



 **SPECIAL COMMISSIONERS OF INCOME TAX**

 **PUAN NIK ASMA ANITA BINTI MAKHTAR**

 **30th MAY 2025**

**PARAGRAPH 10 & 15, SCHEDULE 3
REAL PROPERTY GAINS TAX ACT 1976**

**SMK
V.
DIRECTOR GENERAL OF INLAND REVENUE
MOF.PKCP.700-7/1/2012**

SSB became a Real Property Company (RPC) on 26.04.2011 in accordance with Paragraph 34A, Schedule 2 of the Real Property Gains Tax Act 1976 (RPGTA 1976). SSB had allotted a total of 500,000 shares to the Taxpayer on 26.1.2011, 25.4.2011 and 6.4.2012. On 3.3.2020, the

Taxpayer had disposed all of his shares in SSB for the consideration of RM 38,000,000.00. The Director General of Income Tax (DGIR) conducted an audit on the disposal of shares by the Taxpayer and raised an assessment for the Year of Assessment (YA) 2020 on 28.05.2021 amounting to RM1,898,437.50 (inclusive of 25% of penalty).

The Taxpayer argued that the calculation by the DGIR was erroneous as the DGIR failed to consider that the allotment of 500,000 unit of shares was done before SSB became an RPC. In response, the DGIR asserted that Paragraph 34A, Schedule 2 RPGTA 1976 was applicable for the disposal of 500,000 shares by the Taxpayer in SSB. The Taxpayer failed to refer to the definition of shares which specifically provided for RPC under Paragraph 34A, Schedule 2 RPGTA. The DGIR further contended that the Taxpayer's negligence and failure to file the form within the stipulated period was a clear breach of the statutory duty provided under Section 13 RPGTA 1976, thus the penalty under section 29(3) of the RPGTA 1976 was correctly imposed for the late submission of Form CKHT 1B.

On 30.5.2025, the Special of Commissioners of Income Tax (SCIT) had dismissed the Taxpayer's appeal and held that the Taxpayer had failed to prove its case as required under Paragraph 13, Schedule 5 Income Tax Act 1967. As such, the issuance of the Notice of Assessment for YA 2020 and the imposition of penalty were confirmed.

Editorial Note:

- *The Taxpayer has the right to file an appeal against the decision by the SCIT within 21 days from the date of the decision.*