

SEMINAR PERCUKAIAN KEBANGSAAN 2023

TOPIK 1 : CADANGAN BAJET 2024

CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)

KOMPILASI 2

NO	QUESTION	ANSWER
CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)		
1	For disposal of Real Property Company share, it still tax under RPGT or CGT?	The disposal of unlisted shares in real property companies is subject to capital gains tax under the ITA from 1 January 2024 and is not taxed under the RPGTA. However, tax exemption for unlisted shares is granted for the period 1.1.2024 until 29.2.2024 through subsidiary legislation. Disposal of real property shares by the company before 1 Jan 2024 will be subject to tax under RPGTA.
2	How will the new Capital Gains Tax impact taxability of Real Property Company shares currently under RPGT Act?	
3	Is disposal of unlisted shares of real property company subject to RPGT or CGT? or both ?	
4	If the unlisted shares are subjected to RPGT - will the same be exempted from CGT ?	
5	Is the sale of RPC Shares subject to Real Property Gains Tax (RPGT) or Capital Gains Tax (CGT), and are RPGT and CGT mutually exclusive from each other?	
6	Real property company disposed shares in year 2024 - tax under CKHT or capital gain tax ?	
7	Untuk pelupusan RPC saham, jika RPGT sudah dikenakan, sama ada CGT applicable lagi?	Pelupusan saham tidak tersenarai dalam syarikat harta tanah adalah tertakluk kepada cukai keuntungan modal di bawah ACP mulai 1 Januari 2024 dan tidak dikenakan di bawah ACKHT. Bagi pelupusan saham SHT oleh syarikat yang dilakukan sebelum 1 Januari 2024 masih tertakluk cukai di bawah ACKHT.
8	Capital gains arising from sources outside Malaysia is taxed if it is remitted into the country ? Please confirm ?	All types of capital assets disposed of by companies, PLTs, trusts and cooperatives are subject to CGT if the disposal takes place outside Malaysia and the profit earned is received in Malaysia.
9	If capital gains arising from outside Malaysia is not remitted into Malaysia - it is not taxed ? Please confirm	
10	Is this CGT applicable to companies only? what about individual (Malaysian tax resident/foreigner)?	From 1.1.2024, CGT will apply to companies, limited liability partnerships, trusts and cooperatives only.
11	transfer unlisted share due to death to closed family member also subjected to capital gain tax?	
12	Will RPC shares caught under Capital Gain Tax (CGT)?	From 1 January 2024, companies, PLTs, trusts and cooperatives will be subject to CGT on the disposal of unlisted shares including RPC shares under ITA and will no longer be taxed under RPGTA.
13	CGT - Gains from disposal of shares deemed derived from M'sia - is this taxable under both RPGT & CGT? what is the purpose to introduce this new rules?	
14	Disposal of unlisted shares of a real property company subject to both CGT and RPGT?	
15	Disposal or transfer of share capital is it taxable under ckht?	
16	for a disposer selling RPC shares, will it be caught under both CGT and RPGT? so double taxing in both income tax and RPGT? under this context, disposer can be an individual or company	

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17	Capital gain tax will be imposed on gains from disposal of overseas capital asset in the year of remittance into Malaysia? Applicable to companies? individual? LLP? what is the effective date?	The imposition of CGT on gains from the disposal of all types of capital assets is for capital assets disposed of outside Malaysia and received in Malaysia by companies, PLTs, trusts and cooperatives. The imposition of CGT is effective from 1 January 2024. (Based on the Finance Act (No. 2) 2023 [Act 851], the imposition of CGT is effective from 1 January 2024).
18	CGT for profits from foreign sources includes all types of capital assets. Is this a further extension from originally announced in the Budget Speech for disposal of unlisted shares only?	The imposition of CGT on gains from the disposal of all types of capital assets is for capital assets disposed of outside Malaysia and received in Malaysia by companies, PLTs, trusts and cooperatives.
19	Will the new CGT be only applicable to disposal of unlisted shares by Malaysian companies as per the budget speech or applicable to foreign shareholder as well?	CGT also applies to foreign shareholders consisting of companies, PLTs, trusts and cooperatives who dispose of their unlisted shareholdings in companies incorporated in Malaysia.
20	Capital Gain Tax - Kategori pembayar cukai terhadap kepada syarikat, llp, koperasi, trust body. adakah pindahan saham dari individual kepada syarikat tertakluk kepada capital gain tax?	No. Currently, Capital Gain Tax (CGT) is only chargeable on the transfer of unlisted share by company, LLP, Cooperative and Trust Body.
21	Capital Gain Tax - Transfer of unlisted shares from the retail individual customer to the Trustee is deemed a disposal?	Yes. Transfer of unlisted shares to the Trustee is deemed as a disposal. Disposal include sell, convey, transfer, assign, settle and / or alienate of unlisted share. However, this transfer may not subject to CGT unless the retails individual customer is acting on behalf / being nominee / trustee of other company, LLP, cooperative or trust body.
22	Is the RPGT imposed on shares in real property companies upon disposal and the CGT is mutually exclusive?	From 1.1.2024, the transfer of unlisted SHT shares is subject to Capital Gains Tax (CGT) for company taxpayers, limited liability partnerships, trusts and cooperatives. Therefore, no tax will be charged under RPGT. The transfer of ownership of real property shares by individuals is still subject to the imposition of Real Property Gains Tax.
23	Capital gains tax will be imposed on gains from disposal of overseas capital assets in the year of remittance into Malaysia? applicable to who? companies? individual? what is the effective date?	From 1.1.2024, gains on the disposal of any capital asset outside Malaysia are subject to tax for company taxpayers, PLTs, trusts and cooperatives. Tax will be charged at the taxpayer's current tax rate when the profits are remitted to Malaysia.
24	it was mentioned that CGT is not applicable to individuals, please clarify	The categories of taxpayers involved with CGT under the ACP are companies, PLTs, Trusts and Cooperatives only.
25	Datuk Pengerusi, Regarding to CKM / CGT, adakah kerajaan berhasrat untuk memasukkan kategori individual dalam category chargeable person under Akta CKM pada masa hadapan ?	Perkara ini bergantung kepada keputusan polisi. Setakat ini individu tidak tertakluk kepada CGT.

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26	Cukai Keuntungan Modal bagi Saham tidak tersenarai . Adakah pindahmilik selepas kematian mengikut faraid / muafakat juga dikena cukai ini ?	CKM dikenakan ke atas keuntungan daripada pelupusan aset modal yang dilupuskan oleh syarikat, PLT, badan amanah dan koperasi sahaja. Pindah milik oleh individu tidak dikenakan CKM.
27	Whether CGT applicable for individual who disposal of share in sdn bhd?	Individual taxpayers are not subject to the imposition of CGT under the ITA.
28	On capital gains tax - you mention that an individual selling its unlisted shares is not subject to Capital Gains Tax - please confirm .	
29	CGT, if a person undertake cross generation planning whereby the shares of holding company being transfer from father to sons. Let say RM 1 to RM 1, although mkt value may be RM1000. Is CGT apply?	CGT does not apply to disposals of shares by individuals. However, individuals are still subject to taxation under RPGTA for shares including RPC shares under paragraph 34 and paragraph 34A, Schedule 2, RPGTA.
30	For Capital Gains Tax, no tax will be charged if the transfer is from an individual shareholder to another individual shareholder ?	Yes. CGT is not subject to the transfer of ownership of shares that occurs between individual shareholders and other individuals.
31	Cukai Keuntungan Modal bagi Saham Tidak Tersenarai . Adakah pindahan saham selepas kematian mengikut faraid / muafakat juga dikenakan cukai ini?	Disposal of shares by individuals is not subject to CGT.
32	Just to double confirm, Capital Gains Tax is not applicable to individual shareholder ?	Based on the current implementation from 1.1.2024, individuals are not subject to CGT under the ITA.
33	Is it means that the capital gains tax is not applicable to individual taxpayers ?	Yes.
34	CGT does not apply to individual shareholders?	Yes.
35	Slides 39- capital gains tax on disposal of unlisted shares of Malaysia Incorporated Company, kindly confirm this does not applicable for individual chargeable person.	Yes.
36	Where disposal of share as gift eg parent to children subject to CGT?	No.
37	If i own 100% share in Co. A and my father own 100% share in Co. B and both of us sell all our shares to Co. C which is jointly owned by us, is it subject to CGT or can it be treated as restructuring?	Individuals are not subject to the imposition of CGT under the ITA.
38	CGT - how do I determine if my sales of shares be considered revenue (taxed at 24%) or under CGT (taxed at 2% / 10%)? Any explicit holding period or follow badges of trade?	"Badges of trade" can be used to determine whether a source is revenue income under paragraph 4(a), ITA or a source of capital assets subject to CGT in certain circumstances.
39	For disposal of unlisted shares of companies incorporated in Malaysia, do we still look at badges of trade to determine whether it should be taxed under the ITA or CGT?	"Badges of trade" can be used to determine whether a source is revenue income under paragraph 4(a), ITA or a source of capital assets subject to CGT in certain circumstances.
40	With the introduction of capital gains tax under the Income Tax Act 1967. Does this means that the taxing of RPC shares under RPGT Act is abolished or revised? if not, there may be double taxing	From 1.1.2024 - disposal of shares subject to CGT only
41	Regarding CGT, are delisted shares considered as unlisted shares?	Yes

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NO	QUESTION	ANSWER
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42	Capital gains tax from disposal of foreign capital assets what is the tax rate?	Gains from the disposal of capital assets outside Malaysia received in Malaysia are subject to current tax rates.
43	Disposal of shares in RPC & disposal of shares under Capital gain tax, are these two mutually exclusive?	With the implementation of CGT under the ITA, the disposal of RPC shares is only subject to the ITA.
44	For subsequent issuance of shares, will it be subjected to capital gain tax?	CGT is charged on the disposal of unlisted shares.
45	bagi pelupusan aset dalam bentuk tanah, daripada anak syarikat kepada syarikat induk, adakah akan dikenakan cukai ckht atau tidak?	Ya. Pelupusan hartanah masih tertakluk kepada pengenaan cukai di bawah CKHT.
46	is CGT applicable only to sale of shares and not all proceeds eg redemption proceeds , liquidation proceeds and return of capital?	CGT will be charged on any receipts from gains on the disposal of unlisted shares. The meaning of disposal is to sell, transfer, transfer, surrender, settle or give possession and includes the reduction of capital shares and repurchase of shares.
47	How would CGT be applied in situations where the shares are transferred or contributed such as dividend in specie, share grant scheme to employees, distribution under liquidation ?	Any situation falling within the meaning of "disposal" is subject to CGT
48	Bagaimana LHDN akan semak keuntungan atas jualan unlisted share kerana ia tidak ada market price. LHDN akan semak valuation guna MFRS 9 Fair Value Measurement ka?	Keuntungan jualan adalah ditentukan berdasarkan kepada harga pelupusan ditolak dengan harga pemerolehan. Harga pelupusan adalah amaun balasan dalam perjanjian jualan saham, manakala harga pemerolehan adalah amaun yang dibayar untuk memperoleh saham. Secara amnya, balasan/prosid jualan bagi sesuatu pelupusan boleh dianggap sebagai nilai pasaran melainkan pelupusan itu tidak dilakukan secara transaksi selengan.
49	Is capital gain tax on disposal of unlisted share under Income Tax Act 1967 ?	Yes, the imposition of capital gains tax on the disposal of unlisted shares introduced is under the Income Tax Act 1967.
50	Capital Gains Tax: "before 1 March 2024" also include those shares acquired in prior years (before 1 Jan 2024)?	Yes. CGT will be imposed on the disposal of unlisted shares acquired before, on and/or after 1 January 2024.
51	CGT - (1) whether disposal of unlisted shares includes shares in a Labuan company? (2) Labuan co. disposing unlisted shares in a MY co - CGT applies?	(1) CGT is applicable to gains on disposal of unlisted shares of companies incorporated in Malaysia, which includes Labuan. (2) Yes. CGT applies to all gains on disposal of unlisted shares of companies incorporated in Malaysia, irrespective of who makes the disposal.
52	Gain on disposal of unlisted shares, we need to treat as different source of income or it can be treat as part of our business income?	Gain on disposal of unlisted shares should be treated as different source of income. Unless, the gain is part of the business income under paragraph 4(a), ACP.

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NO	QUESTION	ANSWER
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53	disposal of unlisted share must have the sale of share agreement?	Not necessarily because disposal can happen by way of sale, transfer of rights, transfer of ownership, transfer of rights, settlement or giving ownership either through a sale and purchase agreement or law enforcement.
54	For subsequent issuance of shares is it subject to capital gain tax too?	If the shares issued are unlisted shares and are subsequently disposed of, they are subject to CGT
55	CGT - If seller involved in share trading activities, is the gain still subject to Income Tax or CGT?	Profits from trading activities are subject to taxation under paragraph 4(a) of the ITA.
56	disposal of shares in Malaysian company by companies - do we still need to consider revenue vs capital? or all will be automatically capital?	Gains on the disposal of unlisted shares in companies incorporated in Malaysia are subject to CGT. However, the disposal of shares for companies that carry out the business of buying and selling shares that falls as business income under paragraph 4(a), ACP is not subject to CGT.
57	Issuance of new shares, which result in dilution of shareholding, is it deem as disposal and subject to CGT?	If the new shares are disposed of, then the gain on the disposal of the shares is subject to CGT.
58	Capital gain tax, does this apply to issuing of new shares to new shareholders? Also does it apply to new shares to existing shareholders which changes the percentage of shareholdings?	Subject to CGT when shares are disposed of.
59	CGT will apply to foreign companies that disposed unlisted shares of companies incorporated in Msia as well?	Yes
60	CGT - Does chargeable asset include sale of preference shares?	Yes. Unlisted Shares of companies including preferences shares are subject to CGT.
61	1)Most of the company incomes have been taxed under corporate income tax, what is the rationale to impose CGT?	Income tax and capital gain tax have different scopes. Income tax is applied on taxable income. CGT is applied on gains from disposal of capital asset.
62	The capital gain tax is bear by buyer?	The capital gains tax is borne by the disposer.
63	Disposal or transfer of share capital of private limited company, is it taxable under ckht?	Beginning from 1 January 2024, the disposal of share capital of private limited company will be subject to the Income Tax Act 1967.
64	Will the new CGT replaced RPGT on disposal of RPC shares? If yes, will there be any transitional rules with regards to existing RPC shares?	Yes, disposals of unlisted shares including RPC after 1 January 2024 will be subject to CGT.
65	Whether CGT apply to disposal of share for RPT company?	Yes, RPC shares will be subject to CGT if they are unlisted shares.
66	Untuk pelupusan RPC saham, jika RPGT sudah dikenakan, sama ada CGT applicable lagi?	The disposal of RPC shares is subject to CGT for companies, PLTs, trusts and cooperatives and is no longer taxed under RPGT.
67	CGT is imposed on gains arising from disposal of unquoted shares. If the said shares happens to be RPC shares (subject to RPGT), would there be double tax?	Any disposal of unlisted / unquoted shares will be subject to CGT under the ITA 1967 effective 1 January 2024. Thus, if the RPC shares disposed is an unlisted/unquoted shares, CGT will be imposed and not RPGT. No double tax occurred.

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NO	QUESTION	ANSWER
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68	There is no indication that RPGT is no longer applicable to RPC shares given the introduction of CGT. Does this mean CGT would apply to only non-RPC shares whilst RPC shares are subject to RPGT?	No, the transfer of ownership of unlisted real property shares is subject to the imposition of CGT.
69	if a corporate shareholder dispose off their share in an unlisted RPC and resulted in a gain, will subject to both Capital Gain Tax and RPGT?	No, such transfer of ownership is only subject to the imposition of CGT.
70	CGT for RPC company, would it be triple taxed on the same transaction since it is also subjected to RPGT and stamping fees?	Disposal of shares (RPC or otherwise) are subjected to CGT under the ITA 1967 with effect from 1 January 2024. Prior to 1 January 2024, only disposal of RPC is subjected to RPGT. Stamp duty on the other hand is a duty on instruments that are employed for completing transactions of sale, lease, charge, settlement, etc. and the duty is chargeable to the recipient.
71	CGT - does disposal only consider as a transfer of shares? How about redemption of RPS or capital reduction?	CGT is applied not only to the transfer of shares but it also includes the redemption of shares (i.e. redemption of RPS) and capital reduction.
72	How to determine RPC Company? Thanks	Controlled companies that own real property or shares of other real property companies or both where the specified value of real property or shares of other real property companies or both is not less than 75% of the total tangible assets of the controlled company
73	How would CGT be applied when shares are transferred as dividend in specie, contribution in kind or distribution under liquidation?	The transfer of unlisted shares will be subject to CGT when disposed of but the acquisition value will be determined according to the market value on the date of acquisition. This matter is clarified in the law.
74	May I know the profit of sales of unlisted shares is based on what share price? because there is no market value of unlisted shares	Profit of sales is the disposal price less acquisition price. Disposal price is the amount of consideration in the share sales agreement, while the acquisition price is the amount paid to acquire the shares.
75	For CGT, how to compute the acquisition cost for intercompany transfer of shares?	The disposal of unlisted shares between related companies in the group should use the market value of the assets.
76	CGT - How to determine share purchase price? Based on last audited report?	The acquisition price is the actual price paid to acquire the shares specified in the sale and purchase agreement unless in certain cases the market value must be used.
77	How would CGT be applied in circumstances where shares are transferred or contributed as dividend-in-specie, contribution-in-kind, share grant scheme to employee, or distribution under liquidation?	It will be subject to CGT as well but the acquisition value will be determined according to the market value on the date of acquisition. This is clarified in the law.
78	How LHDN determine the share price of unlisted share?	The price will be based on the market value or acquisition price as statutorily prescribed.
79	CGT - the method of valuation of shares for cost, at par value or par value plus share premium? What are the supporting documents? Form 24/78 or Form 32A/105 or agreement ?	Cost of shares is the value of consideration of acquisition. Form 24/78 may serve as amongst supporting documentations for newly allotted shares or Form 32A/105 for transfer of shares or relevant share S&P agreement.

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NO	QUESTION	ANSWER
CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)		
80	How to compute the cost for unlisted shares which held more than 20 years to arrive at capital gain	The acquisition price or cost of unlisted shares disposed of may be determined based on the consideration amount of the asset at the date of acquisition. If the amount cannot be determined based on the circumstances under subsection 65E(8), the market value may be used. The determination of the market value will be clarified in the guidelines to be issued.
81	How to determine share value unlisted share for the CGT?	The value of unlisted share is the disposal price less acquisition price. Disposal price is the amount of consideration in the share sales agreement, while the acquisition price is the amount paid to acquire the shares.
82	Saya nak tanya, cadangan untuk tax 10% atas untung daripada jualan unlisted share, bagaimana LHDN akan semak selling price unlisted share itu? Guna MFRS 9 valuation ka?	Secara umumnya, nilai balasan akan digunakan dalam menentukan keuntungan daripada pelupusan melainkan KPHDN mendapati balasan yang dinyatakan adalah tidak munasabah.
83	CGT - the "sale value" will be based on actual sale value of the transaction OR will be marked to market price?	Sale value refers to the disposal value except in certain circumstances, the disposal value will be determined by IRBM.
84	For CGT, do we still need to distinguish between capital vs revenue, e.g. company that is in the business of buying and selling shares will still be regarded as revenue income instead capital income?	Gains on the disposal of shares for companies that carry out the business of buying and selling shares that fall as business income under paragraph 4(a), ITA are not subject to CGT.
85	Looking for explanation for tax issue if happen that we sell total share at total consideration RM1. Any tax implication or to justify this statement.	DGIR may apply the market value of the capital asset if the disposal price is incorrect or not at arm's length.
86	Will IRB query on the consideration if the disposal of unlisted co. shares at a lower price?	DGIR may apply the market value of the capital asset if the disposal price is incorrect or not at arm's length.
87	Capital Gain Tax ... gain from disposal of overseas listed shares and remit to Malaysia, subject to CGT?	Yes, profits from the disposal of listed shares abroad are subject to tax when they are received or remitted to Malaysia.
88	On capital gains tax - is a MY co owning shares of a foreign co and it makes a capital gain from the disposal of the shares in overseas - is this subject to CGT ? What if the amount is not remitted ?	The transaction is under CGT but only taxed when the amount of gain is remitted to Malaysia.
89	slide 43 - maksudnya keuntungan atas jualan apa-apa aset (capital gains) akan dikenakan cukai apabila diremit ke dalam Malaysia? Apply to both Foreign and Local company?	Profits on the sale of any assets (capital gains) will be taxed to residents when remitted to Malaysia.
90	FSIE on CGT - whether only substance rule get exemption - or as long as meet conditions 1 (subject to tax) & 2 (15% headline) ? Any expiration?	Exemption from FSI on profits from overseas will be granted if both substantive economic conditions are met. Exemption periods will be clarified in subsidiary legislation.
91	Is the unabsorbed losses from CGT can be utilised to set off the CGT on foreign source?	No
92	For Slide 43, is the capital gains tax on profits derived from foreign sources apply to all taxpayers (including individuals), or only apply to companies, LLPs, cooperative and trust body only?	Capital gains tax on profits derived from foreign sources is chargeable to income of a company, limited liability partnership, cooperative society or and trust body only.

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NO	QUESTION	ANSWER
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93	Slide 43 imposition of CGT on disposal of all classes of foreign asset. Is selling bitcoin now subject to CGT?	CGT is imposed on gains from disposal of ALL types of capital assets derived from foreign source which includes gains from disposal of bitcoin.
94	If the capital gains arising outside MY is subject to tax in the overseas country - can the tax paid overseas be given a credit for CGT in MY if the same is also taxed in MY ?	The eligibility of tax credit claims for Malaysian residents on income/capital gains taxed in foreign countries is dependent on the Malaysian PPPDK with the source country.
95	Would non-tax resident companies which disposes shares in an unlisted Malaysian company be subject to CGT?	Yes.
96	Currently foreign source income (FSI) on capital investment is exempted, will CGT over write this when disposed of oversea unlisted company shares or FSI still applicable?	Currently, FSI on disposal of capital investment is not subject to tax under ITA. With the introduction of CGT, disposal of capital assets is subject to CGT upon remittance of the gains and tax will be charged at the prevailing tax rate. Exemption (except for gain from disposal of IP) will be given if the economic substance conditions are met.
97	Will irb issued in detail what does substance requirement for CGT? E.g. how many employee is considered as sufficient and how much in RM, is operating cost is considered as adequate.?	Exemption for FSI CGT is allowed if it complies with the economic substantive conditions of having a sufficient number of employees and sufficient operating expenses. Further details will be clarified in subsidiary legislation and guidelines to be issued later.
98	FSIE on CGT - whether only substance rule get exemption, or as long as meet conditions 1&2? Any expiration?	Exemption for FSI CGT will be granted if both substantive conditions are met. The period of exemption will be clarified in the subsidiary legislation.
99	May we have example, supporting documents of economic substance requirements LHDN is looking at for FSI exemption	Substantive economic supporting documents are any documents that can prove the entity has employed a sufficient number of workers with the necessary qualifications and has incurred sufficient operating expenses
100	Is the CGT applicable to Malaysian shareholders only? what about foreign shareholders?	CGT also applies to foreign shareholders consisting of companies, PLTs, trusts and cooperatives who dispose of their unlisted shareholdings in companies incorporated in Malaysia.
101	Capital Gains Tax - will Section 3 of ITA be amended?	No amendment is made under section 3, ITA.
102	Capital gains tax - Gains from the disposal of shares by a controlled company incorporated outside Malaysia - will this be under RPGT Act or ITA?	If the company dispose unlisted shares of a Malaysian incorporated company, the disposal will be subject to CGT under ITA.
103	Capital gains tax - Gains from the disposal of shares by a controlled company incorporated outside Malaysia - will this be under RPGT Act or ITA	Gains or profits from the disposal of shares of a company incorporated in Malaysia by a controlled company incorporated outside Malaysia will be subject to the Income Tax Act 1967.
104	Is Capital gain tax between inter company need to pay tax?	Yes unless the transfer of ownership qualifies for tax exemption under the company's internal restructuring.

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NO	QUESTION	ANSWER
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105	For capital gains tax, if the subsidiary company transfer its shares from holding company A to a new company (become its holding), will this subject to CGT?	Transfer of shares from a holding company to it's subsidiary will be subjected to CGT. Unless the transfer subject to statutory exemption.
106	What are the conditions for CGT exemption for internal restructuring? Can the application be made before the transaction is executed?	Any condition regards to the exemption of CGT for internal restructuring within the same group will be stated accordingly in the specific subsidiary legislation.
107	CGT - the definition of "restructuring of shares" within the same group. Does it mean that the transfer of shares within the group is exempted or need to be under a Corporate Restructuring Exercise?	Shares transferred as a result of internal restructuring exercise is exempted.
108	Is it CGT apply if the Share disposal within inter company ?	Yes, except for cases where exceptions are granted such as internal structuring (within the same group) and meet the specified conditions.
109	CGT -"subsidiary legislation" refers to exemption on foreign CGT?	CGT exemption applicable for : i. Approved initial public offering (IPO) ii. Internal restructuring (within the same group)
110	Capital gains tax - deductions allowed against same source - what does this mean?	Losses can only be deducted from the profit source of the disposal of unlisted shares.
111	CGT - rationale to allow carry forward of capital losses for only 10 year considering that capital transactions are not frequent	Consistent with the existing tax treatment of losses in the ITA.
112	CGT - rationale to allow carry forward of capital losses for only 10 year considering that capital transactions are not frequent	The treatment of loss carry forwards for 10 consecutive assessment years is consistent with the treatment of losses for business purposes.
113	Assalamualaikum. Apakah Borang Nyata yang akan digunakan untuk melaporkan CKM?	Borang Nyata CKM akan digunakan untuk melaporkan CKM. Setiap pelupusan akan dilaporkan secara berasingan dalam borang nyata CKM.
114	What is the mechanism for the declaration of Capital Gain Tax? Is it by way of declaration in the Form e-C?	The CGT Declaration Form will be used to report CGT. Each disposal will be reported separately in the CGT Declaration Form.
115	May I ask got any form need tp fill up for CGT?	
116	Adakah cukai keuntungan modal terus bayar selepas jual atau di Borang B?	Pelupus dikehendaki mengemukakan Borang Nyata CKM dalam tempoh 60 hari dari tarikh pelupusan. Bayaran cukai juga perlu dibuat dalam tempoh yang sama iaitu 60 hari dari tarikh pelupusan.
117	macam mana nak bayar CGT	The disposer is required to submit the CGT Declaration Form within 60 days from the date of disposal. Tax payments must also be made within the same period, which is 60 days from the date of disposal.

SEMINAR PERCUKAIAN KEBANGSAAN 2023

TOPIK 1 : CADANGAN BAJET 2024

CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)

KOMPILASI 2

NO	QUESTION	ANSWER
CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)		
118	Di bawah cukai keuntungan modal - bagi pelupusan aset sebelum 1 March 2024, bagaimanakah hendak memilih samada 20% daripada keuntungan bersih pelupusan, atau 2% dari jualan kasar	<p>Saham tidak tersenarai yang diperolehi sebelum 1/1/2024 dan dilupuskan mulai 1/1/2024, adalah tertakluk kepada CKM pada kadar rata 10% atau nilai jualan kasar 2%.</p> <p>Kadar pada 2% daripada nilai jualan kasar boleh digunakan sekiranya tiada maklumat lengkap berkenaan kos pemerolehan saham tersebut. Namun, pengecualian pengenaan cukai bagi saham tidak tersenarai diberikan bagi tempoh 1.1.2024 sehingga 29.2.2024 melalui perundangan subsidiari.</p>
119	What defines a short-term capital gain (commonly known as windfall gains) in contrast to a long-term capital gain? Is the duration of asset holding a determining factor for both RPGT and CGT	The tax rate under RPGTA is charged based on the holding period of the asset. Meanwhile, the tax rate for CGT is at a flat rate of 10% on profits or at a rate of 2% on gross sales value. Please refer to the tax rate in Part XXI, Table 1, ITA.
120	Capital gain tax before 1 march 2024, we get to choose the 10% on net profit or 2% on gross sale value. when is the date of start? from date of budget announcement or 1 january 2024 until 29-2-24	Shares acquired before 1 January 2024 and disposed of from 1 January 2024, will be subject to CGT at a flat rate of 10% on profits or at a rate of 2% on gross sales value.
121	Capital gains tax - for disposal of shares acquired before 1 Mar 2024 - can choose either 2% on gross sales value or 10% on net gain?	However, tax exemption for unlisted shares is granted for the period 1 January 2024 until 29 February 2024 through subsidiary legislation.
122	Disposal of unlisted shares acquired sebelum 1/3/2024, subject to tax? please elaborate	A rate of 2% of the gross sales value can be used if
123	A co owns unlisted shares in a co B since 2010. It sells the shares of B to a Plc in 2024. Is this subject to 2%(on gross selling price) CGT	As the unlisted shares owned by A Co in Co B were acquired in 2010, A Co can choose whether to be subject to CGT at a rate of 2% of the gross sales value of the shares; or 10% on the profit from the disposal of shares.
124	if disposal of share is making loss (buy RM2 of share , but sell RM1 of share) , is it need pay 10% tax on capital gain tax ??	No. Tax will only be imposed on the gain of capital disposal.
125	how the capital gain tax works? can you give an example for us to virtualize the capital gain tax?	<p>The fixed capital gains tax rate is 10% on the profit from the disposal. Example: If the disposal profit is RM500,000; the tax charged is 10% x RM500,000 = RM50,000. For the acquisition of capital assets made before 1.1.2024, taxpayers can choose to be charged at a rate of 2% on the gross sales value if the gain on disposal cannot be accurately determined due to the absence of proof of expenditure claims. Example: If the gross sales value is RM800,000; the tax charged is 2% x RM800,000 = RM16,000. For further clarification, please refer to the guidelines that will be issued through the IRBM website.</p>

SEMINAR PERCUKAIAN KEBANGSAAN 2023

TOPIK 1 : CADANGAN BAJET 2024

CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)

KOMPILASI 2

NO	QUESTION	ANSWER
CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)		
126	Capital Gains Tax. Is there any clear mechanism for computation of the gain? Will this be applicable for RPC shares well? There should be no double taxation	<p>Shares acquired before 1 January 2024 and disposed of from 1 January 2024 are subject to CGT at a flat rate of 10% on disposal gains or 2% on gross sales value.</p> <p>Shares acquired and disposed of from 1 January 2024, will be subject to CGT at a rate of 10% on disposal gains. However, tax exemption for the disposal of unlisted shares is granted for the period 1.1.2024 until 29.2.2024 through subsidiary legislation.</p> <p>Paragraph 34A of Schedule 2 of the RPGTA 1976 was amended through the Finance Act (No. 2) 2023 [Act 851] with effect from 1 January 2024. Therefore, the disposal of unlisted shares in real estate companies is subject to capital gains tax under the ITA from 1 January 2024 and not charged under RPGTA.</p>
127	If effective date for CGT is from 1 March 2024, why taxpayer still need to tax CGT for unlisted shares disposed before 1 March 2024? (As there is option to tax it either 10% or 2%)	Based on the Finance Act (No. 2) 2023 [Act 851], unlisted shares disposed of before 1 January 2024 are not subject to CGT. CGT only starts on 1 January 2024. The option to choose at a rate of 10% or 2% is for shares acquired before 1 January 2024.
128	CGT is effective from 1/3/24, what is the meaning of disposal of asset acquired before 1/3/2024? Does it apply to disposal of unlisted shares in 2023?	CGT is charged for the disposal of shares from 1.1.2024. The tax rate set is 10% on the profit from the disposal of shares or 2% on the gross sales value.
129	FOR CGT, slide 40, before 1 Mac 2024, if the Company is RPC, the disposal of is subject to RPGT or CGT? Can have example for disposal before 1 Mac 2024.	The rate of 2% on the gross sales value only applies to the disposal of shares acquired before 1.1.2024 only.
130	for shares held prior 1/3/24 disposed post 1/3/24, there is 2 method of calculation prescribed (10% of net profit or 2% of gross sales). is there any criteria which will determine which will be used?	There are no criteria for the imposition of a flat rate of 10% on profit or 2% gross sales value. A rate of 2% of the gross sales value can be used if there is no complete information regarding the cost of the acquisition of the shares.
131	CGT on unlisted shares, would this apply if the disposer is a foreign company as based on budget speech, it seems only apply where the disposer is a domestic company?	CGT is applicable to disposers consisting of companies resident in Malaysia and also non-residents in Malaysia who dispose of unlisted shares in companies established in Malaysia. CGT also applies to the disposal of shares of a controlled company incorporated outside Malaysia that owns real estate located in Malaysia or holds shares of another controlled company or both not less than 75% of the total value of tangible assets is subject to CGT.

SEMINAR PERCUKAIAN KEBANGSAAN 2023

TOPIK 1 : CADANGAN BAJET 2024

CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)

KOMPILASI 2

NO	QUESTION	ANSWER
CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)		
132	Gains on sale of shares by foreign co deemed derived from MY: 1. Shares in any MY controlled co? 2. 75% threshold - for foreign disposer? Asset includes only shares in MY co or both MY and foreign?	CGT applies to the transfer of shares in a controlled company incorporated outside Malaysia regardless of the amount of holding, when the controlled company owns real estate in Malaysia or shares in another controlled company or both not less than 75% of the value of tangible assets.
133	Referring to the slides 44 presented just now, what is the difference within the CGT and the RPGT on RPC shares? Seem like the definition is the same - reaching 75% of the value of its tangible assets	Yes, the determination of shares in a controlled company that refers to a certain value of not less than 75%, which is subject to CGT is the same as the determination of RPC shares as under RPGTA. Please refer to the provisions under section 15C, ITA.
134	for non resident capital gains tax, is the concept of RPC still applicable or it relates to a co where the market value of real estate is more than 75% of its total assets at the point of disposal	Disposal of shares of a controlled company incorporated outside Malaysia that owns real estate located in Malaysia or shares of another controlled company or both where the value of the real estate or shares or both is not less than 75% of the total tangible assets of the controlled company is subject to CGT.
135	Adakah perenggan 34A jadual 2 CKHT akan dipinda atau dibatalkan susulan cukai keuntungan modal dikuatkuasakan.	Perenggan 34A Jadual 2, ACKHT dipinda melalui Akta Kewangan (No. 2) 2023 [Akta 851] berkuat kuasa 1 Januari 2024 bagi mengeluarkan pembayar cukai kategori syarikat, PLT, Koperasi dan amanah daripada tertakluk di bawah pengenaan CKHT atas pelupusan saham syarikat hartanah.
136	How does CGT interact with RPGT's RPC ?	The provisions relating to the disposal of RPC shares under paragraph 34A of Schedule 2, ACKHT are amended and no longer apply to taxpayers of companies, limited liability partnerships, trusts and cooperatives when CGT is imposed under the ITA for this category of taxpayers.
137	Capital gains tax (CGT) - how does CGT interact with RPGT's RPC shares?	
138	With the introduction of capital gains tax, will the provisions in the real property gains tax act 1967 relating to shares in real property companies be removed?	Yes, the provisions relating to the disposal of shares in real estate companies under paragraph 34A, Schedule 2, RPGTA are amended.
139	Gain on disposal of unlisted real property company (RPC) shares. Is it still be taxable under RPGT or the new Capital Gains Tax ?	Paragraph 34A of Schedule 2 of the ACKHT 1976 was amended through the Finance Act (No 2) 2023 [Act 851] with effect from 1 January 2024. Therefore, the disposal of unlisted shares in real estate companies is subject to capital gains tax under the ITA from 1 January 2024 and not subject under ACKHT.

SEMINAR PERCUKAIAN KEBANGSAAN 2023

TOPIK 1 : CADANGAN BAJET 2024

CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)

KOMPILASI 2

NO	QUESTION	ANSWER
CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)		
140	Can you explain more on CGT and its interplay with RPGT? Is there a double taxation on disposal of unlisted shares in real property companies?	<p>CGT only applies to companies, PLTs, cooperatives and trusts. Apart from these 4 categories of taxpayers, CKHT is applicable.</p> <p>Paragraph 34A of Schedule 2 of the ACKHT 1976 was amended through the Finance Act (No. 2) 2023 [Act 851] with effect from 1 January 2024. Therefore, the disposal of unlisted shares by a real estate company is subject to capital gains tax under the ITA from 1 January 2024 and is not charged under ACKHT for company taxpayers, PLT, trusts and cooperatives.</p>
141	Cukai keuntungan modal berlaku sebelum 1/3/24. Kalau perjanjian telah buat pada 1/9/23, tetapi pemindahan modal berlaku pada 31/10/23. Berapakah cukai dikenakan?	Cukai keuntungan modal atas pelupusan saham tidak tersenarai bermula pada 1.1.2024. Tarikh pelupusan berlaku ditentukan berdasarkan perjanjian yang dibuat antara pihak-pihak. Sekiranya perjanjian dilakukan sebelum 1.1.2024, ia tidak tertakluk kepada cukai keuntungan modal di bawah ACP. Namun, jika ia melibatkan pelupusan saham di bawah perenggan 34 atau 34A, ACKHT, penganan cukai di bawah ACKHT adalah terpakai.
142	Capital gains tax of 10% is imposed on net gains from disposal unlisted shares - how is the net gains computed? Any losses, is it allowed to be carried forward?	The calculation method is explained in the legal provisions of section 65E, ITA by taking into account the disposal price of the capital asset minus the acquisition price (after taking into account the allowed adjustments). In the event of a loss, the loss can be deducted from the subsequent disposal profit in the same year. If there is still a loss that cannot be absorbed in the current year, the loss is allowed to be carried forward and deducted from the capital asset disposal profit for the period for the next 10 assessment years. This treatment is parallel to the treatment of losses for business causes.
143	Capital Gain Tax - how to calculate cost ?	Expenses or costs involved in the disposal or acquisition of capital assets are allowed as an adjustment to the disposal price and the acquisition price, in determining the gain/loss on disposal. This matter is clarified in the legal provisions under paragraph 65E(2)(a) and (b), ITA.
144	Computation of CGT based on the sales consideration in the SPA or the market value of the shares of the company at the time of disposal?	In determining the disposal value, the amount of consideration specified in the SPA may be used except for circumstances that state that the market value should be used as under subsection 65E(8), ITA. This matter will be clarified in the CGT Implementation Guidelines to be issued.
145	does the disposal of unquoted ordinary shares subject to capital gain tax, in case the disposal of 100,000 shares at nominal value of RM 1.00. Whereby consideration amount is same as acquisition costs	If the unquoted ordinary share is an unlisted share, it is subject to CGT. The determination of profit is based on the consideration value for the disposal and acquisition of the asset as provided in subsection 65E(2) or any provision related thereto.

SEMINAR PERCUKAIAN KEBANGSAAN 2023

TOPIK 1 : CADANGAN BAJET 2024

CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)

KOMPILASI 2

NO	QUESTION	ANSWER
CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)		
146	How to ascertain CGT, the cost of original share and the disposal value of that share?	Disposal price is the amount of consideration in the share sales agreement, while the acquisition price is the amount paid to acquire the shares. Please refer to subsection 65E(2) of the ITA in ascertaining the gains from disposal.
147	Please elaborate on tax computation of CGT? Is there will have a specific format to follow?	The calculation of taxable profit is based on the disposal price minus the acquisition price which has been adjusted to take into account any allowable expenses. This matter is provided under subsection 65E(2), ITA. Detailed explanations will be issued through guidelines.
148	Capital Gain Tax, if company shares gift from parents, may I know need to pay capital gain tax?	A disposal of unlisted shares or shares under section 15C by an individual is not subject to CGT under the ITA.
149	Slide 44 - What is the tax rate on gains from the disposal of shares in a controlled company incorporated outside Malaysia? Apply to MY or foreign shareholders? Effective date?	A disposal under section 15C refers to the disposal of shares in a controlled company by any company not incorporated in Malaysia. Gains from disposals are deemed to be derived from Malaysia if a company incorporated outside Malaysia disposes of shares in a controlled company that owns real estate located in Malaysia or shares in another controlled company or both where the market value of the real estate or shares or both is more of 75% of the value of its tangible assets. The tax rate that will be charged is 10% on disposal profits or a 2% rate option if the shares are acquired before 1.1.2024.
150	Please confirm whether CGT only covers disposal of unlisted shares or it also covers other type of capital asset? If it covers other type of capital assets, is disposal of motor vehicle, P&M included?	Currently, the disposal of capital asset situated in Malaysia is only on unlisted share of a company incorporated in Malaysia and disposal of unlisted shares of a controlled company under seksyen 15C of the ITA. However, any disposal of capital asset situated outside Malaysia will be subject to foreign source income i.e. upon remittance to Malaysia.
151	Gain from winding up or strike off in subsidiary is subject to capital gain tax??	Yes
152	Capital gains tax - allowable expenses - interest expense deductible?	No
153	Is there a concept of conditional contract (similar to RPGT) for CGT purposes to be used for disposal/acquisition date	Yes, there is a 'conditional contract' concept in CGT.
154	With the implementation of CGT, will our tax treaty with other countries will be reviewed?	The decision to revise the DTA is subject to the policy of the Ministry of Finance.
155	Capital gains tax - allowable expenses - interest expense deductible?	No

SEMINAR PERCUKAIAN KEBANGSAAN 2023

TOPIK 1 : CADANGAN BAJET 2024

CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)

KOMPILASI 2

NO	QUESTION	ANSWER
CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)		
156	For Capital Gains Tax, the unabsorbed losses can carry forward for 10 years, but the deductions is restricted to "same source " . May i know what is the definition of same source?	"Same source" means the same source of income. "Source" is defined under section 2(1), ITA as "means a source of income." For income from the source of capital asset gains which is the disposal of unlisted shares (STT), losses from the source of STT capital assets can only be deducted with the source of STT only.
157	What is the method for valuation of shares since it is unlisted shares ?	The method will be detailed in the subsidiary legislation.. (Company/LLP/Cooperative Society/Trust Body is allowed to use the same method that has been used in determining the price of the disposed shares.)
158	On capital gains tax - relief from group restructuring - will it cover an overseas parent co selling its Malaysian subsidiary ?	The conditions will be detailed in the subsidiary legislation.
159	CGT - "restructuring of shares"within the same group. Is it auto exemption OR need to apply to LHDN for exemption?	Further details regarding the CGT exemption will be explained in the subsidiary legislation.
160	CGT - is the exemption include "Venture Capital Company"as it was mentioned in the Budget Speech but not on the subsequent release notes?	Exemptions to venture capital companies will be granted through subsidiary legislation.
161	For CGT slide 44, what is the definition of a controlled company incorporated outside Malaysia. Can you provide an example of scenario how CGT applies to this in practice?	Will be specified in the guidelines.
162	Capital gains tax exemptions - any conditions?	The conditions for exemption eligibility will be clarified in subsidiary legislation.
163	CGT - approved IPO by Bursa. If unapproved, would it fall under internal restructuring within same group?	The conditions for qualifying exemptions to approved IPOs and internal restructuring will be clarified in the subsidiary legislation.
164	Will IRB/ MOF issue any guideline on the implementation of CGT?	CGT Implementation Guidelines will be issued by IRBM
165	Pg 40: how to determine the Market Value of unquoted shares?	Will be detailed in the CGT Implementation Guidelines to be issued.
166	What is the acceptable method in term of valuation of shares for CGT purposes?	Will be detailed in the Guidelines.
167	Is there any pre-approval required for CGT exemption?	Will be detailed in subsidiary legislation
168	CGT - Can you explain the definition of "Same Group" in more details?	Will be detailed in the law and Guidelines to be issued.
169	Capital gains tax exemptions - any conditions?	Condition on the exemptions will be specified in the subsidiary legislation.
170	Any tax relief or exemption for CGT transactions?	CGT exemption will be given through subsidiary legislation on the following activities: (a) disposal of unlisted shares of a company effective from 1 January 2024 until 29 February 2024; (b) disposal of shares related to Initial Pubic Offering (IPO) approved by Bursa Malaysia effective from 1 March 2024; and (c) disposal of shares related to restructuring of shares within the same group effective from 1 March 2024.

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TOPIK 1 : CADANGAN BAJET 2024
CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)
KOMPILASI 2

NO	QUESTION	ANSWER
CUKAI KEUNTUNGAN MODAL (CKM) / CAPITAL GAINS TAX (CGT)		
171	CGT is not a business frequent transaction, if it transacts frequently then it will become a biz income. Perhaps LHDN can reconsider more than 10 years carry forward	This matter will be subject to policy decision.
172	CGT- exception for internal restricting (within same group). what is the definition of same group? If there are 2 group of companies but ultimate shareholder is the same person, qualify for exception?	Will be detailed in the law and Guidelines to be issued.
173	Whether Capital Gain Tax and RPGT on Real Property Company (RPC) shares will be mutually exclusive? Since CGT does not apply on individuals, does RPGT on RPC still applicable for individuals?	The transfer of unlisted SHT shares is subject to Capital Gains Tax (CGT) from 1 January 2024. Taxpayers subject to this CGT are companies, limited liability partnerships, trusts and cooperatives. The transfer of ownership of real property shares by individuals is still subject to the imposition of Real Property Gains Tax.

Nota:

Tarikh kuat kuasa pelaksanaan Cukai Keuntungan Modal sepertimana yang diumumkan semasa pembentangan Belanjawan 2024 iaitu 1 Mac 2024 tidak lagi terpakai berdasarkan Akta Kewangan (No.2) 2023 [Akta 851] yang diwartakan pada 29 Disember 2023. Pembayar cukai dinasihatkan untuk membuat semakan kepada Akta 851 berkenaan atau hubungi Hasil Care Line untuk penjelasan dan pengesahan lanjut.

Selain itu, LHDNM ingin menegaskan bahawa jawapan yang diberikan di dalam Kompilasi ini adalah berdasarkan pemahaman pegawai ke atas soalan yang diterima semasa Seminar Percukaian Kebangsaan 2023 berlangsung semata-mata.