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## Commencement date of Capital Gains Tax (CGT) for shares in foreign incorporated company deriving value from real property in Malaysia

The Income Tax (Exemption) (No. 2) Order 2024 (“2024 Order”) was gazetted today. The 2024 Order provides exemption from CGT made by companies, limited liability partnerships (LLP), trust bodies and co-operative societies on disposal of shares deriving value from real property in Malaysia under section 15C of the Income Tax Act 1967 (“section 15C shares”)

The exemption applies for disposals of section 15C 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

Similar exemption was given for disposal of shares of a company incorporated in Malaysia which is not listed on the stock exchange (“unlisted shares”) under the Income Tax (Exemption) (No. 7) Order 2023 (“2023 Order”) which was gazetted on 29 December 2023 (refer [TaXavvy 30/2023](#)). The scope of the 2023 Order does not cover section 15C shares.

The Inland Revenue Board had, subsequent to the issuance of the 2023 Order, stated via its CGT Filing Programme that companies, LLPs, co-operatives and trust bodies are also exempt from CGT for disposals of section 15C shares from 1 January 2024 to 29 February 2024 (refer [TaXavvy 4/2024](#)). It was a welcomed move to have a consistent treatment for section 15C shares since a disposal of section 15C shares is akin to an indirect disposal of unlisted shares. The 2024 Order is now issued to provide force of law for the exemption.

With the above, the commencement date of CGT for both unlisted shares and section 15C shares are effectively maintained on 1 March 2024, as announced under Budget 2024 as disposals made from 1 January 2024 to 29 February 2024 qualify for exemption.

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

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