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In this issue

- Gazette orders for Real Property Gains Tax (RPGT) and stamp duty exemption under PENJANA
- Labuan entities carrying on pure equity holding activities - Labuan FSA circular
- Guidelines for Fund for Management of House of Worship, and Welfare and Education Fund

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Gazette orders for Real Property Gains Tax (RPGT) and stamp duty exemption under PENJANA

Following the announcement of the short-term Economic Recovery Plan (PENJANA) on 5 June 2020, gazette orders have been issued for the following proposals:

- RPGT exemption for disposal of residential property
- Stamp duty exemption for residential property purchased under the Home Ownership Campaign 2020/2021



RPGT exemption for disposal of residential property

The proposal to exempt individuals from RPGT is gazetted through the Real Property Gains Tax (Exemption) Order 2020, the salient points of which are:

- RPGT is exempted on the gains from disposal of up to 3 residential properties on or after 1 June 2020 until 31 December 2021 (“exemption period”) by a Malaysian citizen.
- Where the individual disposes of more than 3 units of residential properties, an irrevocable election of any 3 of the properties disposed of for the purpose of this exemption may be made by the disposer.
- Qualifying conditions:
 - a. Where there is a sale and purchase agreement (SPA), the SPA must be executed during the exemption period and duly stamped not later than 31 January 2022.
 - b. Where there is no SPA, the instrument of transfer must be executed during the exemption period and is duly stamped not later than 31 January 2022.
 - c. If the disposal is conditional on the approval of the Federal or State government, such approval must be obtained on or after 1 June 2020.
- Exclusion:

The residential property disposed must not be acquired within the exemption period:

 - i. by way of transfer between spouses, or
 - ii. by way of gift between spouses, parent and child, or grandparent and grandchild where the donor is a citizen.

RPGT exemption for disposal of residential property (con't)

- Residential property means a house, a condominium unit, an apartment or a flat in Malaysia, and includes a service apartment and a small office home office (SOHO), owned by an individual, jointly or solely, which is used only as a dwelling house.
- The disposer has to comply with the requirements to submit any return or furnish any other information as required under the RPGT Act 1976.

Stamp duty exemption for residential property purchased under the Home Ownership Campaign 2020/2021

The following stamp duty exemption orders have been gazetted for the above. Salient points of the exemptions are as follows:

Stamp Duty (Exemption) (No 3) Order 2020		Stamp Duty (Exemption) (No 4) Order 2020	
Instrument exempted from stamp duty	Loan agreement between an <u>individual</u> and financiers listed in the Order, licensed co-operative societies and employers providing housing loan schemes.	Instrument of transfer between an <u>individual</u> and registered property developers as stated in the Order.	
Rate of exemption	Full exemption	Partial exemption as follows:	
		Value of property	Stamp duty rate
		First RM1 million	Exempted
		Balance in excess of RM1 million	RM3 for every RM100
Type of property	Home Ownership Campaign 2020/2021 certified residential property which is acquired directly from a registered property developer		
Registered property developer	A property developer registered with the Real Estate and Housing Developers' Association (REHDA) Malaysia, Sabah Housing and Real Estate Developers Association (SHAREDADA) or Sarawak Housing and Real Estate Developers' Association (SHEDA)		

Stamp duty exemption for residential property purchased under the Home Ownership Campaign 2020/2021 (con't)

	Stamp Duty (Exemption) (No 3) Order 2020	Stamp Duty (Exemption) (No 4) Order 2020
Individual	A purchaser or co-purchasers of a residential property who are Malaysian citizens.	
Value of property	More than RM300,000 to RM2.5 million	
Date of purchase	SPA executed between the individual and registered property developer during the period from 1 June 2020 to 31 May 2021	
Discount requirement	A minimum of 10% discount from the original price offered must be given (except for properties which are subject to controlled pricing) to qualify for the above exemption.	
Residential property	A house, a condominium unit, an apartment or a flat, purchased or obtained solely to be used as a dwelling house, and includes a service apartment and a SOHO for which the property developer has obtained the required license.	



Labuan entities carrying on pure equity holding activities - Labuan FSA circular

Further to the issuance of the Labuan Business Activity Tax (Exemption) Order 2020 as reported in [TaXavvy 39/2020](#), the Labuan FSA has issued a circular dated 5 June 2020.

The Labuan Business Activity Tax (Exemption) Order 2020 exempts Labuan entities which carry on a Labuan business activity related to pure equity holding from the requirements to have adequate number of full-time employees in Labuan. The exemption takes effect retrospectively from 1 January 2019.

The Labuan FSA circular dated 5 June 2020 clarifies that whilst a Labuan entity which undertakes pure equity holding activities is exempted from the full time employees requirements as stipulated in the Labuan Business Activity Tax (Exemption) Order 2020, the entity is still required to comply with the “management and control” requirement. This requirement will be announced by Labuan FSA in due course.



Guidelines for Fund for Management of House of Worship, and Welfare and Education Fund

The Inland Revenue Board (IRB) has issued guidelines on the application under section 44(6) of the Income Tax Act 1967 for the following funds:

- Fund for Management of House of Worship
- Welfare and Education Fund

Fund for Management of House of Worship

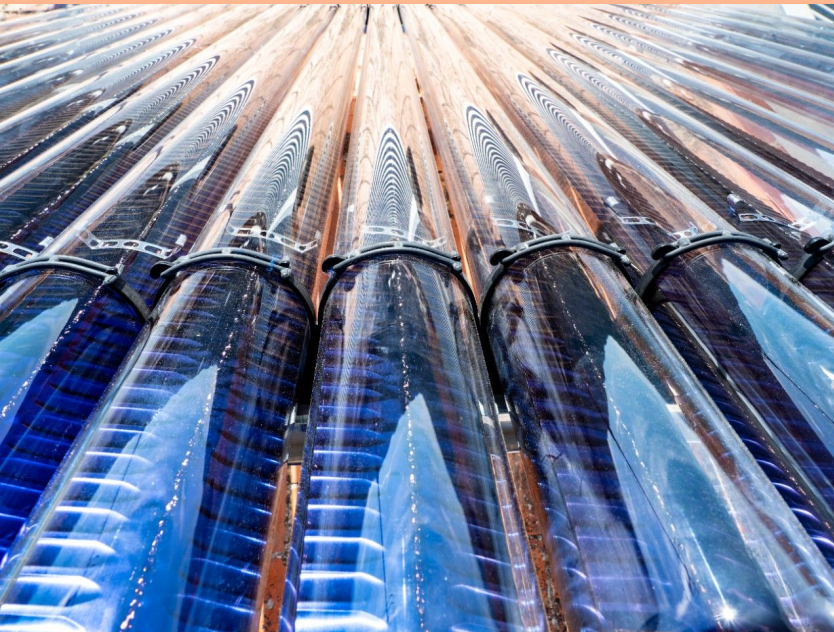
The new guidelines dated 15 July 2020 replace the earlier guidelines on Fund for Management of House of Worship dated 1 July 2013. The guidelines explain the qualifying criteria, application procedure, responsibilities of the committee managing the fund, details of the approval granted under section 44(6), compliance obligations, consequences of breach of conditions of approval, approval period and application for an extension, and tax relief for contributors / donors.

Welfare and Education Fund

This is a new guideline for Welfare and Education Funds which are established as an alternative in a situation where the institution / organisation is unable to obtain section 44(6) approval because its objectives are too general, wide and varied for section 44(6) approval purposes. Salient points of the guidelines are:

- The fund's objective is to address the difficulties of Malaysian citizens or for the development of education in Malaysia regardless of race, religion and ancestry.
- The committee members of the fund must comprise of more than 50% outsiders. However, the minimum percentage of outsiders for committee members of funds operated by a company limited by guarantee and institutions / organisations registered with the Registrar of Societies is 50% and 30% respectively.
- The approval criteria and responsibilities of the committee members are similar to other section 44(6) approved funds, which include the requirement to maintain separate bank accounts, issue official receipts for contribution / donations received, submit audited financial statements of the fund together with a list of donors who have made contributions of RM20,000 and above to IRB by 30 April of each year.
- The approval is for a period of 5 years and application for extension has to be made within 6 months prior to the expiry of the approval.
- Individuals and companies are eligible for a tax relief for cash contributions made to the fund, up to a maximum of 10% of their aggregate income.

The guidelines are available on IRB's website www.hasil.gov.my (Legislation > Technical guidelines).



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