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Commencement date of Capital Gains Tax (CGT) for shares in unlisted companies incorporated in Malaysia

The Income Tax (Exemption) (No. 7) Order 2023 ("Exemption Order") was gazetted today. The Exemption Order provides exemption from CGT made by companies, limited liability partnerships, trust bodies and co-operative societies on disposal of shares of a company incorporated in Malaysia which is not listed on the stock exchange ("unlisted shares").

The exemption applies for disposals of unlisted shares made on or after 1 January 2024 to 29 February 2024.

The exemption does not apply to a disposal where the gain or profit is treated as business income under section 4(a) of the Income Tax Act 1967.

Commentary

Under the Budget 2024 proposal, it was announced that CGT will be imposed on gains from the following:

- Disposal of shares in unlisted companies incorporated in Malaysia (refer [TaXavvy Budget 2024 Edition](#) for details)
- Remittance into Malaysia of gains from disposal of capital assets situated outside Malaysia (refer [TaXavvy Issue 21/2023](#) for details)

The commencement date for both the above was announced as 1 March 2024.

Subsequently, the Finance (No. 2) Bill 2023 ("Finance Bill") which was tabled in Parliament on 7 November 2023 (refer [TaXavvy Budget 2024 Edition \(Finance \(No. 2\) Bill 2023\)](#)) indicated a commencement date of 1 January 2024. The Finance (No. 2) Act 2023 which was gazetted today adopted the same commencement date of 1 January 2024.

The change to an earlier commencement date appeared to be an alignment to the EU Code of Conduct Group (Business Taxation) requirements in relation to foreign-sourced capital gains for all applicable jurisdictions (including Singapore and Hong Kong SAR), from 1 January 2024.

The Exemption Order is now issued to provide tax exemption for disposal of unlisted shares during the period from 1 January 2024 to 29 February 2024. Therefore, the commencement date for CGT on unlisted shares is effectively maintained on 1 March 2024, as announced under Budget 2024.

CGT in relation to gains from disposal of capital assets situated outside Malaysia which is remitted into Malaysia shall be taxable with effect from 1 January 2024, as per the Finance (No. 2) Act 2023.

Have questions?

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