



**PARAGRAPH 34A(3) & (4) SCHEDULE 2
REAL PROPERTY GAINS TAX ACT 1976**

**PSB
V.**

**DIRECTOR GENERAL OF INLAND REVENUE
MOF.PKCP.700-7/1/2110**

 **SPECIAL COMMISSIONERS OF INCOME TAX**
 **PUAN MASTURA BINTI HUSSAIN**
 **14 NOVEMBER 2025**

This was an appeal by way of Form Q filed by the Taxpayer against the Notice of Assessment (“Form K”) and the Notice of Additional Assessment (“Form KA”) in relation to the year of

assessment (“YA”) 2019. On 13.09.2018, the Taxpayer acquired the entire shareholding of a company known as PCSB by purchasing 1 unit of share for a total cash consideration of RM1.00. In the same year, PCSB had purchased a freehold land located in Kuantan for a consideration of RM4,700,000.00. Following the transfer of ownership of the land in 2019, PCSB was classified as a Real Property Company (“RPC”) under the Real Property Gains Tax Act 1976 (“RPGTA 1976”).

On 31.08.2019, PCSB allotted an additional 99,999 shares to the Taxpayer resulting total shareholding amounting to 100,000 units. Subsequently on 27.11.2019, the Taxpayer disposed of its entire 100,000 units of share with a consideration price of RM5,700,000.00. On 28.05.2021, the Director General of Inland Revenue (“DGIR”) issued the Form K and Form KA against the Taxpayer for RM1,931,984.13 inclusive of penalty under the RPGTA 1976. The main issue to be tried before the Special Commissioner of Income Tax (“SCIT”), was on the disposal price of 100,000-unit shares being disposed by the Taxpayer.

Taxpayer submitted that there was no basis for the DGIR to divide the total disposal price equally among the 100,000 units of share, and to compute the disposal gain separately for 1 unit of share and for the remaining 99,999 units.

The DGIR argued that the Paragraph 34A Schedule 2 of the RPGTA 1976 was clear and unambiguous on the computation for the acquisition as well as disposal price of 100,000 units of shares in an RPC. The one unit of share acquired by the Taxpayer before PCSB became RPC will follow the formula laid down under Paragraph 34A(3)(a) Schedule 2 of the RPGTA 1976 while the rest of 99,999 unit of shares acquired after PCSB became an RPC will be computed according to Paragraph 34A(3)(b) Schedule 2 of the RPGTA 1976. Upon establishment of the acquisition price, the DGIR argued the disposal price should be determined based on *the amount or value of the consideration in money or money’s worth of the shares* as stipulated under Paragraph 34A(4) Schedule 2 of the RPGTA 1976

Subsequently, the failure of the Taxpayer to submit Form CKHT 1B pursuant to Section 13(1) of the RPGTA 1976 justified the imposition of the penalty under Section 29(3) of the RPGTA 1976.

On 14.11.2025, the SCIT allowed the Taxpayer’s appeal and found that the Taxpayer had successfully discharged its burden of proof under Paragraph 13 Schedule 5 of the Income Tax Act 1967, to be read together with section 18 of the RPGTA 1976. The SCIT also ruled that the Notice of Assessment for YA 2019 was to be set aside.

Editorial Note:

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