



# Crowe Chat

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**Tax**

Audit / Tax / Advisory

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## 1. Stamp Duty and RPGT Exemption Orders

### Introduction

On 5 June 2020, the Malaysian Government unveiled the Short-Term Economic Recovery Plan (PENJANA) to assist the country's economy to recover following the COVID-19 pandemic. In order to boost the property market, PENJANA proposed stamp duty exemption for purchase of residential properties by Malaysian citizens and RPGT exemption for disposal of up to three (3) residential properties by Malaysian citizens.

### New Exemption Orders

In connection with the proposals announced, the following Exemption Orders have been gazetted on 28 July 2020 and are effective from 1 June 2020:

- [Stamp Duty \(Exemption\) \(No. 3\) Order 2020](#)
- [Stamp Duty \(Exemption\) \(No. 4\) Order 2020](#)
- [Real Property Gains Tax \(Exemption\) Order 2020](#)

## 1. Stamp Duty and RPGT Exemption Orders

### Details of the new Exemption Orders

#### Stamp Duty Exemption (No. 3) Order 2020 and Stamp Duty Exemption (No. 4) Order 2020

Stamp duty shall be exempted for the purchase of residential property priced more than RM300,000 but not more than RM2.5 million under the Home Ownership Campaign 2020/2021 for the following instruments:




Loan agreements	Instruments of transfer
Full exemption	Partial exemption: <ul style="list-style-type: none"> <li>- First RM1 million value: exempted</li> <li>- In excess of RM1 million value: 3%</li> </ul>



## 1. Stamp Duty and RPGT Exemption Orders

### Stamp Duty Exemption (No. 3) Order 2020 and Stamp Duty Exemption (No. 4) Order 2020 (cont'd)




Stamp duty exemption will be given, subject to the following conditions:

-  The sale and purchase agreement (SPA) is made between an individual who is a Malaysian citizen or co-purchasers who are Malaysian citizens.
-  The SPA is executed between 1 June 2020 and 31 May 2021 and is stamped at any branch of the Inland Revenue Board of Malaysia (IRBM).
-  The purchase price in the SPA is a price after a discount of at least 10% from the original price offered by the property developer except for a residential property which is subject to controlled pricing.

## 1. Stamp Duty and RPGT Exemption Orders

### Real Property Gains Tax (Exemption) Order 2020

RPGT shall be exempted on the chargeable gain on the disposal of a residential property by an individual who is a Malaysian citizen, subject to the following conditions:

-  The exemption is limited to the disposal of three (3) units of residential properties for each disposer.
-  The SPA or instrument of transfer for the disposal of the residential property is executed between 1 June 2020 and 31 December 2021, and is duly stamped by 31 January 2022.
-  The residential property disposed of is not acquired by way of a transfer between spouses or by way of a gift between spouses, parent and child, or grandparent and grandchild.



## 1. Stamp Duty and RPGT Exemption Orders

### Real Property Gains Tax (Exemption) Order 2020 (cont'd)

Where a contract for the disposal of a residential property is a conditional contract which requires the approval of the government, the RPGT exemption will only be applicable if:

- The contract is executed between 1 June 2020 and 31 December 2021 and is duly stamped by 31 January 2022; and
- The approval of the government is obtained on or after 1 June 2020.



Despite the RPGT exemption, an individual who disposes of a residential property during the relevant period is still required to file the RPGT return (i.e. Form CKHT 1A) and furnish any other information as required under the RPGTA to the IRBM.

## 2. Operational Guidelines 3/2020 – Imposition of penalties under subsection 112(3) of the ITA, subsection 51(3) of the Petroleum (Income Tax) Act 1967, and subsection 29(3) of the RPGTA

### Introduction

The IRBM had previously published Operational Guidelines 5/2019 on 16 October 2019, which explained the penalties imposed on taxpayers that fail to file returns by the prescribed deadlines under the ITA, the Petroleum (Income Tax) Act 1967, and the RPGTA. The Guidelines included the penalty rates depending on the duration of the delay from the statutory filing deadline as follows:

Extent of the delay	Penalty rates
Up to 12 months	15%
More than 12 months to 24 months	20%
More than 24 months	25%



## 2. Operational Guidelines 3/2020 – Imposition of penalties under subsection 112(3) of the ITA, subsection 51(3) of the Petroleum (Income Tax) Act 1967, and subsection 29(3) of the RPGTA

### New Operational Guidelines

The IRBM issued [Operational Guidelines 3/2020 – Imposition of penalties under subsection 112\(3\) of the Income Tax Act 1967 \(ITA\), subsection 51\(3\) of the Petroleum \(Income Tax\) Act 1967, and subsection 29\(3\) of the RPGT Act 1976](#) on 13 August 2020.

### Details of the New Operational Guidelines

The new Operational Guidelines included two (2) new paragraphs to emphasize the following in respect of non-submission of tax returns:

- The IRBM has the right to issue an estimated assessment together with an imposition of penalty; and
- If the tax liability (when the tax return is subsequently submitted) is higher than the estimated assessment, additional penalties will be imposed on the additional taxes.



## 2. Operational Guidelines 3/2020 – Imposition of penalties under subsection 112(3) of the ITA, subsection 51(3) of the Petroleum (Income Tax) Act 1967, and subsection 29(3) of the RPGTA

### Details of the New Operational Guidelines (cont'd)

Penalties on an estimated assessment will be imposed at the following rates:

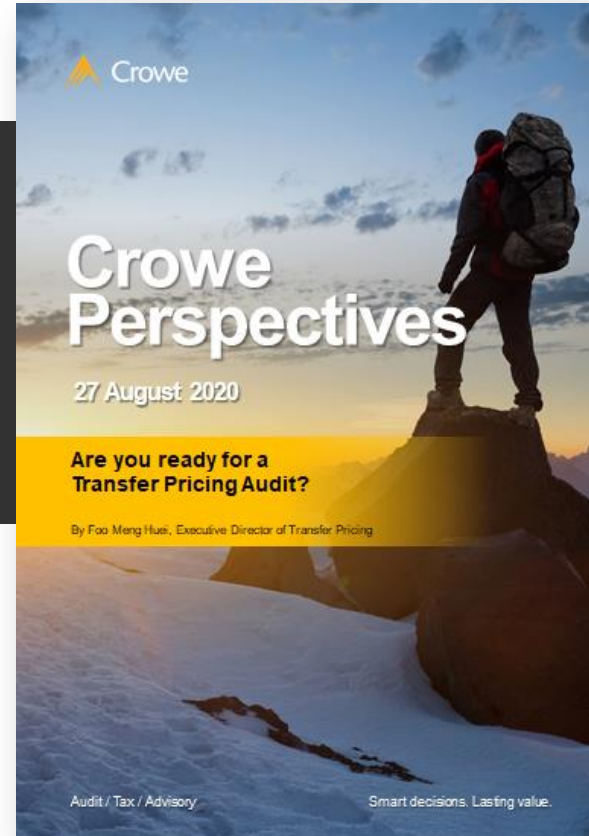
Relevant law	Penalty rates
ITA	45%
Petroleum (Income Tax) Act 1967	45%
RPGTA	25%



# Are You Ready for a Transfer Pricing Audit?

By Foo Meng Huei,  
Executive Director, Transfer Pricing

[Read more](#)



## Start the Conversation with Us

### Corporate Tax Compliance

Foo Meng Huei  
Executive Director  
[menghuei.foo@crowe.my](mailto:menghuei.foo@crowe.my)  
+603 2788 9898 Ext 2501

Voon Yuen Hoong  
Executive Director  
[yuenhoong.voon@crowe.my](mailto:yuenhoong.voon@crowe.my)  
+603 2788 9898 Ext 2522

Wong Man Yee  
Executive Director  
[manyee.wong@crowe.my](mailto:manyee.wong@crowe.my)  
+603 2788 9898 Ext 2519

Liza Ooi Yap Lin  
Director  
[liza.ooi@crowe.my](mailto:liza.ooi@crowe.my)  
+603 2788 9898 Ext 2557

### Tax Advisory

Chong Mun Yew  
Executive Director  
[munyew.chong@crowe.my](mailto:munyew.chong@crowe.my)  
+603 2788 9898 Ext 2523

Mervyn Ong Hean Chong  
Executive Director  
[mervyn.ong@crowe.my](mailto:mervyn.ong@crowe.my)  
+603 2788 9898 Ext 2587

### Indirect Tax

Fam Fui Chien  
Manager  
[fuichien.fam@crowe.my](mailto:fuichien.fam@crowe.my)  
+603 2788 9898 Ext 2504

### Business Outsourcing

Esther Chan  
Manager  
[esther.chan@crowe.my](mailto:esther.chan@crowe.my)  
+603 2788 9898 Ext 2546

### Transfer Pricing

Song Sylvia  
Director  
[sylvia.song@crowe.my](mailto:sylvia.song@crowe.my)  
+603 2788 9898 Ext 2514

### Global Mobility Services

Shalina Binti Jaafar  
Director  
[shalina.jaafar@crowe.my](mailto:shalina.jaafar@crowe.my)  
+603 2788 9898 Ext 2505



## **Our Offices (West Malaysia)**

### **Kuala Lumpur**

Level 16, Tower C,  
Megan Avenue 2,  
12 Jalan Yap Kwan Seng,  
50450 Kuala Lumpur,  
Malaysia

+603 2788 9898 Main  
+603 2788 9899 Fax

Contact: Poon Yew Hoe  
Email: yewhoe.poon@crowe.my

### **Klang**

Suite 50-3, Setia Avenue,  
No. 2, Jalan Setia Prima SU13/S,  
Setia Alam, Seksyen U13,  
40170 Shah Alam,  
Selangor, Malaysia

+603 3343 0730 Main  
+603 3344 3036 Fax

Contact: Michael Ong  
Email: michael.ong@crowe.my

### **Penang**

Level 6, Wisma Penang Garden,  
42 Jalan Sultan Ahmad Shah,  
10050 Penang, Malaysia

+604 227 7061 Main  
+604 227 8011 Fax

Contact: Eddy Chan  
Email: eddywaihun.chan@crowe.my

### **Johor Bahru**

E-2-3 Pusat Komersial Bayu Tasek,  
Persiaran Southkey 1,  
Kota Southkey,  
80150 Johor Bahru,  
Johor, Malaysia

+607 288 6627 Main  
+607 338 4627 Fax

Contact: Patrick Wong  
Email: patrick.wong@crowe.my

### **Melaka**

52 Jalan Kota Laksamana 2/15,  
Taman Kota Laksamana, Seksyen  
2,  
75200 Melaka, Malaysia

+606 282 5995 Main  
+606 283 6449 Fax

Contact: Patrick Wong  
Email: patrick.wong@crowe.my

### **Muar**

8, Jalan Pesta 1/1,  
Taman Tun Dr. Ismail 1,  
Jalan Bakri, 84000 Muar,  
Johor, Malaysia

+606 952 4328 Main  
+606 952 7328 Fax

Contact: Ng Kim Kiat  
Email: kimkiat.ng@crowe.my



## **Our Offices (East Malaysia)**

### **Kuching- iCom Square**

2nd Floor, C378, Block C,  
iCom Square,  
Jalan Pending,  
93450 Kuching, Sarawak, Malaysia

+6082 552 688 Main  
+6082 266 987 Fax

Contact: Kenny Chong  
Email: kenny.chong@crowe.my

### **Kuching- Brighton Square**

2nd Floor, Lots 11994 - 11996,  
Brighton Square,  
Jalan Song,  
93350 Kuching, Sarawak, Malaysia

+6082 285 566 Main  
+6082 285 533 Fax

Contact: Eddie Wee  
Email: eddie.wee@crowe.my

### **Miri**

Lot 2395, Block 4,  
Bulatan Business Park,  
Jalan Bulatan Park,  
98000 Miri, Sarawak, Malaysia

+6085 658 835 Main  
+6085 655 001 Fax

Contact: Matthew Wong  
Email: matthew.wong@crowe.my

### **Bintulu**

1st floor, Lot 4542-4543,  
Jalan Abang Galau Shophouse,  
Kampung Masjid, 97000  
Bintulu, Sarawak, Malaysia

+6086 333 328 Main  
+6086 334 802 Fax

Contact: Lau Hin Siang  
Email: hinsiang.lau@crowe.my

### **Sibu**

1st & 2nd Floor, No. 1 Lorong  
Pahlawan 7A2, Jalan Pahlawan,  
96000 Sibu, Sarawak, Malaysia

+6084 211 777 Main  
+6084 216 622 Fax

Contact: Morris Hii  
Email: morris.hii@crowe.my

### **Sabah**

Damai Plaza 3, 3rd Floor, C11, Jalan  
Damai 88300, P.O. Box 11003,  
88811 Kota Kinabalu, Sabah, Malaysia

+6088 233 733 Main  
+6088 238 955 Fax

Contact: Michael Tong  
Email: michael.tong@crowe.my

### **Labuan**

Lot 36, Block D, Lazenda Centre,  
Jalan OKK Abdullah, P.O. Box  
81599, 87025, Labuan, Malaysia

+6087 417 128 Main  
+6087 417 129 Fax

Contact: Christabel Chieng  
Email: christabel.chieng@crowe.my



## Contact us

Crowe Malaysia PLT  
Level 16, Tower C  
Megan Avenue 2  
12, Jalan Yap Kwan Seng  
50450 Kuala Lumpur  
Malaysia

Tel. +603 2788 9999

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