



January 2024

CAPITAL GAINS TAX

INTRODUCTION

The Finance (No.2) Act 2023 and Income Tax (Exemption) (No.7) Order 2023 in relation to Capital Gains Tax (CGT) were gazetted on 29 December 2023. We are pleased to share with you some of the key updates on **CGT** which was **effective from 1 January 2024** in this newsletter.

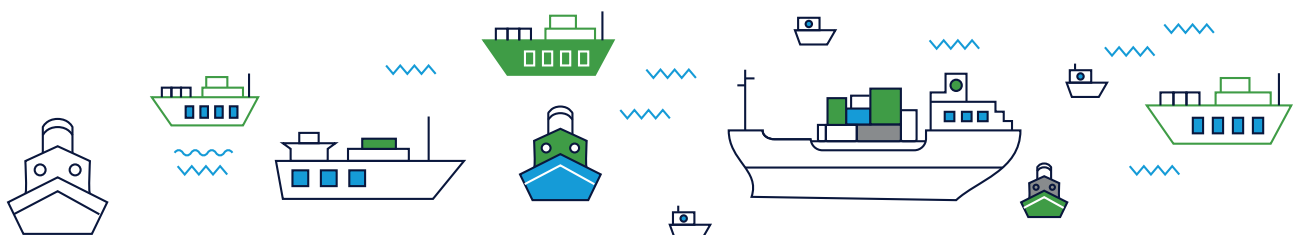
GLOSSARY

Abbreviation / Acronym	Description
CGT	Capital Gains Tax
LLP	Limited Liability Partnership
MITA	Malaysian Income Tax Act 1967
RPGTA	Real Property Gains Tax Act 1976
YA	Year of Assessment

Areas	Key Highlights of CGT
Effective Date	<ul style="list-style-type: none">i. Effective 1 January 2024, gains or profits from disposal of capital asset* are subject to tax under Section 4(aa) of the MITA.ii. For disposal of shares of a company incorporated in Malaysia not listed on the stock exchange, the commencement date is 1 March 2024. Refer Exemptions below. <p><i>*Capital asset means movable or immovable property including any rights or interests thereof.</i></p>



Areas	Key Highlights of CGT															
Scope	i. Capital assets situated in Malaysia: - <ul style="list-style-type: none"> ■ Shares in unlisted companies incorporated in Malaysia ■ Shares in foreign incorporated company deriving value from real property in Malaysia ii. All types of capital assets situated outside Malaysia															
Taxable Persons	i. Companies ii. LLPs iii. Co-operatives iv. Trust bodies (including unit trusts)															
CGT Rates	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #4CAF50; color: white;"> <th style="width: 60%;">Capital assets</th> <th colspan="2" style="width: 40%;">CGT rate (%)</th> </tr> </thead> <tbody> <tr> <td style="background-color: #D9E1F2;">i. Capital assets situated in Malaysia which were acquired</td> <td style="background-color: #D9E1F2;">On chargeable income*</td> <td style="background-color: #D9E1F2;">On gross disposal price</td> </tr> <tr> <td style="background-color: #D9E1F2;">- Before 1 January 2024</td> <td style="background-color: #D9E1F2;">10</td> <td style="background-color: #D9E1F2;">or 2</td> </tr> <tr> <td style="background-color: #D9E1F2;">- On or after 1 January 2024</td> <td style="background-color: #D9E1F2;">10</td> <td style="background-color: #D9E1F2;">Not applicable</td> </tr> <tr> <td style="background-color: #D9E1F2;">ii. All capital assets situated outside Malaysia where income is received in Malaysia from outside Malaysia for disposal of capital asset</td> <td colspan="2" style="background-color: #D9E1F2;">Based on prevailing income tax rate of the taxpayer</td> </tr> </tbody> </table> <p style="color: #4CAF50; font-style: italic;">*Refers to net disposal consideration minus net acquisition consideration minus incidental cost of disposal or acquisition.</p>	Capital assets	CGT rate (%)		i. Capital assets situated in Malaysia which were acquired	On chargeable income*	On gross disposal price	- Before 1 January 2024	10	or 2	- On or after 1 January 2024	10	Not applicable	ii. All capital assets situated outside Malaysia where income is received in Malaysia from outside Malaysia for disposal of capital asset	Based on prevailing income tax rate of the taxpayer	
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Compliance Requirements	CGT return is required to be submitted in a prescribed form electronically and CGT (if any) is required to be paid within 60 days from the date of disposal.															



Areas	Key Highlights of CGT												
Date of Disposal	<p>Date of disposal is ascertained based on: –</p> <table border="1" data-bbox="459 253 1465 801"> <thead> <tr> <th data-bbox="459 253 794 353">i. Written Agreement</th> <th data-bbox="794 253 1129 353">Written Agreement Exists</th> <th data-bbox="1129 253 1465 353">Absence of Written Agreement</th> </tr> </thead> <tbody> <tr> <td data-bbox="459 353 794 477">Date of Disposal</td> <td data-bbox="794 353 1129 477">Date of such written agreement</td> <td data-bbox="1129 353 1465 477">Date of completion* of the disposal</td> </tr> <tr> <th data-bbox="459 477 794 656">ii. Approval by the Government or a State Government</th> <th data-bbox="794 477 1129 656">Approval by the Government or a State Government is required</th> <th data-bbox="1129 477 1465 656">Approval by the Government or a State Government is conditional</th> </tr> <tr> <td data-bbox="459 656 794 801">Date of Disposal</td> <td data-bbox="794 656 1129 801">Date of obtaining such approval</td> <td data-bbox="1129 656 1465 801">Date when the last of all such conditions is satisfied</td> </tr> </tbody> </table> <p><i>*Date of completion means the date on which the ownership of the capital asset disposed of is transferred by the person who disposes the capital asset; or the date on which the whole of the amount or value of the consideration (in money or money's worth) for the transfer has been received by the person who disposes the capital asset, whichever is the earlier.</i></p>	i. Written Agreement	Written Agreement Exists	Absence of Written Agreement	Date of Disposal	Date of such written agreement	Date of completion* of the disposal	ii. Approval by the Government or a State Government	Approval by the Government or a State Government is required	Approval by the Government or a State Government is conditional	Date of Disposal	Date of obtaining such approval	Date when the last of all such conditions is satisfied
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Date of Disposal	Date of obtaining such approval	Date when the last of all such conditions is satisfied											
Exemptions	<p>i. Exemption is given under Paragraph 38, Schedule 6 of the MITA on gains or profits from the disposal of a capital asset situated in Malaysia except for: –</p> <table border="1" data-bbox="459 1256 1442 1491"> <tbody> <tr> <td data-bbox="459 1256 887 1491">Disposal of shares of a company incorporated in Malaysia not listed on the stock exchange; and</td> <td data-bbox="887 1256 1442 1491">Disposal of shares of a controlled company incorporated outside Malaysia which derives value from real property in Malaysia.</td> </tr> </tbody> </table> <p>ii. Based on the Income Tax (Exemption) (No. 7) Order 2023,</p> <ul style="list-style-type: none"> – The Minister exempts* the above taxable persons from payment of income tax in respect of gains or profits received from disposal of shares (made between 1 January 2024 to 29 February 2024) of a company incorporated in Malaysia not listed on the stock exchange. <p><i>* Not applicable to disposal of shares of a company incorporated in Malaysia not listed on the stock exchange where gains or profits from the disposal of shares is chargeable to tax as business income under paragraph 4(a) of the MITA.</i></p>	Disposal of shares of a company incorporated in Malaysia not listed on the stock exchange; and	Disposal of shares of a controlled company incorporated outside Malaysia which derives value from real property in Malaysia.										
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Others	<ul style="list-style-type: none">i. Section 107C of the MITA (Estimate of tax payable and payment by instalment for companies) shall not apply to gains or profits from disposal of capital assets.ii. Each disposal shall be assessed separately and treated as a separate source of gain or profits from disposal of capital assets for that YA.iii. Capital losses can be utilised to offset against the gains from disposal of other capital assets.iv. Unabsorbed capital losses can be carried forward for a maximum period of ten (10) consecutive YAs.v. Acquisition and disposal of RPC shares by the above taxable persons will be subject to MITA instead of RPGTA.



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