

REAL PROPERTY GAINS TAX (EXEMPTION) ORDER 2015

PU (A) 302
22 December 2015

IN exercise of the powers conferred by subsection 9(3) of the Real Property Gains Tax Act 1976 [*Act 169*], the Minister makes the following order:

CITATION AND COMMENCEMENT

1(1) This order may be cited as the **Real Property Gains Tax (Exemption) Order 2015**.

1(2) This Order shall be deemed to have come into operation on 1 November 2014.

EXEMPTION

2(1) Subject to subparagraph (3), the Minister exempts any person from the payment of real property gains tax in respect of the chargeable gains accruing on the disposal of any chargeable asset pursuant to a restructuring scheme of a licensed person or its corporate group as specified in subparagraph (2).

2(2) The disposal referred to in subparagraph (1) is the disposal made pursuant to—

- (a) a scheme carried out by a licensed insurer, other than a licensed professional reinsurer, for the purpose of complying with subsection 16(1) and section 276 of the Financial Services Act 2013 [*Act 758*], and such scheme is approved by the Bank Negara Malaysia under subsection 100(6) of that Act;
- (b) a scheme carried out by a licensed takaful operator, other than a licensed professional retakaful operator, for the purpose of complying with subsection 16(1) and section 286 of the Islamic Financial Services Act 2013 [*Act 759*], and such scheme is approved by the Bank Negara Malaysia under subsection 112(6) of that Act;
- (c) an acquisition or disposal of shares by a licensed insurer or a licensed takaful operator for the purpose of the scheme referred to in paragraph (a) or (b) respectively;
- (d) a process of obtaining a licence under section 10 of the Financial Services Act 2013 or section 10 of the Islamic Financial Services Act 2013, or surrendering a license pursuant to section 22 of the Financial Services Act 2013 or section 19 of the Islamic Financial Services Act 2013, by a licensed insurer or a licensed takaful operator arising from the scheme referred to in paragraph (a) or (b) respectively;
- (e) a scheme of transfer of business by a financial holding company to another company, or an acquisition or disposal of shares by a financial holding company or any other company within its financial group, for the purpose of complying with section 114 of the Financial Services Act 2013 or section 126 of the Islamic Financial Services Act 2013, and the Bank Negara Malaysia has indicated in writing that it has no objection to such scheme or transaction; and
- (f) an acquisition or disposal of shares, or establishment of a company, by a financial holding company or any other company within its financial group or corporate group—

- (i) in connection with an application under section 110 or 111 of the Financial Services Act 2013 and such application is approved by the Bank Negara Malaysia under subsection 112(3) of the Financial Services Act 2013, or as required under subsection 280(2) or (3) of that Act; or
- (ii) in connection with an application under section 122 or 123 of the Islamic Financial Services Act 2013 and such application is approved by the Bank Negara Malaysia under subsection 124(3) of the Islamic Financial Services Act 2013, or as required under subsection 290(1) of that Act.

2(3) The exemption referred to in subparagraph (1) shall apply to the disposal of any chargeable asset as specified in subparagraph (2)—

- (a) which is made on or after 1 November 2014 but not later than 30 June 2018; and
- (b) which has been approved or not objected to by the Bank Negara Malaysia.

2(4) The application for an exemption under this paragraph shall apply if the prescribed form is accompanied by—

- (a) a copy of the letter of approval or the letter of no objection from the Bank Negara Malaysia; and
- (b) a statutory declaration under the Statutory Declarations Act 1960 [*Act 13*] by the board of directors of the licensed person or its corporate group confirming that the disposal is made solely for the purpose of the schemes and transactions referred to in subparagraphs 2(a) to (f), as the case may be.

2(5) In this paragraph—

"**prescribed form**" means the form prescribed under section 57 of the Act;

"**financial group**" has the meaning assigned to it under the Financial Services Act 2013;

"**corporate group**" has the meaning assigned to it under the Financial Services Act 2013;

"**licensed person**" has the meaning assigned to it under the Financial Services Act 2013;

"**licensed insurer**" has the meaning assigned to it under the Financial Services Act 2013;

"**professional reinsurer**" has the meaning assigned to it under the Financial Services Act 2013;

"**licensed takaful operator**" has the meaning assigned to it under the Islamic Financial Services Act 2013;

"**professional retakaful operator**" has the meaning assigned to it under the Islamic Financial Services Act 2013;

"**financial holding company**" has the meaning assigned to it under the Financial Services Act 2013.