



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">- First RM1 million value: exempted- In excess of RM1 million value: 3%



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:

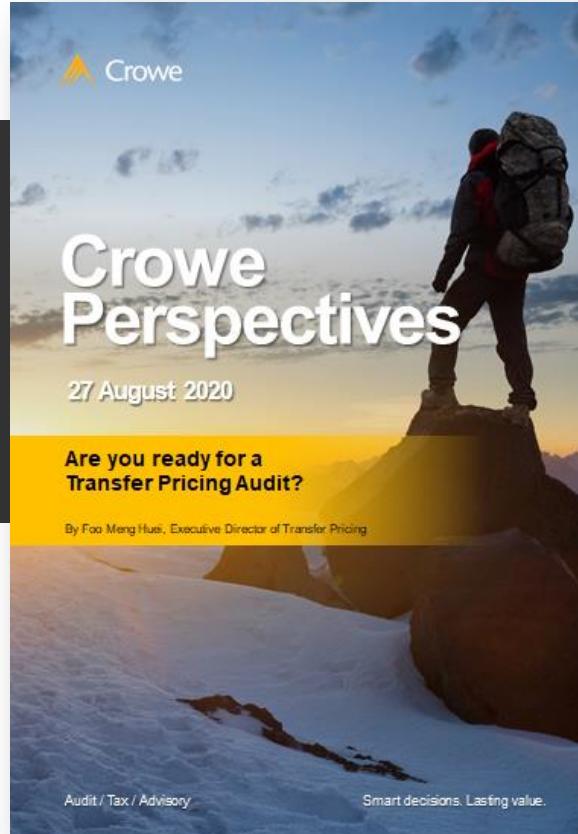
Relevant law	Penalty rates
ITA	45%
Petroleum (Income Tax) Act 1967	45%
RPGTA	25%



Are You Ready for a Transfer Pricing Audit?

By Foo Meng Huei,
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[Read more](#)



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