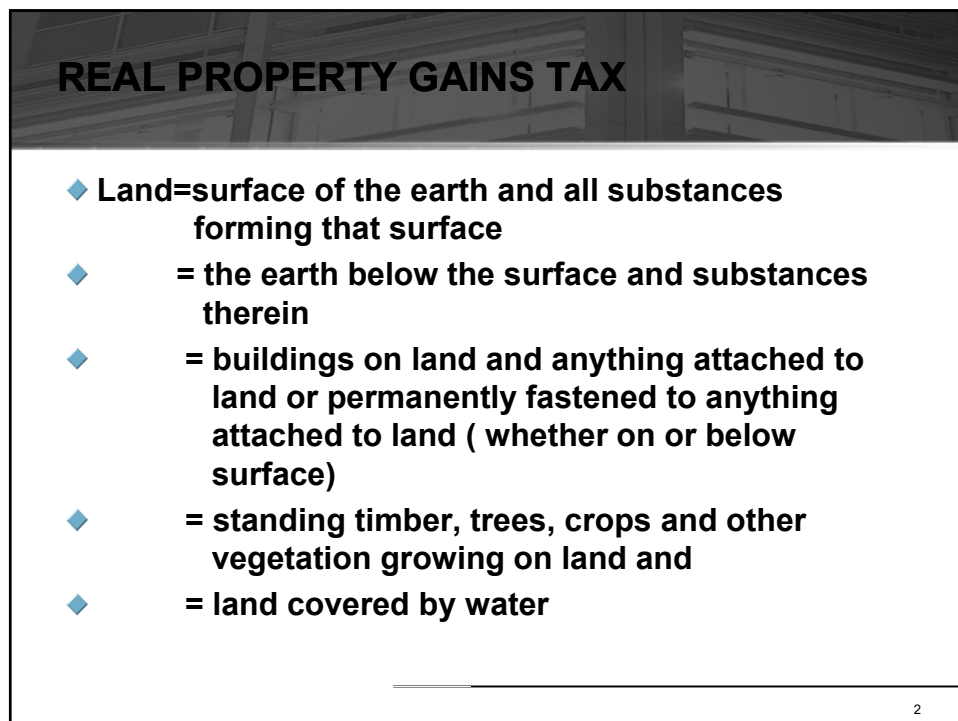
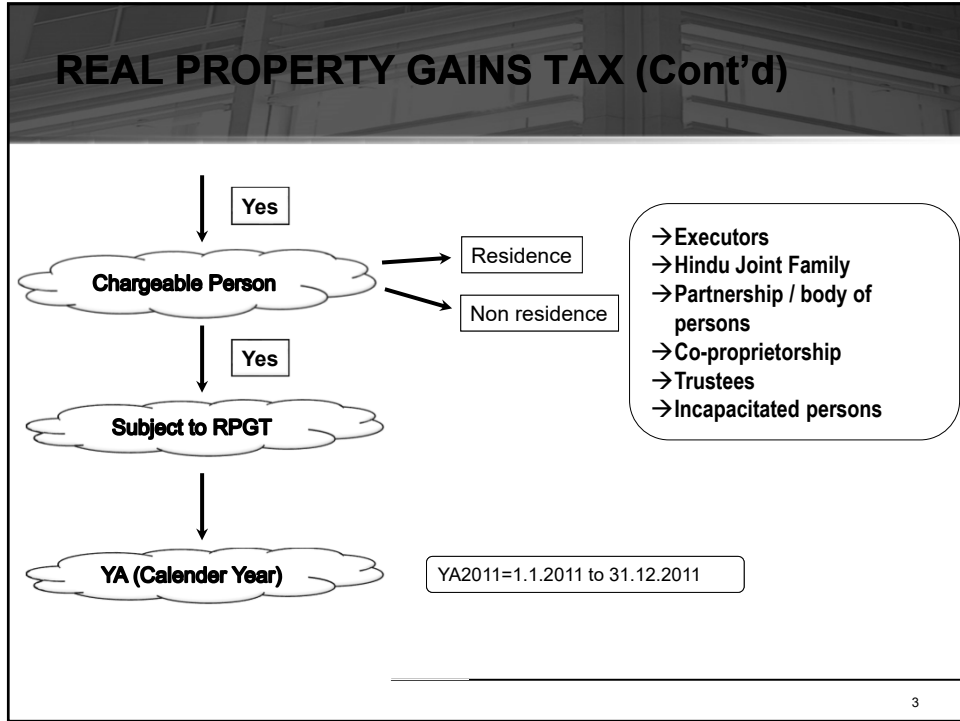


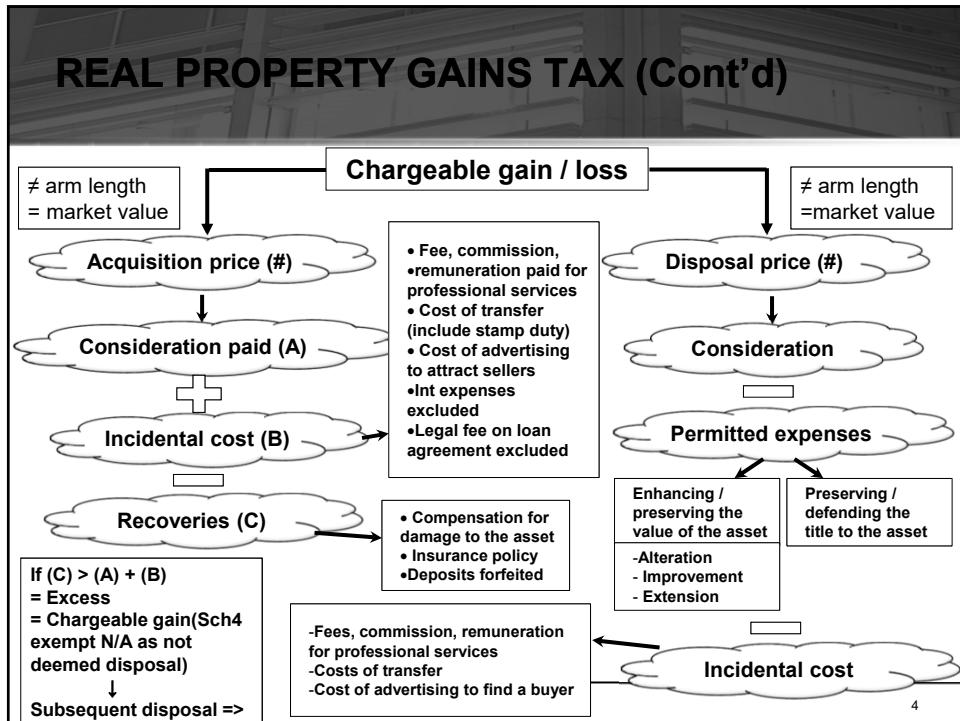
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2



3



4

REAL PROPERTY GAINS TAX (Cont'd)

(#)The following shall not be taken into account in computing the AP or DP of a chargeable asset:-

(a) Any outgoing and expenses allowable as a deduction in computing any adjusted income or adjusted loss for income tax purposes

(b) extends the disallowance to situations where the deduction for income tax was not utilised due to an exemption or insufficiency of gross income

© first requires the assets disposed of to be assumed to be a fixed capital of a business. Then ask a question whether the outgoing or expense incurred in relation to the asset would be allowable as a deduction in computing the adjusted income of the business.

If yes -> no deduction for RPGT purpose.

5

5

REAL PROPERTY GAINS TAX (Cont'd)

- ◆ (#)where an asset is disposed of subject to a subsisting charge or incumbrance, the full amount of liability assumed by the acquirer is deemed to form part of the disposal price

Refer handout Eg 3.1

6

6

Connected person

◆ Transaction entered between connected persons is not at arm's length

| Individuals | Trust & other persons | Persons involved with p/ship |
|--|---|---|
| <ul style="list-style-type: none"> •Individual's husband or wife •relative | <p>A person in his capacity as trustee is connected with any individual who in relation to the trust is a settlor and with any person who is connected with such individual</p> | <p>Husband, wife of any individual with whom his is in p/ship</p> |

7

7

Connected person

◆ Transaction entered between connected persons is not at arm's length

| Companies with companies | Company with other persons | Cross r/ship between individuals & company |
|--|---|---|
| <ul style="list-style-type: none"> •If the same person has control of both, or a person has control of one and persons connected with him(or he and persons connected with him) have control over the other;or •If 2 or > groups of persons have control of each company & the groups either consist of the same person or could be regarded as consisting of the same persons by treating a member of either group as replaced by a person with whom he is connected | <ul style="list-style-type: none"> •Connected if that person has control of it;or •If that person(s) connected with him together have control of it | <p>Any 2 or > persons acting together to secure or exercise control over a company</p> |

8

8

Acquisition Price

- ◆ Where an asset is disposed of being in exchange for another asset (whether chargeable or not)
- ◆ -> the market value of the asset received by the disposer = consideration for the disposer
- ◆ Pg 587 CKF Eg48.11

9

9

Exemption – Paragraph 2 of Schedule 4

. Up to RM10,000 or 10% of the gains, whichever the higher, for individuals (natural person i.e. exclude partnership, company, executor)

Note: For part disposal, the amount exempted

Higher of

= $\frac{\text{Part of the area}}{\text{Total area}} \times \text{RM10,000}$ OR 10% of CG

However, a co-proprietor who disposed of his undivided share in an asset is not considered as making a part disposal and thus would qualify for the full exemption

10

10

Acquisition Price

Example 1

| | RM | RM |
|--|------------|-----------------|
| Consideration paid in money or money's worth | | 50,000 |
| Incidental costs(e.g.legal fee, stamp duty, advertisement & brokerage, | | <u>3,500</u> |
| Less: | | 53,500 |
| (a)Compensation for damages | 2,000 | |
| (b) Insurance compensation | 10,000 | |
| ©Forfeiture of deposit | <u>500</u> | <u>(12,500)</u> |
| Acquisition price | | <u>41,000</u> |

11

11

Acquisition Price

Example 2:

NSB purchased a freehold land for RM450,000 on 1.1.2003 and constructed a shophouse on 30.6.2003 for RM300,000. On 1 June 2005, NSB entered an agreement to sell the shophouse to Chuan Bhd for RM600,000. Chuan Bhd paid a deposit of RM60,000 but subsequently was unable to raise loans to complete the purchase and the deposit was forfeited. Later, the shophouse was completely destroyed by fire and, on 1 May 2007, NSB was paid a sum of RM400,000 under its fire insurance policy. On 1 December 2009, the land (now vacant) was disposed of for RM500,000. The disposer paid RM30,000 to the estate agent for the successful sale.

12

12

Acquisition Price

Example 2

| | RM | RM |
|---|---------------|------------------|
| Consideration paid in money or money's worth | | 450,000 |
| Incidental costs(e.g.legal fee, stamp duty, advertisement & brokerage,) | | <u>0</u> |
| Less: | | 450,000 |
| (a)Compensation for damages | | |
| (b) Insurance compensation | 400,000 | |
| ©Forfeiture of deposit | <u>60,000</u> | <u>(460,000)</u> |
| Chargeable gain | | <u>10,000</u> |

13

13

Acquisition Price

◆ Example 2

Although there is no disposal of the land on which the shophouse had stood, there is a chargeable gain arising on 1 May 2007 due to the fact that NSB has received a total sum of RM460,000 which is in excess of RM450,000. The excess of RM10,000 is a chargeable gain which will be levied tax based on the holding period of 4 1/3 years (disposal in the 5th year).

Subsequent disposal, the acqn price of the asset is Nil.If this happens, then the disposal price would be chargeable gain for the disposer.

14

14

Chargeable Gain

Example 2

| | RM | RM |
|--|--------|-----------------|
| Sale price | | 500,000 |
| Less Enhancement cost (house demolished) | Nil | <u>0</u> |
| Incidental cost (real estate agent fee) | 30,000 | <u>(30,000)</u> |
| | | 470,000 |
| Acquisition cost | | <u>Nil</u> |
| Chargeable gain | | <u>470,000</u> |
| RPGT liability @15% | | <u>70,500</u> |

15

15

Disposal price = market value

- A bargain not at arm's length or gift
- A disposal of real property for a consideration that cannot be valued;
- A disposal of real property in connection with loss of employment or gratuity payment
- Transfer of real property for satisfaction of debts
- Lump sum disposal of real property and other assets
- Where anti-avoidance applies

16

16

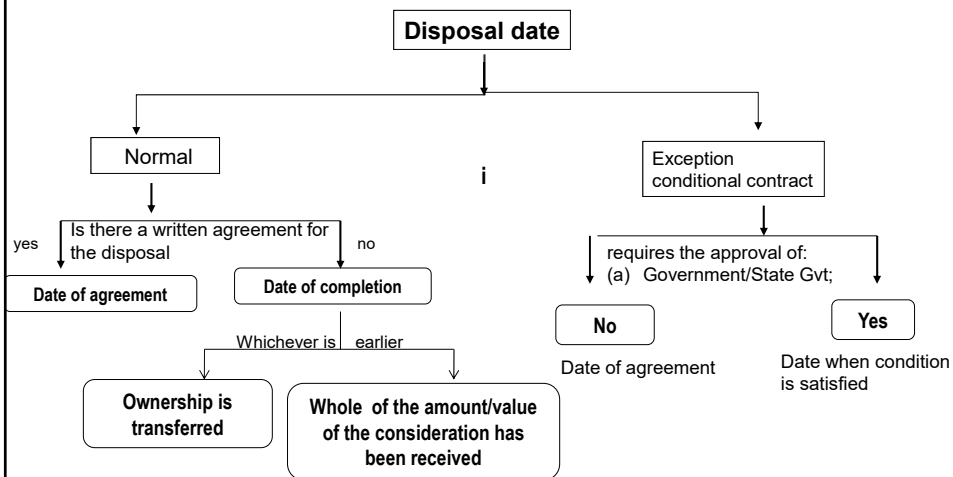
Deemed acquisition price = Mkt value as at 1.1.2013

- ◆ For property acquired prior to 1.1.2013:
 - (a) Msian citizen individual
 - (b) PR in Msia
 - (c) Estate of deceased person (executor) who is Msian citizen or PR
 - (d) Limited Liability Partnership (LLP)
 - (e) Partnership

17

17

REAL PROPERTY GAINS TAX –The Determination of Disposal Date



18

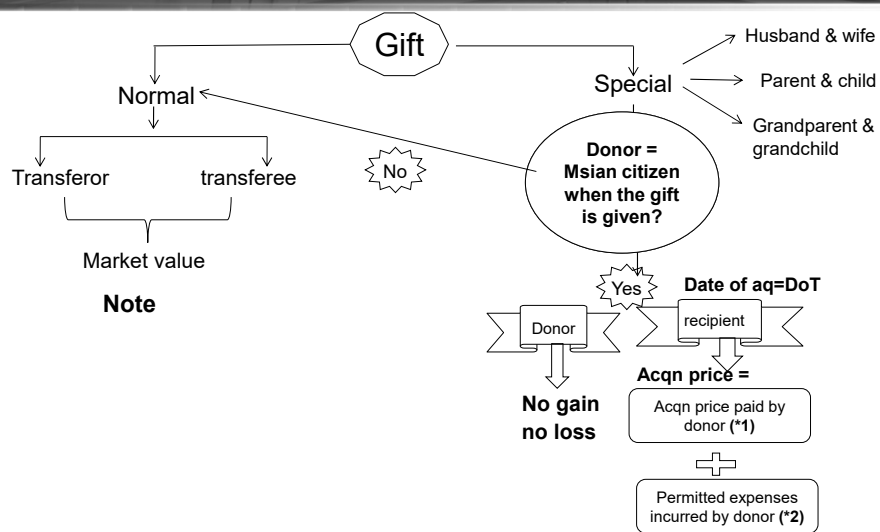
18

Transfer of fixed assets into stocks

- ◆ Deemed to be a disposal of a chargeable assets
- ◆ Disposal price = mkt value of the asset at the date of reclassification

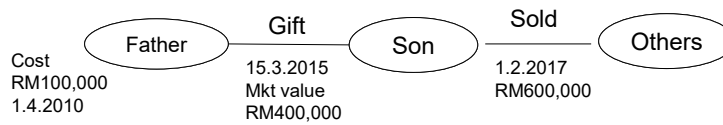
19

Disposal by way of gift



20

Disposal by way of gift - Example



| Date acqn Date of disposal | 1.4.2010 15.3.2015 5% | 15.3.2015 1.2.2017 30% | If asset transferred directly to 3 rd party |
|----------------------------------|-----------------------------|------------------------------|---|
| Disposal price | 100,000 | 600,000 | 600,000 |
| Acqn price | <u>100,000</u> | <u>100,000</u> | <u>100,000</u> |
| | <u>NGNL</u> | 500,000 | 500,000 |
| Sch 4 exemption | | <u>(50,000)</u> | <u>(50,000)</u> |
| Chargeable gain | | <u>450,000</u> | <u>450,000</u> |
| RPGT payable | | <u>135,000</u> | <u>NIL</u> |

21

21

Disposal by way of gift

| Donor | |
|---------------------------|------------|
| Consideration paid | x |
| + incidental cost | <u>x</u> |
| | xx |
| -Compensation | (x) |
| Insurance | (x) |
| Forfeiture | <u>(x)</u> |
| Ap(*1) | <u>xx</u> |
| Renovation cost | x |
| Construction cost | x |
| Legal fee defending title | <u>x</u> |
| Permitted expenses(*2) | <u>xx</u> |

Eg 36.10, pg 602

22

22

RPGT RATE

| | <= 3yrs | In the 4 th year | In the 5 th year | >5 year | Note |
|---|---------|-----------------------------|-----------------------------|-----------|----------|
| Company | 30% | 20% | 15% | 10% | 1 |
| Individual(Msian citizen) , PR & others | 30% | 20% | 15% | 0% | 2 |
| Foreigner & not PR | 30% | 30% | 30% | 10% | 3 |
| | | | | | |

Sept/Dec
2021 Q2©

23

23

RPGT RATE

Note 1:

- (a) Company incorporated in Msia
- (b) Trustee of trust
- (c) Body of person registered under any written law in Msia

Note 2

- (a) Msian citizen individual
- (b) PR in Msia
- (c) Estate of deceased person (executor) who is Msian citizen or PR
- (d) Limited liability partnership (LLP)
- (e) Partnership

Note 3

- (a) Non Msian citizen individual
- (b) Non PR in Msia
- (c) Estate of deceased person (executor) who is not Msian citizen or Non PR
- (d) Company not incorporated in Msia

24

24

Example

- **AA Sdn Bhd**
 - purchased shop houses – 24.02.2007 – RM240,000
 - sold on 4.2.2014 – RM300,000
 - holding period – 7 years
- **Calculation of chargeable gain:**

| | RM |
|------------------------------------|---------------|
| Consideration received on disposal | 300,000 |
| Less: Acquisition price | - 240,000 |
| Gain on disposal | <u>60,000</u> |

- **RPGT:**

$$60,000 \times 10\% = 6,000$$

25

25

Allowable losses

- **Sec 7, 14, 17, 20 and Para 31 of Schedule 2**

- **Allowable losses:**

Losses arising from disposal of chargeable asset (real property)

- To be deducted against chargeable gains arising from disposal of other chargeable
- Any excess can be carried forward until fully utilised
- Claimable after claiming exemption under Para 2 Sch 4

Eg 36.8 pg 598, Eg 36.9 (pg 600)

26

26

Certificate of non-chargeability – Section 21A

- DG shall issue a certificate of non-chargeability to the disposer in the prescribed form where he is satisfied that no chargeable gain has arisen.

27

27

Example

- Aini

| Land A | RM |
|--------------------------------|---------|
| Acquisition on 2.1.2008 | 350,000 |
| Disposed on 21.3.2011 | 300,000 |
| Incidental cost upon disposal | 2,000 |
| Incidental cost on acquisition | 4,500 |

| | |
|---|-----------------------|
| Disposal price – Land A | 300,000 |
| Less: Incidental cost upon disposal | <u>-2,000</u> |
| | 298,000 |
| Less: Acquisition price on 2.1.08 | |
| Consideration paid on acquisition and incidental cost (350,000 + 4,500) | 354,500 |
| Allowable loss | <u><u>-56,500</u></u> |

28

28

Example

| Land B | RM |
|--------------------------------|---------|
| Acquisition on 29.4.2012 | 255,000 |
| Disposed on 1.4.2013 | 500,000 |
| Incidental cost upon disposal | 3,000 |
| Incidental cost on acquisition | 45,000 |

- ◆ Assumption: The above disposal is subject to RPGT

29

29

Example

- ◆ . Calculation:

| | RM |
|---|-----------------|
| Disposal price – Land B | 500,000 |
| Less: Incidental cost upon disposal | <u>-3,000</u> |
| | 497,000 |
| Less: Acquisition price on 29.4.02 | |
| Consideration paid on acquisition and incidental cost (255,000 + 45,000) | <u>-300,000</u> |
| Gain on disposal | 197,000 |
| Less: Exemption – RM10,000 or 10% on gain | <u>-19,700</u> |
| Chargeable gain | 177,300 |
| Less: Allowable loss b/f | <u>-56,500</u> |
| Chargeable gain to be taxed | <u>120,800</u> |

30

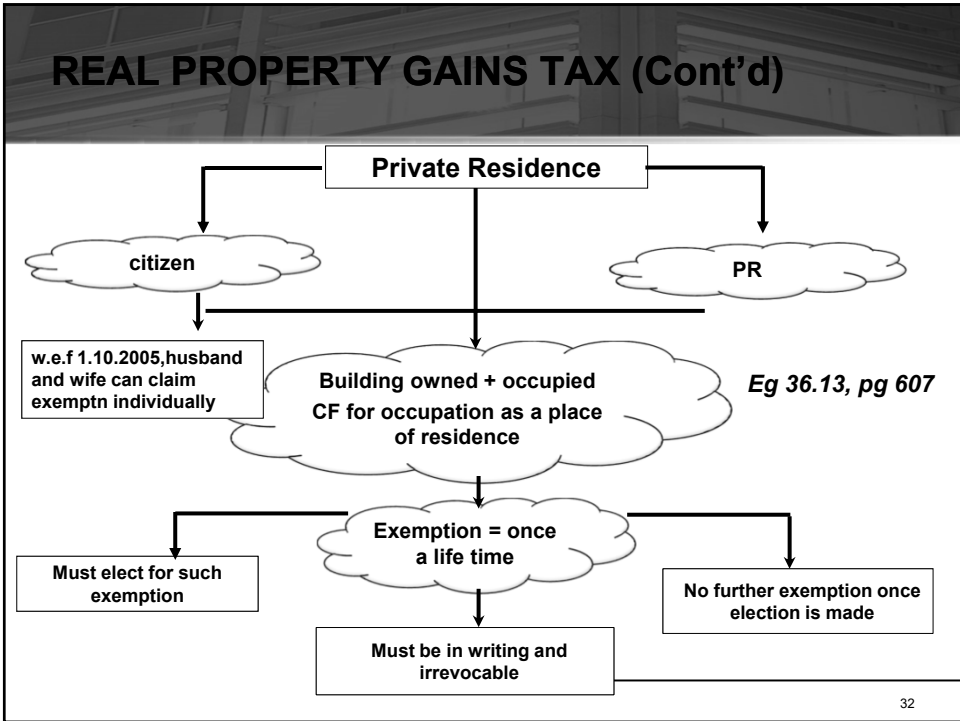
30

Example

| | |
|-----------------------------|----------------|
| Chargeable gain to be taxed | <u>120,800</u> |
| RPGT @30% | <u>36,240</u> |

31

31



32

REAL PROPERTY GAINS TAX (Cont'd)

RPGT Format: Computation of tax

| Disposal | RM | RM | Note |
|--|-------------|-------------|---|
| Sch 2 Consideration received (per SPA) | | xxx | Date: Disposal |
| Para 5 (a) Less: Cost of enhancing / preserving value of asset(NOTE) | | (xx) | Permitted expenses |
| (b) Establish, preserve or defend title/right to asset(NOTE) | | (xx) | Permitted expenses |
| (c) Incidental costs of disposal | | <u>(xx)</u> | Permitted expenses |
| Disposal Price | | xxx | |
| Acquisition | | | |
| Sch 2 Consideration paid | xxx | | Date: Acquisition |
| Add: Incidental costs | <u>xx</u> | | <i>For real property acquired prior to 1.1.2013, market value as at 1.1.2013 would be the deemed acquisition price(for Msian citizen and PR only)</i> |
| | xx | | |
| Para 4 (a) Less: Compensation received | (xx) | | |
| (b) Insurance recoveries | (xx) | | |
| (c) Deposit (forfeited) received | <u>(xx)</u> | | |
| NOTE: Must still reflect as at the date of disposal. If incurred prior to 1.1.1970(other than Msian citizen & PR), to exclude in determining the disposal price | | | |

33

33

REAL PROPERTY GAINS TAX (Cont'd)

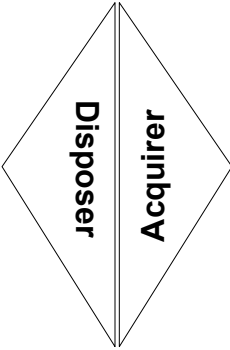
RPGT Format: Computation of tax

| Disposal | RM | RM | Note |
|---|----|-------------|--|
| Acquisition Price | | (xxx) | |
| Sec. 7 Chargeable gain / (allowable loss) | | xxx | (xxx) |
| Sch 4 Exemption: greater of 10% or 10,000 (*) | | (xx) | Apply to individual |
| RPGT loss b/f (if any) | | <u>(xx)</u> | |
| Gain subject to RPGT | | <u>xxx.</u> | |
| Sch 5 Disposal @ RPGT rate % | | | March/June 2021 Q3(a) (iii) |
| RPGT payable | | <u>xxx.</u> | |
| (*) : For part disposal, the amount exempted | | | |
| Higher of | | | |
| = $\frac{\text{Part of the area}}{\text{Total area}} \times \text{RM}10,000$ OR 10% of CG | | | |

34

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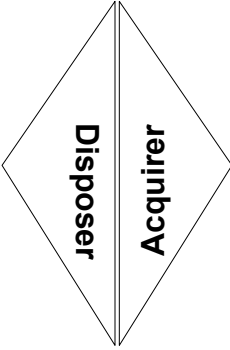
Supporting documents

- 
- Disposal of property
 - Copies of stamped Sales and Purchase Agreement or Form 14A (memorandum of transfer) during disposal of the property.
 - Disposal of RPC shares
 - Copies of stamped Sales and Purchase Agreement/Form 32A/Director resolution/Form 24/Certificate of shares
 - Bills and receipts for expenses claimed
 - **Submit CKHT 1A <= 60days**
- Copies of stamped Sales and Purchase Agreement or Form 14A (memorandum of transfer)/Form 24/Certificate of shares

35

35

Payment of RPGT (from 1 January 2010)

- 
- Net of retention sum
 - Within 30 days from the issuance of notice of assessment
 - 10% penalty upon expiration of 30 days
 - Remittance slip CKHT 501
 - Submit CKHT form within 60 days of disposal
- 3%(note)** of total consideration or whole of money consideration, whichever is lower (where Form CKHT 3 is not applicable)
 - Form CKHT 2A
 - Within 60 days of date of disposal
 - 10% penalty upon non compliance
 - Remittance slip CKHT 502

36

36

Payment of RPGT (from 1 January 2010)

Note: 7% for non citizen and non PR (NCNPR), including an executor of an estate of a deceased person who is NCNPR wef 1.1.2021

Note : wef 1.1.2022, 5% for a company incorporated in Msia or a trustee of a trust or a body of persons registered under any written law in Msia for disposal of a chargeable asset within 3 years after the date of acquisition.

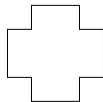
Disposer
Acquirer

37

37

Directors' liability

- ◆ **Jointly and severally liable for the RPGT or penalty of the company, during the period in which RPGT or penalty is liable to be paid by that company.**
- ◆ **Director** = anyone occupying the position of directors (by whatever name called) , including any person who is concerned in the management of the company's business



Is, either on his own or with one or more associates , the owner of , or able directly or through the medium of other companies or by any other indirect means to control, **not less than 20% of the ordinary share capital of the company.**

38

38

Retention of money

X Sdn Bhd disposed of a piece of land to Wawa for a total consideration of RM2 million.

| Total consideration (A) RM | 3% of '(A)' (B) RM | Money consideration (C) RM | WHT Lower of (B) or (C) RM |
|---|-----------------------------------|---|---|
| Cash= 2m | | | |
| Apartment = 500,000, Bal =cash | | | |
| Cash=30,000 + balance offset with existing debt | | | |
| Asset acquired is shares instead of land | | | |
| Mkt value =RM3million but the consideration in cash is RM2million | | | |
| | | | |

39

39

Retention of monies – Sec 21B

- acquirer is required to withhold all monies received or 3%, 5% or 7% of the purchase consideration, whichever is the lower.
- In the event the disposal is not subject to tax or be exempted , the disposer is required to make a return (together with a notification form) to IRB a notice of non chargeability is served to the acquirer within 60 days after the date of disposal :
 - ◆ ii) the disposer has made an election to apply for the RPGT exemption on the disposal of a private residence (Para 9 of Sch 3); or
 - ◆ iii) the disposal relates to a gift of real property or shares in a RPC, between husband and wife, parent and child or grandparent and grandchild. (Para 12 of Sch 2)
- Form CKHT 3 – submit together with Form CKHT 1A/1B.
 - if failed to submit within 60days from the acquisition, Form won't be process and 3% retention monies will need to be paid to the IRB.
- ◆ **If transaction is wholly non cash, withholding tax does not apply**

40

40

Badges of Trade

| Badges of Trade | Analysis | Biz income •adventure in the nature of trade) | Capital Gains •no income tax •RPGT |
|---|--|--|---|
| Profit seeking motive | Profit seeking motive to realise in (i) A financial year (ii) Several years | / | / |
| Acquisition methods/ Type of an asset/ Existence of trading interests in similar field | (i) In the ordinary course of biz(trading stock) (ii) Inherited/gift (iii) Personal enjoyment (iv) Income producing asset | / | / |
| No. / Frequency of transaction | Many repetitive transactions | / | |

41

41

Badges of Trade

| Badges of Trade | Analysis | Biz income •adventure in the nature of trade) | Capital Gains •no income tax •RPGT |
|---|--|--|---|
| Organization of sales | •Formation of company •Use of marketing strategy & advertisement (disposal method) • reason for disposal ->Organization of seller ->Emergency needs/acqn by gvt/forced sale/buyer initiative | / | / |
| Modification of assets | Subdivision of land | / | |
| Interval between purchase and sale / period of ownership | Short term(<5 years) Long term | / | / |

42

42

Badges of Trade

| Badges of Trade | Analysis | Biz income •adventure in the nature of trade) | Capital Gains •no income tax •RPGT |
|---------------------|---|---|---|
| Method of finance | •Short term borrowing(overdraft) •Term loan/BBA | / | / |
| Accounting evidence | •Current asset •Immovable properties/PPE | / | / |
| | | | |

43

43

REAL PROPERTY GAINS TAX (Cont'd)

Transaction of no gain no loss (Para 3 Sch 2)

- Devolution of the assets of a deceased person on his executor / legatee under a will / intestacy or on the trustee created under this will (*chart 9.1*)
- Transfer of assets $\begin{cases} \rightarrow \text{Between spouses, } \mathbf{disposer = Msian citizen (wef 1.1.2018)} \\ \rightarrow \text{Individual / wife/connected person (citizen)} \end{cases}$
 - (*Chart 7.2 & 7.3*) to a company ≥ 75 share + controlled by the transferor Bal. = cash
- Transfer to / from nominee / trustee
- Transfer by way of a security
- Gifts $\begin{cases} \rightarrow \text{Gvt / State gvt} \\ \rightarrow \text{Local authority / charity exempt from tax} \end{cases}$
- Disposal of an asset due to compulsory acquisition
- Disposal of an asset to Islamic Bank under a scheme \rightarrow financed by such bank in accordance with the Syariah

Cost to the acquirer = Original cost to the disposer + Enhancement cost – Payment received

Date of acquisition = Date of transfer

44

Special Circumstances – Deceased Estate

Deceased person → Date of death → Deceased estate

Holding period (executor) ↑

↓

Administrator/Executor {intestate: no will} / Trustee/trust

Devolution of assets on death: NGNL

Disposal to 3rd party | Executor liable to tax | Transfer to beneficiaries

| | |
|------------------------------|-----------------------------------|
| Acqn date by executor | Date of death |
| Acqn price | Mkt value at date of death |
| Less: | Para4(1)(a)(b)© reced by executor |
| Holding period: | Date of death to disposal date |
| Sch 4 exemptn NA | |

Note

45

45

Special Circumstances – Deceased Estate

Eg 36.15, pg 611

Transfer to beneficiaries

↓

Beneficiary: legatee | Gift of asset on death | Legatee accepts asset in lieu of money legacy

← Subsequent disposal will attract RPGT →

Acqn date: ← Date of transfer → Holding period (beneficiary)

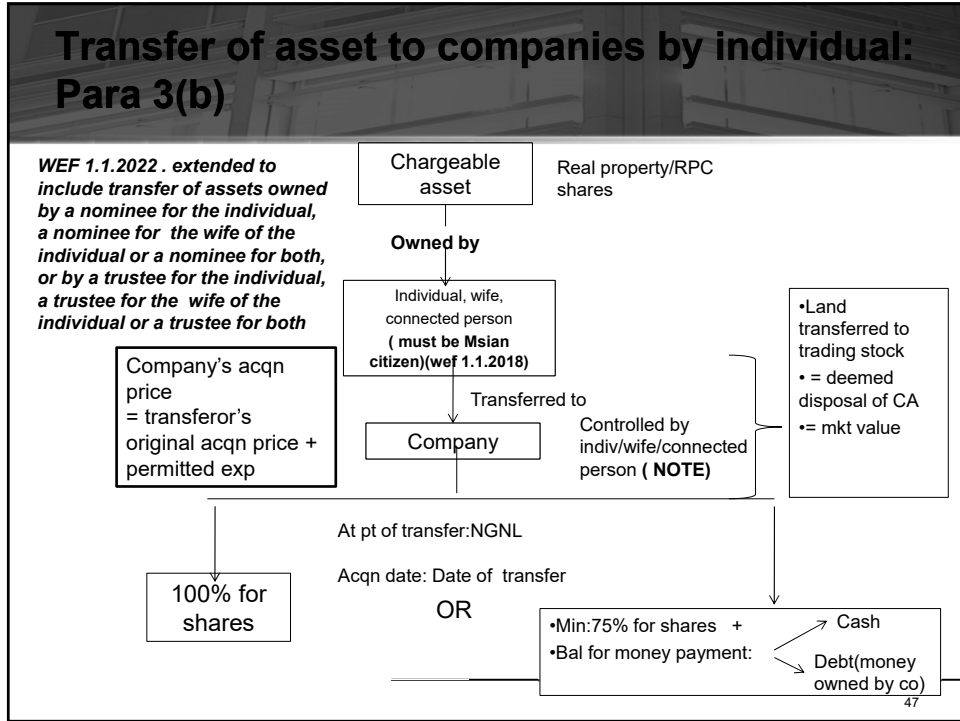
Acqn price: ← Mkt value at date of transfer → Lower of → Mkt value at date of transfer / Money legacy

Less: Para 4(1)(a)(b)© received by B | Less: Para 4(1)(a)(b)© received by legatee

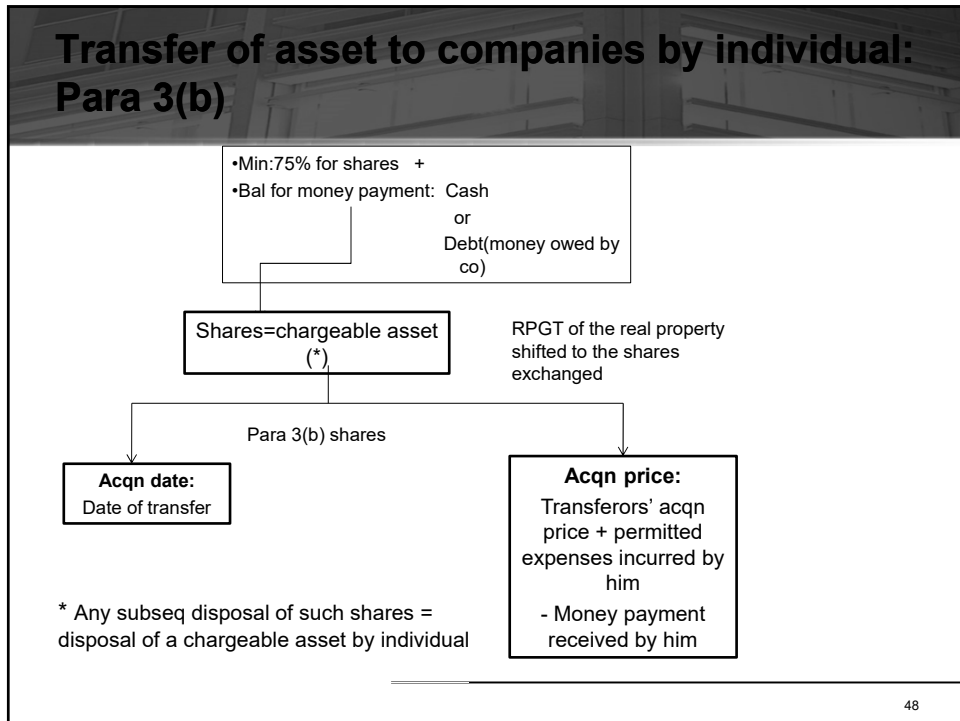
Disposal date

46

46

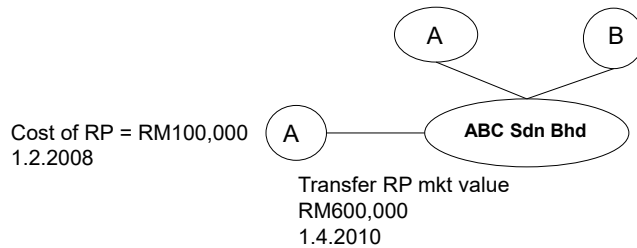


47



48

Transfer of asset to companies by individual: Para 3(b) - Example



| Scenario | Cash RM | No of ordinary shares of RM1 each | Total RM | Consideration >=75% shares? | Transferor |
|----------|---------|-----------------------------------|----------|-----------------------------|---------------------------|
| 1 | Nil | 600,000 | 600,000 | 100% | NGNL |
| 2 | 60,000 | 540,000 | 600,000 | 90% | NGNL |
| 3 | 240,000 | 360,000 | 600,000 | 60% | Disposal price =RM600,000 |
| 4 | 120,000 | 480,000 | 600,000 | 80% | NGNL |

49

Transfer of asset to companies by individual: Para 3(b) - Example

If A disposed off the shares

Eg 36.11 pg 604

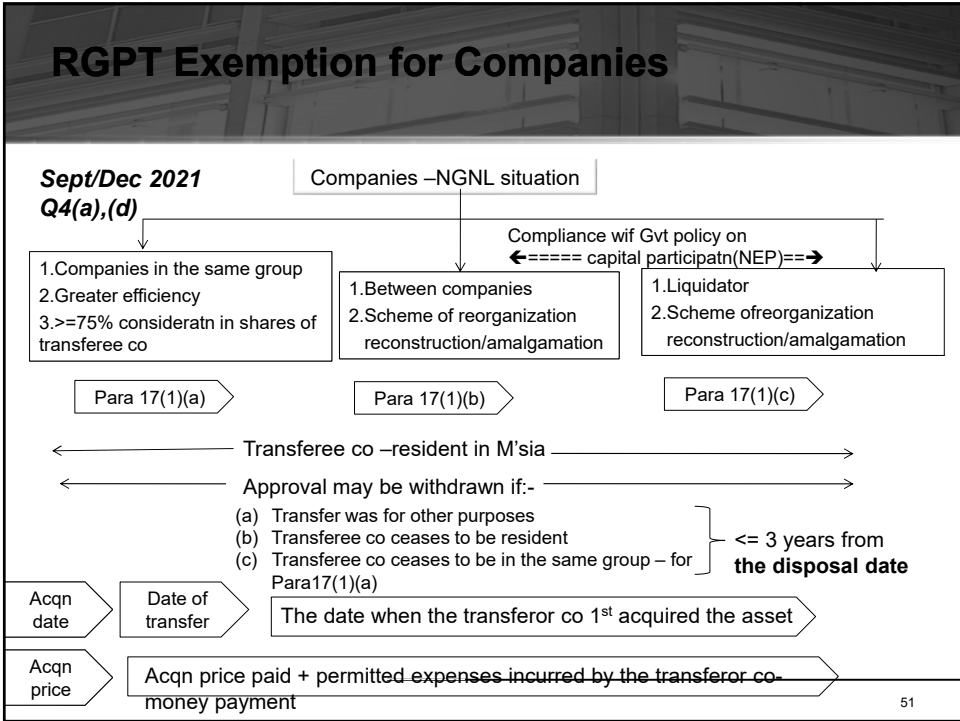
| Scenario | Chargeable asset RM | Transferor's acqn price | Cash consideration | Acqn price of shares | |
|----------|---------------------|-------------------------|--------------------|----------------------|-------------|
| 1 | 600,000 | 100,000 | Nil | 100,000 | |
| 2 | 540,000 | 100,000 | 60,000 | 40,000 | |
| 3 | 360,000 | NA | NA | NA | |
| 4 | 480,000 | 100,000 | 120,000 | NIL | Note |

Note: Excess=chargeable gain to the transferor at the pt of transferring the asset to the co

| | RM |
|--------------------------|-------------------------|
| Transfer of the property | Nil |
| Chargeable gain | 20,000 |
| Sch 4 exemptn | <u>(10,000)</u> |
| | <u>10,000@RPGT rate</u> |

50

50



51

LEASE and OPTION

| | Acquisition price |
|-------------------------|--|
| Lease | $\frac{\text{No of yrs unexpired term}}{\text{Full term of lease}} \times \text{Full premium}$ <p style="text-align: right; font-size: small;">(Original price paid)</p> |
| Sub-leases out of lease | $\frac{\text{Areas sub-leased}}{\text{Total area}} \times \frac{\text{Duration of sub-leased}}{\text{Whole duration}} \times \text{Premium paid}$ |
| | |

Refer pg 580 CKF

52

52

LEASE and OPTION

Example: Ronnie Chia Sdn Bhd took a lease of land for 25 years and paid a premium of RM100,000. The company used the land for 10 years and then assigned the residual lease to Audrey Bhd for RM300,000

| | RM'000 |
|--|------------|
| Disposal price | 300 |
| Less: Acqn price ($15/25 \times \text{RM}100,000$) | (60) |
| Chargeable gain | <u>240</u> |
| RPGT tax payable @5% | 12 |

53

53

LEASE and OPTION

- ◆ **Question:** Kok Thye leased 20 acres of land situated in Segambut for a period of 90 years. He paid a premium of RM360,000 on 1.6.2007.
- ◆ He immediately granted a sub-lease over 5 acres of the land to Leong for 30 years and received a premium of RM80,000

| | RM'000 |
|---|-------------|
| Disposal price | 80 |
| Less: Acqn price ($5/20 \times 30/90 \times \text{RM}360,000$) | (30) |
| Chargeable gain | 50 |
| Less: Sch 4 exemption ($5/20 \times 10,000$) or 10% x RM50 | (5) |
| | <u>45</u> |
| RPGT payable @30% | <u>13.5</u> |

54

54

LEASE and OPTION

- ◆ **Question:**Kok Thye leased 20 acres of land situated in Segambut for a period of 90 years. He paid a premium of RM360,000 on 1.6.2007.
- ◆ He immediately granted a sub-lease over 5 acres of the land to Leong for 30 years and received a premium of RM80,000

| | RM'000 |
|---|-------------|
| Disposal price | 80 |
| Less: Acqn price (5/20 x 30/90 x RM360,000) | (30) |
| Chargeable gain | 50 |
| Less: Sch 4 exemption (5/20 x 10,000) or 10% xRM50 | (5) |
| | <u>45</u> |
| RPGT payable @30% | <u>13.5</u> |

55

55

Example on JV

- **Ali**
 - purchased land–20.6.2011– RM1,000,000
 - entered into JV agreement with a developer company on 2.8.2014 to develop the land
 - in return, Ali will be given 8 units normal terrace houses (RM300,000 each) & 2 units semi detached (RM450,000 each)
 - Market value of the land=RM3million
- **Calculation of chargeable gain for :**

| Disposal on 2.8.2014 | RM |
|--|-------------|
| Market value on 2.8.2014 | 3,000,000 |
| Less: cost of acquisition on 20.6.2011 | (1,000,000) |
| Gain on disposal | 2,000,000 |
| Less: Sch 4 exemption(10,000 or 10%) | (200,000) |
| Chargeable gain | 1,800,000 |

56

56

Example -Cont'd

$$\text{RPGT tax liability} = 1,800,000 \times 20\% \\ = 360,000$$

For JV, disposal date for land owner = date of JV agreement
 disposal price = market value of the land at date of JV agreement

57

57

Example on JV -Cont'd

- ◆ 5.9.2017, Ali disposed of one normal terrace house at RM350,000

| | RM |
|--|------------------|
| Disposal price on 5.9.2017 | 350,000 |
| Less: Cost of acqn on 2.8.2014 | |
| <u>mkt value for each</u> x mkt value of land on 2.8.2014 Total mkt value for all unit received | |
| (300,000/3,300,000 x 3,000,000) | <u>(272,727)</u> |
| Gain on disposal | 77,273 |
| Less: Sch 4 exemption(10,000 or 10%) | <u>(10,000)</u> |
| Chargeable gain | 67,273 |

$$\text{RPGT tax liability} = 67,273 \times 20\% \\ = 13,545$$

58

58

Example on JV-Cont'd

- ◆ Same facts as above except for the consideration received by Ali is 10 terrace houses and cash of RM50,000
- ◆ Answer will be the same as above as disposal cost for the land is based on the market value of the land as at date of agreement and not the consideration received.
- ◆ However, the acquirer needs to remit 3% of market value(RM3,000,000) or cash consideration received ,whichever is lower ie $3\% \times \text{RM}3,000,000 = \text{RM}90,000$ or RM50,000
- ◆ In this case, acquirer needs to remit RM50,000 to the IRB within 60 days from date of JV agreement

59

59

Example on JV-Cont'd

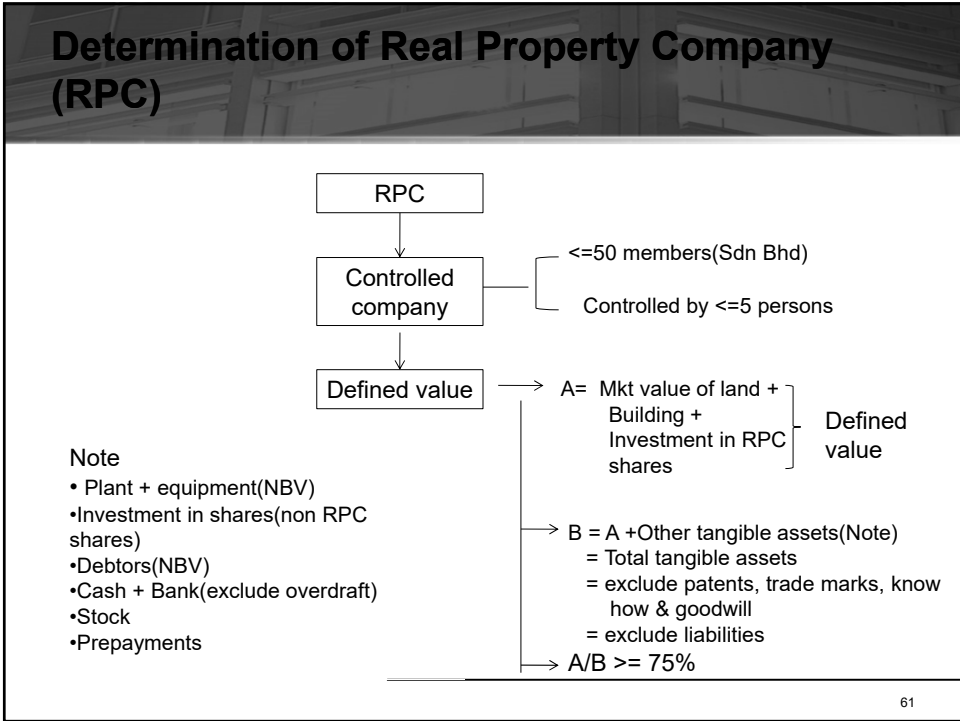
- ◆ 5.9.2017,Ali disposed of one normal terrace house at RM350,000

| | RM |
|--|-----------|
| Disposal price on 5.9.2017 | 350,000 |
| Less: Cost of acqn on 2.8.2014 | |
| <u>mkt value for each</u> x mkt value of land on 2.8.2014 Total mkt value for (Less cash consideration received) all unit received | |
| (300,000/3,000,000 x 2,950,000) | (295,000) |
| Gain on disposal | 55,000 |
| Less: Sch 4 exemption(10,000 or 10%) | (10,000) |
| Chargeable gain | 45,000 |

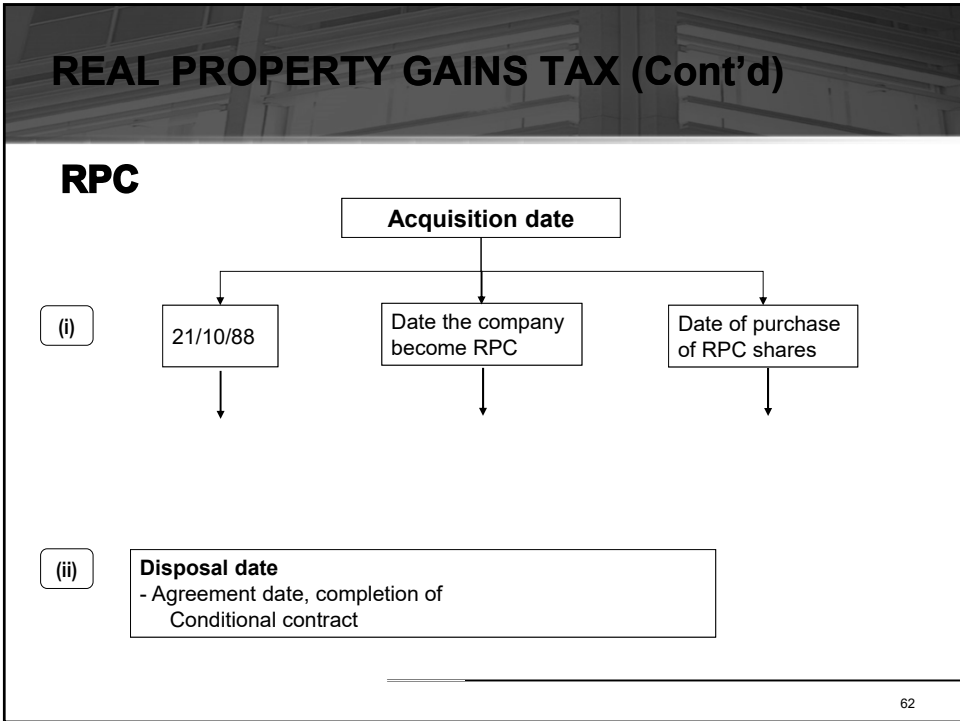
$$\begin{aligned} \text{RPGT tax liability} &= 45,000 \times 20\% \\ &= 9,000 \end{aligned}$$

60

60



61



62

REAL PROPERTY GAINS TAX (Cont'd)

RPC

- (i) Acquisition price
- a) Statutory formula
- $$\frac{A}{B} \times C \quad (\text{on the date company turns into RPC})$$
- A = no of shares in the co. which are deemed to be a chargeable asset
 B = total no of shares issued by the co. at the deemed date of acquisition
 C = the defined value of real property or RPC shares or both owned by the Company at the deemed date of acquisition, determined in the same manner at that date
- b) An amount paid for share (if the Co. is already a RPC)
- (ii) Disposal price
 -- Consideration in money / money worth received from the disposal
- (iii) Loss of RPC shares is not allowed to carry forward or set off in the current year

63

63

REAL PROPERTY GAINS TAX (Cont'd)

RPC

1. Para 3(b) precedes Para 34A, shares acquired under 3(b) will not be treated as RPC notwithstanding the company may be a RPC.
2. Once the RPC status is determined, the shares owned by the shareholders will remain as RPC even though the company ceased to be a RPC ie 'once RPC shares, always RPC shares'
3. RPC status is determined at the point of acquisition of the shares and not disposal of the shares.
4. Once a controlled company is determined to be an RPC on a given date, it remains an RPC. There is no necessity to re-examine its RPC status thereafter unless the company:
 - ceases to be a controlled company; or
 - Disposes a real property or RPC shares

64

64

RPC – Illustration 1

| Co ABC has the following: | |
|---|-----------|
| No of shares as at 31.12.2000 & 31.12.2018 | 1,000,000 |
| Real property value as at 31.12.2000 & 31.12.2018 | 1,600,000 |
| TTA as at 31.12.2018 | 2,000,000 |

| Mr A owns the following shares in Co.ABC: | |
|--|---------------|
| - acqn at par value on 1.1.2000 | 50,000 |
| - Rights issue at RM2 per share on 1.3.2015 | 20,000 |
| - Bonus issue on 1.1.2017 | <u>10,000</u> |
| Total shares as at 31.12.2018 | <u>80,000</u> |

What is the RPGT liability of Mr A if he is to dispose of his entire shareholding in Co ABC on 31.12.2018 for RM500,000? Is Co ABC an RPC?

65

65

RPC- Illustration 1 (Workings)

| Acquisition price: | | |
|-----------------------------|---------------------------------------|--------|
| Shares held as at 1.1.2000 | $50,000/1,000,000 \times 1,600,000 =$ | 80,000 |
| Shares acquired on 1.3.2015 | $2 \times 20,000 =$ | 40,000 |
| Shares acquired on 1.1.2017 | Bonus issue | NIL |

| Disposal price (Apportionment): | | |
|--|----------------------------------|---------|
| Shares held as at 1.1.2000 | $50,000/80,000 \times 500,000 =$ | 312,500 |
| Shares acquired on 1.3.2015 | $20,000/80,000 \times 500,000 =$ | 125,000 |
| Shares acquired on 1.1.2017 | $10,000/80,000 \times 500,000 =$ | 62,500 |

66

66

RPC- Illustration 1 (Workings)

| Computation of RPGT: | | RM |
|-----------------------------|-----------------------|-----------------|
| Shares held as at 1.1.2000 | Disposal price | 312,500 |
| | Less: Acqn price | <u>(80,000)</u> |
| | Chargeable gain | <u>212,500</u> |
| RPGT @ 5% | | <u>10,625</u> |
| Shares acquired on 1.3.2015 | Disposal price | 125,000 |
| | Less: Acqn price | <u>(40,000)</u> |
| | Chargeable gain | 85,000 |
| | Less: Sch 4 Exemption | <u>(10,000)</u> |
| | | <u>75,000</u> |
| RPGT @ 30% | | <u>22,500</u> |

67

67

RPC- Illustration 1 (Workings)

| Computation of RPGT: | | RM |
|-----------------------------|-----------------------|-----------------|
| Shares acquired on 1.1.2017 | Disposal price | 62,500 |
| | Less: Acqn price | <u>(0)</u> |
| | Chargeable gain | 62,500 |
| | Less: Sch 4 Exemption | <u>(10,000)</u> |
| | | <u>52,500</u> |
| RPGT @ 30% | | <u>15,750</u> |
| TOTAL TAX PAYABLE | | <u>38,250</u> |

68

68

RPC – Illustration 2

| Share movement: Co A's initial shareholders (as at 31.12.08) were: | |
|--|---------|
| Co XXX | 1 share |
| Co YYY | 1 share |
| Co ZZZ | 1 share |

The subsequent movement in Co's A equity structure is as follows:

| | Allotment @ 1.12.2008 | Addition/ 31.5.2009 | (Disposal) 31.12.2009 | Balance |
|-----|--------------------------|------------------------|--------------------------|------------------|
| XXX | 1 | 849,999 | 1,000,000 | 1,850,000 |
| YYY | 1 | (1) | | - |
| ZZZ | 1 | (1) | | - |
| BBB | - | 1,150,000 | 2,000,000 | <u>3,150,000</u> |
| | | | | <u>5,000,000</u> |

The additional shares were allotted at the par value of RM1 per share

69

69

RPC – Illustration 2

Assets of Co A:

| | 31.12.2008 | Value as at 31.5.2009 | 31.12.2009 |
|-----------------------|------------------|--------------------------|------------------|
| Land | 1,200,000 | 1,500,000 | 1,500,000 |
| Factory Building | - | 2,100,000 | 2,100,000 |
| Other tangible assets | = | <u>1,000,000</u> | <u>1,600,000</u> |
| Total tangible assets | <u>1,200,000</u> | <u>4,600,000</u> | <u>5,200,000</u> |

Q:XXX sold his entire shareholding in Co A on 1.6.2019 for RM3,500,000.What is his RPGT exposure?

Q: BBB sold 2,000,000 of his shares in Co A on 1.6.2019 for RM3,900,000. What is his RPGT exposure?

70

70

RPC – Illustration 2(Workings)

Determination of RPC Status

| | 31.12.2008 | Value as at 31.5.2009 | 31.12.2009 |
|-----------------------------------|------------------|--------------------------|------------------|
| Land (A) | 1,200,000 | 1,500,000 | 1,500,000 |
| Factory Building (B) | - | 2,100,000 | 2,100,000 |
| Other tangible assets | - | <u>1,000,000</u> | <u>1,600,000</u> |
| Total tangible assets (C) | <u>1,200,000</u> | <u>4,600,000</u> | <u>5,200,000</u> |
| % of defined value {(A + B)/C} | <u>100%</u> | <u>78%</u> | <u>69%</u> |

71

71

RPC- Illustration 2 (Workings)

| Calculation of Acqn Price | | RM |
|-------------------------------|----------------|-----------|
| XXX | | |
| Shares held as at 31.12.2008 | 1/3 x 1,200,00 | 400,000 |
| Shares acquired on 31.5.2009 | | 849,999 |
| Shares acquired on 31.12.2009 | | 1,000,000 |
| BBB | | |
| Shares acquired on 31.5.2009 | | 1,150,00 |
| Shares acquired on 31.12.2009 | | 850,000 |

72

72

RPC- Illustration 2 (Workings)

| Calculation of Sales Consideration | | RM |
|------------------------------------|--|------------------|
| XXX | | |
| Shares held as at 31.12.2008 | $1/1,850,000 \times 3,500,000$ | 2 |
| Shares acquired on 31.5.2009 | $849,999/1,850,000 \times 3,500,000$ | 1,608,106 |
| Shares acquired on 31.12.2009 | $1,000,000/1,850,000 \times 3,500,000$ | <u>1,891,892</u> |
| | | <u>3,500,000</u> |
| BBB | | |
| Shares acquired on 31.5.2009 | $1,150,000/2,000,000 \times 3,900,000$ | 2,242,500 |
| Shares acquired on 31.12.2009 | $850,000/2,000,000 \times 3,900,000$ | <u>1,657,500</u> |
| | | <u>3,900,000</u> |

73

73

RPC- Illustration 1 (Workings)

| Computation of RPGT: | | RM |
|-------------------------------|------------------|--------------------|
| XXX | | |
| Shares held as at 31.12.2008 | Disposal price | 2 |
| | Less: Acqn price | <u>(400,000)</u> |
| | Chargeable loss | <u>(399,998)</u> |
| RPGT | | <u>NIL</u> |
| Shares acquired on 31.5.2009 | Disposal price | 1,608,106 |
| | Less: Acqn price | <u>(849,999)</u> |
| | Chargeable gain | <u>758,107</u> |
| RPGT @ 10% | | <u>75,811</u> |
| Shares acquired on 31.12.2009 | Disposal price | 1,891,892 |
| | Less: Acqn price | <u>(1,000,000)</u> |
| | Chargeable gain | <u>891,892</u> |
| RPGT @ 10% | | <u>89,189</u> |
| TOTAL TAX PAYABLE | | <u>165,000</u> |

74

RPC- Illustration 1 (Workings)

| Computation of RPGT: | | RM |
|-------------------------------|------------------|--------------------|
| BBB | | |
| Shares acquired on 31.5.2009 | Disposal price | 2,242,500 |
| | Less: Acqn price | <u>(1,150,000)</u> |
| | Chargeable gain | <u>1,092,500</u> |
| RPGT @ 10% | | <u>109,250</u> |
| Shares acquired on 31.12.2009 | Disposal price | 1,657,500 |
| | Less: Acqn price | <u>(850,000)</u> |
| | Chargeable gain | <u>807,500</u> |
| RPGT @ 10% | | <u>80,750</u> |
| TOTAL TAX PAYABLE | | <u>190,000</u> |

75

75

Real Property Company (RPC)

◆ Losses on disposal of shares in RPC

- Cannot be deducted against chargeable gains arising from disposal of other chargeable asset and shares in RPC for a basis period
- Cannot be carried forward

Eg 52.1, pg 575

Eg 52.2 – 52.7 pg 576

76

76