



OVERVIEW OF REAL PROPERTY GAINS TAX IN MALAYSIA

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INTRODUCTION



- The first legislation to tax gains from the disposal of real property was introduced via Land Speculation Tax Act (1974)
- The Act was repealed in 1975 and **replaced** with Real Property Gains Tax Act (**RPGTA**) 1976
- RPGTA provide mechanism for taxing capital gains derived from chargeable gains arising from the disposal of **real property** or **shares** in a real property company
- **No RPGT regime**: from 1 April 2007 to 31 December 2009

CONCEPTS & DEFINITON



- ❖ **REAL PROPERTY**”: any land situated in Malaysia and any interest, option or other right in or over such land

- ❖ **Section 2 RPGTA defines land as:**
 - ✓ The surface of the earth and all substances forming that surface
 - ✓ The earth below the surface and substances therein
 - ✓ Buildings on land and anything attached to land or permanently fastened to anything attached to land
 - ✓ Standing timber, trees, crops and other vegetation growing on land
 - ✓ Land covered by water

CHARGEABLE GAINS



- RPGT was payable on the chargeable gains which is the difference between the disposal price and the acquisition price of a real property
- The tax is imposed at scale rates based on the holding period of the asset prior to disposal
- The holding period is measured from the date of acquisition of the property up to the disposal date

ACQUISITION PRICE



Purchase consideration + any incidental costs (or permitted expenses):

- Fees, commission or remuneration paid for professional services
- Cost of transfer (i.e. **stamp duty**)
- Other incidental costs (i.e. **advertising cost to find a seller**)
- Interest paid (not allowable wef 1 January 2010)

DISPOSAL PRICE



- Sale consideration in money **LESS:**
 - The amount of any **expenditure wholly & exclusively** incurred after acquisition for the purpose of **enhancing/ preserving the value**
 - The amount any expenditure wholly & exclusively incurred after acquisition for the **purpose of establishing, preserving or defending the owner title**
 - Incidental costs

DISPOSAL PRICE



- **Incidental costs:**
 - Fees, commission or remuneration paid for the professional services of any surveyor, value, accountant, agent or legal adviser
 - Cost of transfer (i.e. stamp duty)
 - Cost of advertising to find a buyer

DATE OF DISPOSAL AND ACQUISITION



- The date of the written agreement
- If there is **no written agreement**, the date of completion of the disposal
- **Conditional contract**
 - The date the contract was made; or
 - The date when all the condition satisfied
- **Disposal of deceased person's asset**
 - The date of death of the deceased

RATES OF RPGT



DATE OF DISPOSAL	W.e.f January 1 st 2012	W.e.f January 1 st 2013	W.e.f January 1 st 2014
	COMPANY (%)	INDIVIDUAL /PERMANENT RESIDENT (%)	NON CITIZEN (%)
Disposal <u>within 2 years</u> after date of acquisition	10	15	30
Disposal in the <u>3rd year</u> after date of acquisition	5	10	30
Disposal in the <u>4th year</u> after date of acquisition	5	10	20
Disposal in the <u>5th year</u> after date of acquisition	5	10	15
Disposal in the <u>6th year</u> after date of acquisition or thereafter	5	Nil	5

EXEMPTIONS



- An individual will be given exemption **equal to RM10,000 or 10% of the chargeable gain**, whichever is greater;
- An individual who is a Malaysian Citizen or a permanent resident will be given an **once-a-lifetime exemption** on any chargeable gain arising from the disposal of his/her private residence if he/she elects in writing for the exemption to apply to that private residence; and
- Exemption given to transactions in which the disposal price is deemed equal to acquisition price (**no gain no loss**) such as:
 - ✓ Transfers between spouses/family members;
 - ✓ Disposal due to compulsory acquisition; and
 - ✓ Gifts to the government, local authority or charity.

CONCLUSION



- Fiscal policy to curb speculation
- Reduce the pressure in housing prices
- Stabilize the housing prices

CONCLUSION



THANK YOU