

CAPITAL GAINS TAX ON GAINS FROM THE DISPOSAL OF UNLISTED SHARES



In Malaysia, proceeds from the sale of assets are usually not taxed, except for the gains from disposal of capital / investment real property or shares in a real property company.

Under the Finance (No.2) Act 2023 gazetted on 29 December 2023, Capital Gains Tax ("CGT") is being introduced and will be imposed on gains from the sale of unlisted shares effective 1 January 2024. This effective date was subsequently deferred to **1 March 2024** when exemption from CGT is being provided for gains from such transactions taking place between 1 January 2024 and 29 February 2024 through the Income Tax (Exemption)(No.7) Order 2023 also gazetted on 29 December 2023.

We set out below the details of this new CGT:

	Details
Type of capital asset	<ul style="list-style-type: none"> Unlisted shares (including Real Property Company shares which will no longer be taxed under the Real Property Gains Tax Act)
Chargeable person	<ul style="list-style-type: none"> Company Limited liability partnership Cooperative society Trust body (excluding unit trust from 1 January 2024 to 31 December 2028)
CGT Rates	<p>Asset acquired before 1 March 2024</p> <ul style="list-style-type: none"> ➤ 10% on net gain or 2% on gross disposal consideration <p>Asset acquired from 1 March 2024</p> <ul style="list-style-type: none"> ➤ 10% on net gain
Date of disposal	<ul style="list-style-type: none"> With agreement – date of agreement Without agreement – date of completion of disposal
Basis period	<ul style="list-style-type: none"> Year of Assessment ("YA") the disposal takes place Reporting to be done for each disposal transaction via the e-CKM form
Market value	<p>Consideration for acquisition or disposal will be deemed to be equal to market value of the capital asset but the Director General of Inland Revenue has power to determine the market value under certain circumstances</p>
Allowable expenses	<p>Expenses related to the acquisition or disposal of capital assets</p>
Losses	<ul style="list-style-type: none"> Allowed for deduction against the gains from disposal of other capital assets Unabsorbed capital losses can be carried forward up to 10 YAs
Reporting and payment	<ul style="list-style-type: none"> Reporting <ul style="list-style-type: none"> ➤ e-filing using the e-CKM form within 60 days from date of disposal Payment <ul style="list-style-type: none"> ➤ 60 days from date of disposal Records of disposal to be kept for 7 years
Exemption	<ul style="list-style-type: none"> IPO exercise approved by Bursa Malaysia Internal restructuring within the same group Disposal of shares that are derived by venture capital company