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Stamp Duty and RPGT Exemptions Under 'PENJANA'

On 5 June 2020, the Prime Minister announced various tax measures under "PENJANA" to boost the economy following the COVID-19 pandemic. Two of the proposed tax measures that have attracted significant attention are the stamp duty exemption for purchase of residential property and the Real Property Gains Tax (RPGT) exemption for disposal of residential property. On 28 July 2020, the Minister of Finance (**Minister**) issued three exemption orders on the application of the exemptions with effect from 1 June 2020.

At the outset, "residential property" has been defined under the exemption orders to include house, condominium unit, apartment, service apartment and small office home office (SOHO) which is purchased or obtained or, in the context of RPGT exemption, used only as a dwelling house.

Stamp duty exemption

The Minister issued two exemption orders in respect of the stamp duty exemption. The exemption orders, which may be viewed [here](#) and [here](#), provide that:

- (a) The stamp duty exemption is applicable to all instruments of transfer and loan agreements for the purchase of residential property under the Home Ownership Campaign 2020/2021, the value of which is between RM300,000 and RM2.5 million. For stamp duty exemption on an instrument of transfer, the value of the residential property shall be based on the market value.
- (b) The stamp duty exemption will only be applicable if:
 - (i) The sale and purchase agreement (**SPA**) for the purchase of the residential property is between an individual and a property developer;
 - (ii) A discount of at least 10% from the original price is

offered by the property developer (except for residential property, which is subject to controlled pricing);

- (iii) The SPA is executed between 1 June 2020 and 31 May 2021 and is stamped at any branch of the Inland Revenue Board;
 - (iv) The individual submits a Home Ownership Campaign 2020/2021 Certification issued by one of the following to the Inland Revenue Board:
 - *Sabah properties*: Sabah Housing and Real Estate Developers Association (**SHARED**A);
 - *Sarawak properties*: Sarawak Housing and Real Estate Developers' Association (**SHEDA**); or
 - *Peninsular Malaysia properties*: Real Estate & Housing Developers' Association Malaysia (**REHDA**);
 - (v) The individual is a Malaysian citizen or co-purchaser of a residential property with a Malaysian citizen; and
 - (vi) The property developer is registered with SHARED
- (c) In respect of the instrument of transfer, the stamp duty exemption is applicable only to stamp duty on the first RM1 million of the value of the residential property. A stamp duty of RM3 will be imposed for every RM100 of the balance amount which is beyond RM1 million.
- (d) In respect of the loan agreement, the stamp duty exemption is applicable only to a loan agreement executed between the individual named in the SPA and one of the entities listed in paragraph 2(1) of the Stamp Duty (Exemption) (No 3) Order 2020, which include licensed banks, insurers and any employer who provides an employee housing loan scheme.

RPGT exemption

The Minister made an exemption order in respect of the RPGT exemption. The exemption order may be viewed [here](#). In essence, the conditions for the RPGT exemption are that:

- (a) The exemption is only applicable to three units of residential property disposed of by an individual. Where the disposal of the residential property exceeds three

units, the disposer may elect any of the three units to be exempted and the election so made is irrevocable;

- (b) The residential property disposed of is not acquired during the period between 1 June 2020 and 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;
- (c) The SPA for the disposal of the residential property is executed between 1 June 2020 and 31 December 2021, and is duly stamped by 31 January 2022; and
- (d) In instances where there is no SPA, the instrument of transfer for the disposal of the residential property is executed between 1 June 2020 and 31 December 2021, and is duly stamped by 31 January 2022.

Where a contract for the disposal of a residential property is a conditional contract which requires the approval of the government, the RPGT exemption will only be applicable if:

- (a) The contract is executed between 1 June 2020 and 31 December 2021 and is duly stamped by 31 January 2022; and
- (b) the approval of the government is obtained on or after 1 June 2020.

Despite the RPGT exemption, an individual who disposes of residential property during the relevant period is still required to file or submit the RPGT return and furnish any other information as required under the RPGT Act 1976.

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