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TRICOR INSIGHTS

**REAL PROPERTY GAINS TAX &
STAMP DUTY EXEMPTION
UNDER PENJANA**

As announced by the Prime Minister on 5 June 2020, various economic stimulus measures are provided under the Short-term Economic Recovery Plan (PENJANA), with the objective of spurring the nation's economic recovery from the COVID-19 pandemic. Two of these proposed measures are targeted at reviving the residential property sector by way of granting stamp duty and real property gains tax ("RPGT") exemption for sale and purchase transactions.

In connection with this, the following gazette orders were issued on 27 July 2020 and shall take effect retrospectively on 1 June 2020:

- ❖ Stamp Duty (Exemption) (No. 3) Order 2020
- ❖ Stamp Duty (Exemption) (No. 4) Order 2020
- ❖ Real Property Gains Tax (Exemption) Order 2020

Stamp duty exemption

Stamp duty exemption is granted to any instrument of transfer and loan agreement for the purchase of residential property under the Home Ownership Campaign 2020/2021, the market value of which is between RM300,000 and RM2.5 million. "*Residential property*" is defined to mean a house, condominium unit, flat, apartment / service apartment and small-office home office (SOHO), used solely as a dwelling house.

The exemption is given as follows:

- ❖ For sale and purchase agreements ("SPA"), the first RM1 million of the market value of the residential property is exempted. Any amount exceeding RM1 million will be subject to stamp duty at 3%
- ❖ For loan agreements, 100% stamp duty exemption is applicable

Qualifying conditions

- ❖ The SPA for the purchase is executed between the purchaser (i.e. a Malaysian citizen or co-purchasers who are Malaysian citizens) and a registered property developer
- ❖ The loan agreement to finance the purchase is executed between the purchaser and any of the various entities listed in the Stamp Duty (Exemption) (No. 3) Order 2020, which include licensed financial institutions and insurance companies, as well as employers who provide housing loan scheme
- ❖ A discount of at least 10% from the original price is given by the property developer (except for residential property which is subject to controlled pricing)
- ❖ The SPA is executed between 1 June 2020 and 31 May 2021
- ❖ The property developer is registered with the Sabah Housing and Real Estate Developers' Association (SHARED), the Sarawak Housing and Real Estate Developers' Association (SHEDA) or the Real Estate & Housing Developers' Association Malaysia (REHDA)
- ❖ The purchaser must submit a Home Ownership Campaign 2020/2021 certification issued by SHARED, SHEDA or REHDA (as applicable) to the Inland Revenue Board to obtain the exemption

RPGT exemption

RPGT exemption is granted to a Malaysian citizen who disposes residential property (same definition as stated above) owned by him (either solely or jointly) within the period from 1 June 2020 until 31 December 2021.

The exemption is applicable to a maximum of 3 units of residential property. If the disposal exceeds 3 units, the disposer may elect any 3 of the disposals to be exempted and the election so made is irrevocable.

Qualifying conditions

- ❖ The residential property disposed of must not be acquired during the period from 1 June 2020 until 31 December 2021 by way of a transfer between spouses or by way of a gift between spouses, parent and child, or grandparent and grandchild
- ❖ The SPA or instrument of transfer (where there is no SPA) for the disposal is executed between 1 June 2020 and 31 December 2021, and is duly stamped not later than 31 January 2022

Where the contract for the disposal requires the prior approval of the Federal or State Government, the exemption is only granted if:

- ❖ the contract is executed between 1 June 2020 and 31 December 2021, and is duly stamped not later than 31 January 2022; and
- ❖ the said approval is obtained on or after 1 June 2020

Notwithstanding the availability of the exemption, the disposer is still required to file the RPGT return accordingly.

Key comments

- Stamp duty is levied on instruments of transfer for sale of property, at ad-valorem rates ranging from 1% to 4% (on market value exceeding RM1 million). Loan agreements on the other hand is subject to stamp duty at 0.5% on the loan amount.
- The stamp duty exemption available for purchases of residential property under the Home Ownership Campaign 2020/2021 will effectively result in cash savings of up to RM39,000 on the instrument of transfer for property valued at up to RM2.5 million. The cash savings on loan agreements will be up to RM12,500 (for borrowings of up to RM2.5 million). Given the savings, potential home buyers and investors should capitalise on this incentive and start to identify the property to be acquired as the instrument of transfer for the acquisition must be executed not later than 31 May 2021 for the exemption to apply.
- The RPGT rates applicable to disposals of real property by a citizen range from 5% to 30%, depending on the holding period of the property prior to its disposal. The RPGT exemption provided under PENJANA of up to 3 units of residential property is indeed a generous measure aimed at encouraging property owners to dispose of their property assets without having to incur any taxes.
- Both the RPGT and stamp duty exemptions are designed to stimulate the real property market which has been adversely affected by the COVID-19 pandemic. The removal of the 70% loan-to-value ratio on the third housing loan is also a welcomed measure to allow for easier access to obtaining financing. Home buyers and investors are expected to benefit as the exemptions will help reduce their entry and exit costs. Property developers will also stand to gain as the various initiatives should help boost sales of unsold stocks and new property launches.

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