guidelines further state that where *ad valorem* duty has been paid on an instrument transferring a beneficial interest, a subsequent instrument transferring or registering the corresponding legal title may only attract nominal duty under Item 32(i).⁸

Apart from the conventional Memorandum of Transfer (MOT), the New Guidelines also set out a considerably broader list of examples of instruments which the IRB considers may fall within Item 32. These include, among others:

[6] Para.4, Section F of New Guidelines @ p.21 - 34

[7] Para.1, Section C of New Guidelines @ p.10

[8] Para.2.2, Section C of New Guidelines @ p.11

- Joint Venture Agreement;
- Development Rights Agreement;
- Power of Attorney (being conveyance of real property in consideration of, and creating by way of sale or gift)
- Trust Deeds; and
- Deed of Assignment⁹.

The inclusion of joint venture agreements, development rights agreements and trust deeds is likely to attract attention. Many such agreements have historically been treated in practice as ordinary commercial agreements or nominally dutiable RM10 instruments, unless they clearly effected a transfer of proprietary rights.

In our view, not every joint venture agreement or development rights agreement necessarily constitutes an instrument transferring property for the purposes of Item 32. The critical question remains whether the instrument transfers a proprietary or equitable interest in identifiable property, or merely creates contractual rights and obligations between the parties.

A joint venture agreement or development rights agreement that merely establishes the commercial framework for collaboration or grants contractual rights to undertake a development, without transferring any proprietary or equitable interest in the underlying property, should not fall within Item 32. As the Guidelines themselves recognise, stamp duty is determined by the contents and legal effect of an instrument rather than its title. Each instrument must therefore be analysed on its own terms.

Legal Effect of the New Guidelines

The New Guidelines are important in setting out the IRB's current administrative position. However, they should not be treated as a substitute for the Stamp Act itself.

Although section 76B of the Stamp Act empowers the Collector to issue guidelines to clarify the law or facilitate compliance, it does not, in our view, operate as a charging provision. The Guidelines therefore cannot create, expand or modify stamp duty liability beyond what is prescribed under the Stamp Act and the First Schedule.

Accordingly, while the New Guidelines provide valuable insight into the IRB's administrative approach, they are not determinative of the stamp duty treatment of any particular instrument. Ultimately, liability to stamp duty must be determined by the provisions of the Stamp Act and the legal effect of the instrument concerned.

Conclusion

The extension of the SVDP provides Duty Payers with additional time to regularise past instruments. However, the New Guidelines signify that businesses should not assume that prior reviews or historic stamping positions remain sufficient.

[9] Para. 4, Section C of New Guidelines @ p.12

In short, the SVDP provides the window, but the new Guidelines may broaden the list of instruments that need to be looked at again. Given the breadth of the Guidelines, particularly in relation to security instruments and instruments containing payment obligations, careful legal analysis is recommended before adopting a stamping position.

Should you have any questions on the above, or require assistance on any stamp duty matter, please contact our Tax, Customs & Trade team at tax@lh-ag.com, **Jason Tan Jia Xin** at tjx@lh-ag.com, **Ivy Ling Yieng Ping** at il@lh-ag.com, or **Chris Toh Pei Roo** at tpr@lh-ag.com.

Authors

**ALVIN CHONG
JIAN LOONG**
Associate
jlc@lh-ag.com



**CHARLENE
WOON ZI XUAN**
Associate
wzx@lh-ag.com



Head Office

Level 6, Menara 1 Dutamas
Solaris Dutamas
No. 1, Jalan Dutamas 1
50480 Kuala Lumpur
Malaysia
Tel: +603 6208 5888
Fax: +603 6201 0122

Johor Office

Suite 21.01
21st Floor, Public Bank Tower
No.19, Jalan Wong Ah Fook
80000 Johor Bahru, Johor
Tel: +607 278 3833
Fax: +607 278 2833

Penang Office

51-12-E, Menara BHL Bank,
Jalan Sultan Ahmad Shah,
10050 Penang
Tel: +604 299 9668
Fax: +604 299 9628

Email

enquiry@lh-ag.com

Website

www.lh-ag.com

Published by Tax, Customs & Trade Practice
© Lee Hishammuddin Allen & Gledhill All rights reserved.