



**PARAGRAPHS 6, 34A(2) AND (3) SCHEDULE 2
REAL PROPERTY GAINS TAX ACT 1976**

LHB

V.

**DIRECTOR GENERAL OF INLAND REVENUE
MOF.PKCP.700-7/1/1528**



SPECIAL COMMISSIONERS OF INCOME TAX



PUAN ZAHIDA BINTI ZAKARIA



24 JULY 2026

The Taxpayer was a director and one of shareholders of a Real Property Company (“RPC”) known as ECSB. ECSB became an RPC on 24.3.2014 pursuant to the purchase of

a land known as Lot 308. By way of a Share Sale Agreement dated 11.1.2018, the Taxpayer and another shareholder disposed of their shares of 500,000 units in ECSB with total consideration of RM2,716,070.40. The Taxpayer submitted Real Property Gains Tax (“RPGT”) Form (CKHT 1B) and Share Sale Agreement dated 11.1.2018. The Taxpayer also claimed deductions for cost of acquisition of land by ECSB. The Director General of Inland Revenue (“DGIR”) took the acquisition price of RM1.00 per share and disallowed the expenses claimed by the Taxpayer. The DGIR subsequently raised an assessment under Real Property Gains Tax Act 1976 (“RPGTA 1976”) (Form K) dated 11.8.2018 for Year of Assessment (“YA”) 2018. Dissatisfied with the assessment, the Taxpayer filed Form Q against the assessment.

The Taxpayer contended that the consideration of the shares is RM1.00 per unit. The assessments raised was wrong because the DGIR took RM1.00 as the acquisition price per share and disallowed the legal fees and purchase price of the land as expenses. The Taxpayer did not obtain gains or profit from the disposal of the shares under Paragraph 34A(2)(a) and 3(a) of Schedule 2 RPGTA 1976 after deducting the acquisition cost of the land. The 204,000 shares after ECSB became RPC formed part of his existing shareholding interest and should not be treated as a separate acquisition under Paragraph 34A(2)(b) and 3(b) of Schedule 2 RPGTA 1976. The DGIR could not continually revise the assessment after its issuance and any amended assessment was time-barred under Section 15 RPGTA 1976.

In response, the DGIR argued that the Taxpayer obtained 51,000 shares before ECSB became an RPC and 204,000 shares after ECSB became an RPC through new allotment of shares. The acquisition cost of the land is not allowable under Paragraph 34A of Schedule 2 RPGTA 1976. Accordingly, the amount is excluded from the computation of the acquisition price.

On 24.7.2026, the Special Commissioners of Income Tax (“SCIT”) ruled that the Taxpayer has successfully discharged his burden of proof under Paragraph 13 Schedule 5 Income Tax Act 1967. Hence the Taxpayer’s appeal was allowed and Form K dated 11.8.2018 was set aside.

Editorial Note

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