

PROPERTY TAXATION ISSUES

Real Property Gains Tax ("RPGT")

Pursuant to Real Property Gains Tax Act 1976 ("RPGT Act"), Real Property Gains Tax (RPGT) is tax charged by the Inland Revenue Board (LHDN) which is imposed on **chargeable gain***R1 derived from the disposal of **chargeable asset***R2 of all types of properties such as residential and commercial buildings, land and shares of real property companies in Malaysia on **chargeable person***R3.

RPGT is imposed on the **net chargeable gain***R4 from disposal of property after deducting the following costs:-

1. **Acquisition Price** (Consideration paid) *R5
2. **Incidental Cost** *R6
3. **Permitted Expenses** *R7

RPGT **tax payable** R8 is net chargeable gain x RPGT Rate.

If the **disposal price***R9 is less than the acquisition price, the result would be an **allowable loss**. An allowable loss which cannot be relieved may be **carried forward for set-off against future gains**. The loss relief calculated as **Allowable loss x RPGT rate**. It can be carried forward infinitely until it fully exhausted.

RPGT is gains derived from disposal, sell, convey, assign, transfer, settle or alienate whether by agreement or by force of law which falls under **chargeable asset**. All chargeable assets must be made during the year of assessment and all particulars must be furnished to the Inland Revenue Board of Malaysia as requested.

Both individuals and companies are subjected to RPGT.

RPGT is also charged on the disposal of shares in a real property company (RPC). An RPC is a company holding real property or shares in another RPC with a value not less than 75% of the value of the company's total tangible assets.

*R1 chargeable gain	=	Disposal Price- Acquisition Price or Consideration Received - Consideration Paid
*R2 chargeable asset	=	Real property (any land situated in Malaysia) and shares in RPC
*R3 chargeable person	=	every person whether or not resident in Malaysia
*R4 net chargeable gain	=	chargeable gain - Exemption Waiver *R10 (RM10,000 or 10% of chargeable gain, whichever is higher)
*R5 Acquisition Price	=	Consideration Paid + Incidental Cost
*R6 Incidental Cost	=	shall consist of expenditure wholly and exclusively incurred by the disposer for the purposes of the acquisition or (as the case may be) the disposal, being:- (a) fees, commission or remuneration paid for the professional services of any surveyor, valuer, accountant, agent or legal adviser; (b) costs of transfer (including stamp duty); (c) in the case of an acquisition, the cost of advertising to find

		a seller and, any interest paid on capital employed to acquire the asset; and (d) in the case of a disposal, the cost of advertising to find a buyer and costs reasonably incurred for the purposes of this Act in making any valuation or in ascertaining market value.
*R7 Permitted Expenses	=	Enhancement cost (construction, extension, renovation)
*R8 tax payable	=	RPGT rate (based on holding period) *RPGT rate table
*R9 Disposal Price	=	Consideration Received - Incidental Cost - Permitted expenses
*R10 Exemption	=	As per Schedule 4 of RPGT 1976

***R10 Exemption**

As per Schedule 4 of the Real Property Gains Tax Act 1976 individual can obtain RPGT exemption base on the following.

- Disposal of **one residential property once in a lifetime (Condition: Citizen or PR of Malaysia, Residential Property, building occupied / fit for occupation, owned by an individual)**
- Transfer as **gifts between family members**. This exemption is only applicable for transfer in between **husband and wife, parent and child, grandparent and grandchild**. Take notes that transfer between sibling, brothers or sisters are **not applicable**.
- Waiver Exemption equivalent to 10% of chargeable gains or RM10,000.00 whichever is higher is not taxable.

The current RPGT rates vary from 0% to 30%, depending on the holding period. The holding period refers to the period between the acquisition date and the disposal date of the property.

To further curb speculative activities, the RPGT rates on disposal of properties and shares in real property companies effective 1 January 2019 shall be as follows:-

Real Property Gains Tax (RPGT rate table)			
Effective from 01.01.2019			
	INDIVIDUAL (Citizen / Permanent Resident)	COMPANY	INDIVIDUAL (Non-citizen)
Disposal in 1 st year	30%	30%	30%
Disposal in 2 nd year	30%	30%	30%
Disposal in 3 rd year	30%	30%	30%
Disposal in 4 th year	20%	20%	30%
Disposal in 5 th year	15%	15%	30%
Disposal in 6 th year and thereafter	5%*	10%	10%

**the increased tax rate in Budget 2019 does not apply to the disposal of low cost, medium low and affordable residential homes at valued below RM200,000.00.*

Pursuant to Section 21B of RPGT Act, a Retention Sum of 3% from the Disposal Price shall be retained by the Purchaser from the Deposit to be held by the Purchaser' Solicitors as stakeholder upon execution of the Sale and Purchase Agreement and the Purchaser' Solicitors shall thereafter remit the Retention Sum to the Director General of Inland Revenue within the stipulated time frame. For a disposal of a Property by Non-citizen or Non-PR, a Retention Sum of 7% from the Disposal Price shall be retained.

The Vendor and the Purchaser has to notify the Sale and Purchase transaction which shall be made in the prescribed CKHT 1A and CKHT 2A forms respectively to the Director General of Inland Revenue within sixty (60) days from the date of the Sale and Purchase Agreement or from the date of approval of the State Authority's Consent, whichever is applicable as hereinafter defined in accordance with the provisions of the Act.

If there is no tax payable, prescribed CKHT 3 has to be submitted to the Director General of Inland Revenue together with CKHT 1A within the same time frame as abovementioned.

For Citizen or Permanent Resident of Malaysia who wish to apply for the Exemption of disposal of one residential property once in a lifetime, Appendix 4 (Lampiran 4 - which is attached in CKHT1A) to be executed by the Vendor and the Vendor shall procure supporting document such as certification of occupation or utilities bill dated before the date of disposal to prove that the said property is residential property. If the Vendor is eligible to get an exemption, no Retention Sum shall be retained from the Deposit.



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