

Common Taxes when Selling or Buying Property in Malaysia (including exemptions and remissions)

This memorandum deals solely with the main taxes applicable to the purchase or sale of property in Malaysia, and states the legal position as at 25.6.2020. Other aspects relating to such transactions, such as regulatory or ministry approvals, levies or fees imposed by the relevant state authority to grant consent for the purchase of property by a foreigner, and taxes and levies applicable to the ownership of property, are not addressed in this memorandum and legal advice should be sought on these matters.

I. MALAYSIAN

A. Buying Property

1) Stamp Duty

- i. Sale and Purchase Agreement: RM10 per copy
- ii. Memorandum of Transfer (“MOT”)

Calculated according to the following tiers based on the value of the property as assessed by the Stamp Office:

Tier of Property Value (as assessed by the Stamp Office)	Stamp Duty Rates
First RM100,000	1%
Next RM400,000 (RM100,001 – RM500,000)	2%
Next RM500,000 (RM500,001 – RM1,000,000)	3%
Above RM1,000,000	4%

For example, for a property valued at RM1,500,000, the calculation for the MOT stamp duty is as follows:

$$(First\ RM100,000 \times 1\%) + (Next\ RM400,000 \times 2\%) + (Next\ RM500,000 \times 3\%) + (Remaining\ RM500,000 \times 4\%) = \mathbf{RM44,000}$$

- iii. Loan/Facility Agreement: 0.5% of the loan/facility sum

2) Stamp Duty - Exemptions and Remissions

Category	Requirements	Stamp Duty Exemptions/ Remissions
<u>Purchase Price</u> RM300,000 or below	<ul style="list-style-type: none"> • SPA dated 1.1.2019 – 31.12.2020 • Purchase of residential property • Malaysian citizen • First time home buyer 	Full exemption of stamp duty on MOT or Deed of Assignment * Stamp Duty (Exemption) (No. 6) Order 2018 (P.U.(A) 377/2018)

		<p>Full exemption of loan/facility agreement stamp duty</p> <p>* Stamp Duty (Exemption) (No.4) Order 2018 (P.U.(A) 321/2018)</p>
<p><u>Purchase Price</u> More than RM300,000 but not more than RM500,000</p>	<ul style="list-style-type: none"> • SPA dated 1.1.2019 – 31.12.2020 • Purchase of residential property • Malaysian citizen • First time home buyer 	<p>Remission of RM5,000 of MOT stamp duty</p> <p>* Stamp Duty (Remission) Order 2019 (P.U.(A) 49/2019)</p>
<p><u>Purchase Price</u> More than RM300,000 but not more than RM500,000</p>	<ul style="list-style-type: none"> • SPA dated 1.7.2019 – 31.12.2020 • Purchase of residential property • Malaysian citizen • First time homeowner 	<p>Remission of RM1,500 of loan/facility agreement stamp duty</p> <p>* Stamp Duty (Remission) Order 2018 (P.U.(A) 320/2018)</p>
<p><u>Purchase Price</u> More than RM300,000 but not more than RM2,500,000 (before 10% discount)</p>	<ul style="list-style-type: none"> • SPA dated 1.6.2020 – 31.5.2021 • Purchase of residential property <p>* The above requirements are subject to the actual wording of the subsidiary legislation which has yet to be gazetted. If it follows the requirements of the Home Ownership Campaign (HOC) implemented previously, the exemption is only applicable to purchase of residential property from a housing developer, and the property must be registered with the Real Estate & Housing Developers' Association (REHDA) Malaysia</p>	<p>Partial exemption of MOT stamp duty up to the first RM1,000,000 (maximum saving of RM24,000)</p> <p>* Pursuant to the economic stimulus package named the Pelan Jana Semula Ekonomi Negara (PENJANA) announced by the Prime Minister of Malaysia on 5 June 2020</p>
<p><u>Purchase Price</u> Not more than RM500,000</p>	<ul style="list-style-type: none"> • SPA dated 1.1.2020 – 31.12.2022 • Purchase under Rent-to-Own Scheme • Purchase of residential property • First time homeowner • Malaysian citizen • Rent-to-Own agreement between financial institution for the rental of the residential property is executed between 1.1.2020 – 31.12.2022 • Period of rental under Rent-to-Own agreement does not exceed five (5) years 	<p>Full exemption of stamp duty on MOT or Deed of Assignment</p> <p>* Stamp Duty (Exemption) (No. 4) Order 2019 (P.U.(A) 394/2019)</p>

East Coast Economic Region	<ul style="list-style-type: none"> Instrument dated 13.6.2008 - 31.12.2020 Transfer of real property for purposes of carrying on a qualifying activity (as provided in Stamp Duty Exemption) (No.2) Order 2016) The qualifying activity must be carried on in the East Coast Economic Region and is approved by the Minister 	<p>Full exemption on all instruments chargeable with ad valorem duty</p> <p>* Stamp Duty Exemption) (No.2) Order 2016 (P.U.(A) 164/2016)</p>
Love and Affection	<ul style="list-style-type: none"> Transfer <i>inter vivos</i> between husband and wife 	<p>Full exemption of MOT stamp duty</p> <p>* Stamp Duty (Exemption) (No.10) Order 2007 (P.U.(A) 420/2007)</p>
Love and Affection	<ul style="list-style-type: none"> Transfer <i>inter vivos</i> between parent and child Recipient is a Malaysian citizen Instrument of transfer executed on or after 1 January 2020 	<p>Partial exemption of 50% MOT stamp duty</p> <p>* Stamp Duty (Remission) (No.2) Order 2019 (PU(A) 369/2019)</p>
State Housing Loan Fund	<ul style="list-style-type: none"> Home financing facility granted under a state housing loan fund (as provided under the Financial Procedure Act 1957) 	<p>Full exemption of stamp duty on all instruments</p> <p>* Stamp Duty (Exemption) (No.2) Order 2018 (P.U.(A) 258/2018)</p>
Public Sector Home Financing	<ul style="list-style-type: none"> Home financing facility granted under the Public Sector Home Financing Board Act 2015 or Housing Loans Fund Act 1971 	<p>Full exemption of stamp duty on all instruments in relation to facility</p> <p>* Stamp Duty (Exemption) Order 2017 (P.U.(A) 40/2017)</p>

B. Selling Property

1) Real Property Gains Tax (RPGT)

RPGT is a capital gains tax levied by the Inland Revenue Board on chargeable gains derived from the **disposal** of property.

Period of Disposal (from acquisition date)	RPGT Rates for Malaysian Citizen & Permanent Resident
Disposal within 3 years	30%
Disposal in the 4 th year	20%
Disposal in the 5 th year	15%
Disposal in the 6 th and subsequent years	5%

The chargeable gain is calculated as follows:

$$\text{Chargeable Gain} = \text{Disposal Price} - \text{Previous Purchase Price} - \text{Permitted Expenses}$$

To compute the RPGT, where a chargeable asset disposed of by a seller was acquired by him prior to 1 January 2013, the acquisition price of the seller shall be the market value of the asset as at 1 January 2013.

2) RPGT - Exemptions and Remissions

i. One-Time Remission

Under the RPGT Act, a Malaysian citizen or permanent resident is entitled to a full exemption in respect of the disposal of one private residence. This exemption may only be used once.

ii. 10% or RM10,000 Exemption

Under the RPGT Act, where an individual disposes a property, an amount of 10% or RM10,000, whichever is greater, in respect of the gains shall be exempted.

iii. Love and Affection

Where a transfer is effected between the following parties for love and affection, no RPGT will be chargeable:

- a. between spouses;
- b. between parent - child; and
- c. between grandparents - grandchildren.

iv. PENJANA

Under the PENJANA stimulus package, gains arising from disposal of up to three (3) residential properties by Malaysian citizens between 1.6.2020 to 31.12.2021 will be exempted from RPGT.

v. Node Medini

- a. Where an individual acquires from a developer a whole building or a part of a building or a parcel of a building for residential and/or commercial purposes in the Node Medini, RPGT shall be exempted provided that the property is acquired between 1.1.2010 - 31.12.2020.

Real Property Gains Tax (Exemption) Order 2018 (P.U.(A) 368/2018)

- b. Where an Iskandar Development Region status company (as detailed in the Order) acquires from a developer a whole building or a part of a building or a parcel of a building for residential and/or commercial purposes in the Node Medini, RPGT shall be exempted provided that the property is acquired between 1.1.2010 - 31.12.2020.

Real Property Gains Tax (Exemption)(No.2) Order 2018 (P.U.(A) 369/2018)

vi. Low Cost

Where an individual who is a citizen disposes a property after the 6th year of the acquisition and at the price of not more than RM200,000, RPGT shall be exempted provided that the disposal is done on or after 1.1.2019.

II. NON-MALAYSIAN

A. Buying Property

1) *Minimum Purchase Price*

In Malaysia, land matters are state prerogative and hence, state authorities have powers to decide the minimum purchase price for different types of property which may be acquired by a foreigner.

States	Minimum Purchase Price			
	Building (Residential)	Building (Commercial)	Industrial	Agriculture
Selangor	Zone 1*: RM2,000,000 Zone 2*: RM2,000,000 Zone 3*: RM1,000,000	RM3,000,000	RM3,000,000	-
Wilayah Persekutuan Kuala Lumpur	RM1,000,000**	RM1,000,000	RM1,000,000	RM1,000,000 and at least 5 acres for: 1. agricultural activities on commercial scale using modern technology; 2. agro-tourism projects; 3. agricultural or agro-based industrial activities for production of goods for export.
Johor	RM1,000,000	RM1,000,000	RM1,000,000	<u>Lease Only</u> RM1,000,000 or land size of more than 15 acres (whichever is higher) for: 1. agricultural activities on commercial scale using modern technology; 2. agro-tourism projects; 3. agricultural or agro-based industrial activities for

				production of goods for export; or 4. lease period of 10 years and above; or 5. registered under a locally incorporated company.
Melaka	<u>Strata:</u> RM500,000 <u>Landed:</u> RM1,000,000	<u>Strata:</u> RM500,000 <u>Landed:</u> RM1,000,000	RM1,500,001	<u>Lease Only</u> RM1,000,000 or land size of more than 15 acres (whichever is higher)
Penang	Penang Island <u>Strata:</u> RM1,000,000 <u>Landed:</u> RM3,000,000 Seberang Perai <u>Strata:</u> Individual: RM500,000 Company: RM1,000,000 <u>Landed:</u> RM1,000,000	Penang Island <u>Strata:</u> RM1,000,000 <u>Landed:</u> RM3,000,000 Seberang Perai <u>Strata:</u> Individual: RM500,000 Company: RM1,000,000 <u>Landed:</u> RM1,000,000	Penang Island <u>Strata:</u> RM1,000,000 <u>Landed:</u> RM3,000,000 Seberang Perai <u>Strata:</u> Individual: RM500,000 Company: RM1,000,000 <u>Landed:</u> RM1,000,000	Not allowed to own agriculture land unless with approval which will be given under certain circumstances: 1. at least 5 acres; 2. agricultural activities using modern technology
Pahang	RM1,000,000 and not freehold land	RM1,000,000 and not freehold land	RM1,000,000 and not freehold land	RM1,000,000 and not freehold land
Negeri Sembilan	Zone 1#: RM2,000,000 Zone 2#: RM1,000,000 (Strata and Landed Strata only)	RM2,000,000 (Leasehold property only)	RM2,000,000 (Leasehold property only AND factory operator is registered with the Ministry of International Trade and Industry)	Not allowed
Perak	Zone 1##: <u>Landed:</u> RM1,000,000 <u>Strata:</u> RM900,000 <u>Landed Strata:</u> RM1,000,000 Zone 2##: <u>Landed:</u> RM900,000	Zone 1##: RM240 per square foot (with a minimum purchase price of RM1,000,000) Zone 2##: RM240 per square foot	Zone 1##: RM240 per square foot (with a minimum purchase price of RM1,500,000) Zone 2##: RM240 per square foot	Zone 1##: RM1,000,000 (only Homestead) Zone 2##: RM1,000,000 (only Homestead) Zone 3##: RM800,000 (only Homestead)

	<u>Strata:</u> RM800,000 <u>Landed Strata:</u> RM900,000	(with a minimum purchase price of RM1,000,000)	(with a minimum purchase price of RM1,500,000)	
	Zone 3##: <u>Landed:</u> RM800,000 <u>Strata:</u> RM650,000 <u>Landed Strata:</u> RM650,000	Zone 3##: RM190 per square foot (with a minimum purchase price of RM800,000)	Zone 3##: RM190 per square foot (with a minimum purchase price of RM900,000)	

*Zone 1: Daerah Petaling, Daerah Gombak, Daerah Hulu Langat, Daerah Sepang, Daerah Klang

*Zone 2: Daerah Kuala Selangor, Daerah Kuala Langat

*Zone 3: Daerah Hulu Selangor, Daerah Sabak Bernam

**During the Budget 2020, the Malaysian Government announced that the foreign ownership threshold for high rise properties in urban areas is lowered to RM600,000 for one year.

#Zone 1: Seremban, Port Dickson, Jempol

#Zone 2: K.Pilah, Rembau, Jelebu, Tampin

##Zone 1: Majlis Bandaraya Ipoh

##Zone 2: Majlis Perbandaran Manjung, Majlis Perbandaran Taiping, Majlis Perbandaran Teluk Intan

##Zone 3: Majlis Perbandaran Kuala Kangsar, Majlis Daerah Kerian, Majlis Daerah Batu Gajah, Majlis Daerah Perak Tengah, Majlis Daerah Kampar, Majlis Daerah Tapah, Majlis Daerah Tanjung Malim, Majlis Daerah Pangkalan Hulu, Majlis Daerah Gerik, Majlis Daerah Lenggong, Majlis Daerah Selama

Please note that there could be minimum purchase price requirements and restrictions on the types of property that may be purchased by a foreigner in the other States of Malaysia not mentioned above.

2) Stamp Duty

- i. Sale and Purchase Agreement: RM10 per copy
- ii. Memorandum of Transfer (“MOT”)

Calculated according to the following tiers based on the value of the property as assessed by the Stamp Office:

Tier of Property Value (as assessed by the Stamp Office)	Stamp Duty
First RM100,000	1%
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For example, for a property valued at RM1,500,000, the calculation for the MOT stamp duty is as follows:

$$(First\ RM100,000 \times 1\%) + (Next\ RM400,000 \times 2\%) + (Next\ RM500,000 \times 3\%) + (Remaining\ RM500,000 \times 4\%) = \mathbf{RM44,000}$$

- iii. Loan/Facility Agreement: 0.5% of the loan/facility sum

B. Selling Property

Real Property Gains Tax

RPGT is a capital gains tax levied by the Inland Revenue Board on chargeable gains derived from the **disposal** of property.

Period of Disposal (from acquisition date)	RPGT Rates for Non-Malaysian Citizen / Non-Permanent Resident
Disposal within 3 years	30%
Disposal in the 4 th year	30%
Disposal in the 5 th year	30%
Disposal in the 6 th and subsequent years	10%

The chargeable gain is calculated as follows:

$$\text{Chargeable Gain} = \text{Disposal Price} - \text{Previous Purchase Price} - \text{Permitted Expenses}$$

To compute the RPGT, where a chargeable asset disposed of by a seller was acquired by him prior to 1 January 2013, the acquisition price of the seller shall be the market value of the asset as at 1 January 2013.

It should be noted that the exemptions given under the PENJANA stimulus package seems to be applicable to only Malaysian citizens. As such, any gains arising from disposal of properties by non-citizens between 1.1.2020 to 31.12.2021 **will be subject to RPGT**.

If you have any queries on the above, please contact our Ms. Jesy Ooi (Partner) at jesy.ooi@skrine.com or Ms. Seen Qin Ying (Associate) at seen.qin.ying@skrine.com.

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