

The TaxSnaps logo features a bright green square to the left of the text "TaxSnaps". The word "Tax" is in white, and "Snaps" is in white with a green underline. A small registered trademark symbol (®) is at the end.

Capital Gains Tax (“CGT”)

“2-month exemption” ends this month!

The 2-month exemption of CGT on disposal of unlisted shares of Malaysian incorporated companies ends on 29 February 2024.

Let us go through the CGT implication on disposal of capital assets which are –

- Situated in Malaysia; and
- Situated outside Malaysia.

continued...

Who is chargeable to CGT?

CGT applies to the following categories of taxpayers who receive gains or profits from the disposal of capital asset on or after 1 January 2024 –

Company

Limited liability
partnership

Co-operative
society

Trust body

Capital assets situated in Malaysia

CGT applies to gains on disposal of the following capital assets situated in Malaysia –

- Shares of a company incorporated in Malaysia not listed on the stock exchange.
- 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.

CGT rates for disposal of capital assets situated in Malaysia

Disposal of capital asset situated in Malaysia	CGT rate
Capital asset acquired before 1 January 2024	10% of the chargeable income from the disposal of the capital asset OR 2% of the gross disposal price of the capital asset
Capital asset acquired on or after 1 January 2024	10% of the chargeable income from the disposal of the capital asset

Salient points to take note for disposal of capital assets situated in Malaysia –

- Only gains from disposal of shares mentioned in (a) and (b) above are subject to CGT as gains from disposal of other types of capital assets situated in Malaysia is exempted from tax under Schedule 6 of the Income Tax Act 1967 ("ITA"). However, real property gains tax is still applicable for disposal of real property.
- The normal income tax is applicable for gains from the disposal of shares which is a business income under section 4(a) of the ITA.

CGT administration

- CGT returns must be furnished electronically within 60 days from the date of disposal of the capital asset
- CGT must be paid within 60 days from the date of disposal of capital asset

Effective Date : From 1 March 2024

(stated in the CGT return form filing programme) [<click here>](#)

Capital assets situated outside Malaysia (foreign-sourced)

CGT applies to the disposal of the following capital assets situated outside Malaysia –

- All types of capital assets (upon remittance into Malaysia)*

(*) CGT is only applicable when the gains are received in Malaysia.

CGT rates for disposal of capital assets situated outside Malaysia

Disposal of capital asset situated outside Malaysia	CGT rate
All types of capital assets	At the applicable rate to the company**, LLP, trust body or co-operative society as specified under the ITA on the chargeable income from the disposal of the capital asset

(**) For example, in general, the applicable tax rate for companies is 24%.

Salient points to take note for disposal of capital assets situated outside Malaysia –

- The scope of CGT for disposal of capital assets situated outside Malaysia is wide; as ‘capital assets’ for CGT purposes means movable or immovable property including any rights or interests thereof.
- Gains on disposal of foreign capital assets is only subjected to CGT when remitted into Malaysia. More clarification is required on the reporting mechanism.
- It was mentioned as part of the 2024 Budget Touchpoints that economic substance requirements can be met to exempt foreign-sourced capital gains from CGT. However, further guidance is required on this as this requirement was not stated in the Finance (No. 2) Act 2023..
- Tax relief might be available for foreign-sourced capital gains remitted to Malaysia to provide relief on double taxation.
- It was announced that unit trusts will be exempted from CGT and taxes on foreign sourced income (“FSI”). However, the exemption periods are only from 1 January 2024 to 31 December 2028 for CGT and 1 January 2024 to 31 December 2026 for FSI.

Effective Date : From 1 January 2024

We are hoping that a detailed guidelines on CGT is issued by the tax authority for the affected taxpayers to better understand and comply with the CGT requirements.

Let us be of assistance to you

Do reach out to our team of tax experts for a discussion. As CGT is new in Malaysia, our team at Baker Tilly Malaysia would be able to provide professional advice on certain areas of CGT that require further analysis. For example, it would be advisable to study the CGT impact before remittance into Malaysia of foreign-sourced capital gains arising from disposal of all types of capital assets situated outside Malaysia..

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