

The TaxSnaps logo, which consists of a solid lime green square to the left of the word "TaxSnaps" in white. The "S" in "Snaps" is stylized with a green underline that extends to the right.

Capital Gains Tax (“CGT”)

Following our earlier TaxSnaps on CGT [<click here>](#), an income tax exemption order has been issued recently, in connection with capital gains from disposal of local companies’ unlisted shares.

Let us go through the details of this exemption.

continued...

Disposal of unlisted shares

Income Tax (Exemption) (No. 7) Order 2023

Under the abovementioned exemption order, the Minister **exempts** the following –

- company,
- limited liability partnership (“LLP”),
- trust body, or
- co-operative society

from the **payment of income tax** in respect of any gains or profits received from the **disposal of shares** of a company incorporated in Malaysia **not listed** in stock exchange.

Exemption period

From 1 January 2024 to 29 February 2024

Non-application

The above exemption shall not apply to gains or profits from the disposal of shares which is chargeable to tax as a business income under section 4(a) of the Income Tax Act 1967.

Our comments

RPC shares

Prior to the introduction of CGT in Malaysia, gains or profits from the disposal of shares in Malaysia is considered a capital gain and hence, not subject to income tax. However, gains or profits from the disposal of real property company (“RPC”) shares are subject to real property gains tax (“RPGT”) under Paragraph 34A, Schedule 2 of the Real Property Gain Tax Act 1976 (“RPGTA”).

With the implementation of CGT, amendment has been made to the provisions in the RPGTA as follows –

*The abovementioned Paragraph 34A, Schedule 2 of the RPGTA shall not apply to an acquisition or a disposal of any shares by a **company, LLP, trust body or co-operative society**, other than a Labuan entity **on or after 1 January 2024**.*

In a nutshell, with the implementation of CGT, RPGT on gains or profits from the disposal of RPC shares by the 4 categories of taxpayers mentioned above is no longer applicable with effect from 1 January 2024.

However, at the time of writing this article and with the 2-month exemption of CGT on disposal of unlisted shares of Malaysian incorporated companies, no reversal was done simultaneously on the amendments made to the abovementioned provisions in the RPGTA. In this connection, there appears to be a “2-month tax holiday period” for gains or profits from the disposal of RPC shares, as well.

Our comments (*cont'd*)

CGT is still applicable for other disposal of capital assets

CGT is still applicable from 1 January 2024 for the following disposal of capital assets –

- Shares of a controlled company incorporated outside Malaysia which owns real property situated in Malaysia or shares of another controlled company or both, subject to certain conditions.
- All types of capital assets situated outside Malaysia (upon remittance into Malaysia).

Let us be of assistance to you

Do reach out to our team of tax experts for a discussion on the abovementioned CGT exemption. We would be more than happy to assist you.

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