



TAX FLASH

FEBRUARY 2023

In this Issue

- [PR No. 10/2022 – Reinvestment Allowance Part I – Manufacturing Activity](#)
- [PR No. 11/2022 – Reinvestment Allowance Part II – Agriculture and Integrated Activities](#)
- [PR No. 12/2023 \(Part I\) & PR No. 13/2023 \(Part II\) on Commercialisation of Public Resource-Based Research and Development Findings](#)
- [Guidelines on Tax Treatment of Interest Expense / Profit Payable to Bank or Financial Institutions During Moratorium Period](#)
- [2023 Tax Investigation Framework](#)
- [Guidelines on Real Property Gains Tax](#)
- [Questions and Answers in relation to Digital Services and Sales Tax on Low Value Goods](#)

- [Moore Malaysia](#)
- [Moore Global](#)
- [Inland Revenue Board](#)

PR No. 10/2022 – Reinvestment Allowance Part I – Manufacturing Activity

The Inland Revenue Board [“IRB”] has recently issued the *Public Ruling [“PR”] No. 10/2022 – Reinvestment Allowance [“RA”] Part I – Manufacturing Activity* to provide guidance on eligibility to claim RA by a company resident in Malaysia and engaged in manufacturing activities. This new PR replaces the PR No. 10/2020 dated 6th November 2020 with some updates in the examples and the latest amendment in laws.

Pertinent amendments included in the abovementioned PR are as follows:-

- i. Capital Expenditure – Meaning of “factory” [Paragraph 8 of the PR]
 - RA is restricted to ‘portion of the building or an extension of the building used for the purposes of a qualifying project to place or install plant or machinery’ in a situation where the other part of the building or an extension of the building used for the storage of raw material, goods or materials, exceeds one-tenth of the total floor areas of that building or an extension of the building.
- ii. Qualifying Period [Paragraph 9 of the PR]
 - A company can claim additional RA under the *PENJANA* package [“*PENJANA* RA”] in the basis period for the year of assessment [“YA”] 2020 to YA 2024 if it meets all the following conditions:-
 - The company has incurred qualifying expenditure for manufacturing projects or agricultural activities as specified in Schedule 7A of the Income Tax Act 1967 [“ITA 1967”];
 - The RA claim period for 15 consecutive years has ended; and/or
 - The 3 years of assessment for additional RA for the YA 2016 until YA 2018 has ended.
 - *PENJANA* RA claims related to capital expenditure incurred for qualifying project carried out in the basis period of the last YA 2020 to YA 2024 are as follows:-

YA (in which the Qualifying Period of 15-year and Additional RA Ended)	YA (Period Qualifies for <i>PENJANA</i> RA Claim)
2019 or prior	2020, 2021, 2022, 2023 and 2024
2020	2021, 2022, 2023 and 2024
2021	2022, 2023 and 2024
2022	2023 and 2024
2023	2024

- iii. Tax Treatment [Paragraph 10 of the PR]
 - The unabsorbed *PENJANA* RA shall be calculated separately from the unabsorbed RA balance. The unabsorbed *PENJANA* RA can only be allowed to be carried forward up to a maximum of 7 consecutive years of assessment after the *PENJANA* RA qualifying period ends in YA 2024. Any unabsorbed *PENJANA* RA balance at the end of YA 2031 will be disregarded.

Note: For further information relating to RA claim for manufacturing activity in the PR No. 10/2020 , please refer to our [Tax Flash - December 2020](#) issue.

PR No. 11/2022 – Reinvestment Allowance Part II – Agriculture and Integrated Activities

The IRB has recently issued the [PR No.11/2022 – RA Part II - Agriculture and Integrated Activities](#) to provide guidance for a resident company engaged in agricultural activities and integrated activities in ascertaining the eligibility for RA claim. This PR replaces the PR No.11/2020 dated 10th December 2020 with minor changes to the examples and incorporation of the relevant amendments in law.

Pertinent amendments included in the new PR are as follows:-

- i. Qualifying Period [Paragraph 8 of the new PR]
 - A company is entitled to claim RA for 15 consecutive years of assessment.
 - For company whose RA and additional RA has ended on or before YA 2019, that company is entitled to make *PENJANA* RA claim under the *PENJANA* package .
- ii. Tax Treatment [Paragraph 9 of the New PR]
 - A new paragraph has been inserted to specify the claim for RA as below:-
 - RA is given based on 60% of capital expenditure incurred in the basis period for a year of assessment in relation to an agricultural project in relation to the qualifying project; and

- RA is to be deducted against the statutory income of a business but is restricted to 70% of the statutory income.
- iii. Unabsorbed *PENJANA* RA [Paragraph 10 of the New PR]
- The unabsorbed *PENJANA* RA should be calculated separately from the normal unabsorbed RA balance.
 - The unabsorbed *PENJANA* RA can only be carried forward for a maximum period of 7 consecutive years of assessment after the *PENJANA* RA qualifying periods ends in YA 2024.
 - The calculation of the maximum period of 7 consecutive years of assessment begins from YA 2025.
 - Any balances of *PENJANA* RA that is unabsorbed at the end of YA 2031 will be disregarded.

Note: For further information relating to RA claim for agriculture and integrated activities in the PR No. 11/2020, please refer to our [Tax Flash – December 2020](#) issue.

PR No. 12/2023 (Part I) & PR No. 13/2023 (Part II) on Commercialisation of Public Resource-Based Research and Development Findings

The Government has undertaken various initiatives to encourage and accelerate the commercialisation of research and development [“R&D”] findings developed by approved research institutes which consist of public institutes of higher learning and public research institutes.

The commercialisation of public R&D findings in relation to resource-based industries include the process of transforming ideas, knowledge or an invention into a product or process that has an industrial application or that is marketable. The outcome of the R&D commercialisation must be in the form of new resource-based product or activities or new process technology and not limited to the promoted products or activities under the Promotion of Investment Act 1986 [“PIA 1986”].

The sectors covered under the resourced-based R&D are agriculture, agriculture and food processing, oil palm products, wood and wood-based products, rubber-based products, non-metallic mineral products, natural products including pharmaceutical and natural resources such as water, air, lightning and solar.

To spur the commercialisation of resourced-based R&D findings, tax incentives have been provided for:-

- An investor company that makes investments in its related company to finance a project on the commercialisation of public resource-based R&D findings developed by the approved research institutes; and
- The related company undertaking the aforesaid commercialisation of the public resourced-based findings.

In relation to the above, the IRB has issued the following PRs:-

- [PR No. 12/2022 – Commercialisation of Public Resource-Based R&D Finding Part I – Incentive for Investor Company](#) – to provide guidance on the tax incentive available to a company [hereinafter referred to as “investor company”] that invests in its related company for the sole purpose of financing the commercialisation of public resource-based R&D findings in Malaysia; and
- [PR No. 13/2022 – Commercialisation of Public Resource-Based R&D Finding Part II – Incentive for Eligible Company](#) – to provide guidance on the tax incentive available to the related company undertaking the commercialisation of public resource-based R&D findings [hereinafter referred to as “eligible company” or “related company”]

The pertinent points of the tax incentives as provided in the abovementioned PRs are as follows:-

i. Qualifying Criteria of an Investor Company and the Related Company

- For an investor company, the following criteria must be satisfied:-
 - incorporated under Companies Act 2016;
 - resident in Malaysia;
 - shareholdings of the company should be at least 70% Malaysian-owned; and
 - investment on a project for the commercialisation of public resource-based R&D findings must be made in a related company whose shares of at least 70% is directly owned by the investor company.
- For the related company, the following criteria must be satisfied:-
 - incorporated under Companies Act 2016;
 - resident in Malaysia;
 - at least 70% of its equity is directly owned by the investor company; and
 - at least 70% of the equity of the investor company is Malaysian-owned.

ii. Application for Tax Incentive

- The application of an eligible investor company for tax deduction under the ITA 1967 must be submitted together with the application of its related company in respect of the grant of approval for a tax incentive under Section 5(1DF) of the PIA 1986 by completing the relevant forms, which are to be submitted to the Malaysian Investment Development Authority ["MIDA"].

iii. Types of Incentive

- The following incentives are granted in respect of the commercialisation of public resourced-based R&D findings:-
 - For investor company
 - A tax deduction of an amount equivalent to the investment made by the investor company in its related company to undertake the commercialisation of a public pursuant to the Income Tax (Deduction for Investment in a Project of Commercialisation of Research and Development Findings) Rules 2005.
 - For the related company
 - A tax exemption of 100% of its statutory income derived from the pioneer business for a period of five years from the date determined by the Ministry of International Trade and Industry ["MITI"] as the production day.
 - An extension of the tax relief period for the next five years after the expiry of the tax relief period of the first five years may be applied within thirty days or any such extension period allowed by MITI with the concurrence of Ministry of Finance ["MOF"] in writing.

iv. Key Conditions for Grant of Incentive

- For Investor Company
 - Investments made by the investor company would be in a form of cash which is not repayable by the related company or equity shareholding in the related company.
 - Loans or advances made by the investor company to its related company are not eligible for tax incentive unless these loans or advances are converted to equity before the commencement of tax relief period of the related company.
 - Period and amount eligible for tax deduction
 - The total amount eligible for tax deduction approved by MOF is the actual investment made in each year of assessment in its related company.
 - For the investor company to qualify for the deduction, the project of commercialisation of public resource-based R&D findings should commence within one year from the date of approval granted to the related company by MIDA.
 - Cessation of Deduction
 - The claim for tax deduction for the investor company will cease in the year of assessment in which tax relief period of the related company commences.

- The tax relief period of the related company commences on the date of production specified in the pioneer certificate for first round incentive.
- For the Related Company
 - The related company that intends to undertake a project on the commercialisation of public resource-based R&D findings and intends to construct a factory / have an existing factory in Malaysia to be occupied for the said project may apply for tax incentive with MIDA together with its investor company.
 - Grant of Approval for Tax Deduction
 - Pioneer status will be granted to the eligible company by MITI with the concurrence of MOF in writing if the tax incentive is approved
 - The commencement of project of commercialisation of public resource-based R&D findings should commence within one year from the date of approval issued by MIDA.
 - The pioneer certificate is required to be applied within 24 months from the date the pioneer status is granted or such extension period allowed by MITI.
 - The production date, which is the day the company commences to produce marketable quantities of the resource-based pioneer product of not less than 30 per centum of the rated production capacity, will be specified in the pioneer certificate.
 - Withdrawal of Pioneer Status
 - The pioneer status granted may be withdrawn if the company contravenes any provisions in the PIA 1986 or any conditions imposed by the MITI with the concurrence in writing of the MOF upon the grant of the incentive.

Guidelines on Tax Treatment of Interest Expense / Profit Payable to Bank or Financial Institutions During Moratorium Period

The IRB has issued the *Guidelines on Tax Treatment of Interest Expense / Profit Payable to Bank or Financial Institutions ["FI"] During Moratorium Period* dated 28th December 2022 (in *Bahasa Malaysia*) to provide explanation on the claim for deduction of interest expense / profit payable by an individual, small and medium enterprise ["SME"] and any company other than SME during the moratorium period from 1st April 2020 to 30th September 2020. This is a deferment or temporary suspension of loan repayment obligations (i.e. both the principal and interest / profit payable during the moratorium period granted by bank or FI without imposition of any late payment penalty / charge.

The salient points of the abovementioned Guidelines include:-

- i. Pursuant to Section 33(4) of the ITA 1967, a taxpayer is eligible to claim a deduction of interest when such interest is due to be paid. This applies even though the interest has not actually been paid on the date when the interest is due to be paid.
- ii. The date when the interest is due to be paid is determined based on the terms of the loan agreement. In situation when there is variation on the due date for payment, necessary tax adjustments have to be made by the taxpayer to ensure that the claim for deduction made is correct.
- iii. In the circumstances where interest charged for the moratorium period is shown as an accumulated amount in the bank statement for the month of September 2020, confirmation must be obtained from the bank on the amount of interest due to be paid for each month during the moratorium period.
- iv. Based on the example in Paragraph 4.3 of the Guidelines, miscellaneous charges incurred during the moratorium period is allowed for tax deduction under Section 33(1) of the ITA 1967.

- v. Penalty charges imposed by the bank for the moratorium fall under the prohibited expense under Section 39(1) of the ITA 1967 and hence not tax deductible.

2023 Tax Investigation Framework

The IRB has issued the *Tax Investigation Framework 2023* ["2023 Framework"] to replace the previous Tax Investigation Framework issued on 1st January 2020 ["2020 Framework"].

The salient amendments included in the 2023 Framework are as follows:-

- i. Legal Provisions [Paragraph 2.1.20 of 2023 Framework].
 - Section 112(1A) of the ITA 1967 has been included under the legal provisions applicable to tax investigation.
- ii. Selection of Cases [Paragraph 6.2 of 2023 Framework]
 - The focus in selection of a tax investigation case will include cases where taxpayers have intentionally failed to report an income and making fraudulent claims.
- iii. Investigation Procedures – Investigation [Paragraph 7.1.11 of 2023 Framework]
 - The IRB officers may summon the taxpayer or other related persons to record statements which can be performed in the taxpayer's business premises / residential house, premises of agent / representative / 3rd party and at the IRB office.
- iv. Investigation Procedure – Prosecution [Paragraph 7.4 of 2023 Framework]
 - A taxpayer may be prosecuted if there is evidence that an offence has been committed pursuant to the relevant provisions of the ITA 1967.
 - For taxpayers who fail to attend to court proceedings after issuance of summons, this may result in arrest warrant being issued.
- v. Rights and Responsibilities – IRB [Paragraph 8.1.3 of 2023 Framework]
 - Taxpayers are not allowed to make any payment to the IRB officers. All payments arising from tax evasion must be made in the name of Director General of Inland Revenue.
- vi. Rights and Responsibilities – Taxpayer [Paragraphs 8.2.7 and 8.2.8.4 of 2023 Framework]
 - Taxpayers, tax agents or witnesses may take own notes during interview or recording of statements.
 - Obstructing an IRB officer to perform his duty will be treated as an offence under Section 116 of the ITA 1967, i.e.: -
 - obstructs or refuses to grant permit for the entry of the investigations officer into any land, building or place in pursuance of Section 80 of the ITA 1967;
 - refuses to produce any book or other document in his custody or under his control when required to do so by investigating officer;
 - fails to provide reasonable facilities or assistance or both investigating officer; and
 - refuses to answer any question during the investigation.
- vii. Deletion of Contents
 - The following paragraphs contained in the 2020 Framework have been deleted:-
 - Paragraph 7.1 of 2020 Framework – Request for documents and information;
 - Paragraph 7.5 of 2020 Framework – Finalisation of Investigation; and
 - Paragraph 8.2.5 of 2020 Framework – To make copies of taxpayer's own document in the possession of IRB during the investigation.

The above 2023 Framework takes effect from 1st January 2023.

Note: For further information on the previous 2020 Tax Audit Framework, kindly refer to our [Tax Flash - February 2020 issue](#).

Guidelines on Real Property Gains Tax

The IRB has recently issued the [Guidelines on Real Property Gains Tax \["RPGT"\]](#) dated 6th January 2023 (in *Bahasa Malaysia*) to provide guidance on RPGT computation, exemptions, responsibilities of the disposer and the acquirer, penalties that may be imposed on the disposer and the acquirer and updates/changes based on the relevant amendments in law pursuant to the Finance Act 2021.

Salient points of the abovementioned Guidelines include:-

i. RPGT Rates [Paragraph 4 of the Guidelines]

- RPGT rates differs according to the categories of disposer and holding period of chargeable asset. There are 3 categories of disposer as per Parts I, II and III of Schedule 5 of the RPGT Act 1976.
 - Part I – Disposer is an individual Malaysian citizen and permanent resident. The RPGT rates are as follows:-

Disposal Date \ Holding Period	Rate (%)					
	01.01.2010 - 31.12.2011	01.01.2012 - 31.12.2012	01.01.2013 - 31.12.2013	01.01.2014 - 31.12.2018	01.01.2019 - 31.12.2021	01.01.2022 onwards
Within 2 years	5*	10**	15***	30	30	30
In the 3 rd year	5*	5**	10***	30	30	30
In the 4 th year	5*	5**	10***	20	20	20
In the 5 th year	5*	5**	10***	15	15	15
In the 6 th year and thereafter	exempted*	exempted**	exempted***	0	5	0

- Part II – Disposer is a company incorporated in Malaysia or a trustee of a trust or body of person registered under any written law in Malaysia. The RPGT rates are as follows:-

Disposal Date \ Holding Period	Rate (%)				
	01.01.2010 - 31.12.2011	01.01.2012 - 31.12.2012	01.01.2013 - 31.12.2013	01.01.2014 - 31.12.2018	01.01.2019 onwards
Within 2 years	5*	10**	15***	30	30
In the 3 rd year	5*	5**	10***	30	30
In the 4 th year	5*	5**	10***	20	20
In the 5 th year	5*	5**	10***	15	15
In the 6 th year and thereafter	exempted*	exempted**	exempted***	5	10

- Part III – Disposer who is not citizen and not permanent resident or an executor of the estate of a deceased person who is not a citizen and not a permanent resident or a company not incorporated in Malaysia. The RPGT rates are as follows:-

Holding Period \ Disposal Date	Rate (%)				
	01.01.2010 - 31.12.2011	01.01.2012 - 31.12.2012	01.01.2013 - 31.12.2013	01.01.2014 - 31.12.2018	01.01.2019 onwards
Within 2 years	5*	10**	15***	30	30
In the 3 rd year	5*	5**	10***	30	30
In the 4 th year	5*	5**	10***	30	30
In the 5 th year	5*	5**	10***	30	30
In the 6 th year and thereafter	exempted*	exempted**	exempted***	5	10

Notes :

* Exemption of RPGT payment from the period of 01.01.2010 until 31.12.2011 via RPGT Order (Exemption) (No. 2) 2009

** Exemption of RPGT payment from the period of 01.01.2012 until 31.12.2012 via RPGT Order (Exemption) 2011

*** Exemption of RPGT payment from the period of 01.01.2013 until 31.12.2013 via RPGT Order (Exemption) 2012

ii. Acquisition Price and Disposal Price [Paragraph 6.3 of the Guidelines]

- Based on Paragraph 2A of Schedule 2 of the RPGT Act 1976 (for taxpayers categorised under Part I), the acquisition price for disposal of assets acquired prior to 1st January 2000 and prior to 1st January 2013 depends on the disposal date and the category of asset as follows:-

Disposal Date	Disposed Asset	Acquisition Date	Acquisition Price	Non-allowable Expenditure
01.01.2019 - 11.10.2019	Real property or shares	Prior to 01.01.2000	Market value as at 01.01.2000	Expenses incurred prior to 01.01.2000
12.10.2019 onwards	Real property (excluded shares)	Prior to 01.01.2013	Market value as at 01.01.2013	Expenses incurred prior to 01.01.2013

iii. Non-allowable Expenditure [Paragraph 7 of the Guidelines]

- The non-allowable expenditure for the purpose of computing the acquisition price and/or disposal price, include:-
 - Expenditure incurred from the period prior to 1st January 1970 or 1st January 2020 or 1st January 2013;
 - Allowable expenses in the computation of adjusted income or adjusted loss under the ITA 1967;
 - Input tax that is creditable and output tax that is borne by the disposer;
 - Interest on loans to purchase the asset; and
 - Fees incurred to complete and submit the RPGT forms.

iv. Exemptions [Paragraph 10 of the Guidelines]

- Effective 1st January 2022, Paragraph 2 of Schedule 4 of the RPGT Act 1976 was amended to provide a formula to compute the amount of exemption allowed for a partial disposal of shares under Paragraph 34 and 34A of Schedule 2 of the RPGT Act 1976 by an individual. The exempted amount is to be the higher of 10% of the chargeable gain or the amount calculated based on the formula below:-

$$\frac{A}{B} \times C$$

where:-

- A is the number of shares deemed to be a chargeable asset under Paragraph 34 or 34A of Schedule 2 of the RPGT Act 1976 disposed;

B is the total number of issued shares deemed to be a chargeable asset in relation to shares deemed to be chargeable asset under Paragraph 34 or 34A of Schedule 2 of the RPGT Act 1976;

C is RM10,000;

or 10% of the chargeable gain, whichever is greater.

v. Assets Acquired by Way of Gift [Paragraph 11.2 of the Guidelines]

- For the purpose of ascertaining the acquisition price of an asset acquired by way of gift, where the donor and recipient are husband and wife, parent and child or grandparent and grandchild, the recipient's acquisition price is as follows:-

Gift is Made	Acquisition Price
Within 5 years from the donor's acquisition	Amount paid by donor plus permitted expenses
After 5 years from the donor's acquisition	Market value of gift
Between 1 st January 2019 to 31 st December 2021	Amount paid by donor plus permitted expenses

vi. Disposal of Asset via Power of Attorney ["PA"] [Paragraph 14 of the Guidelines]

- PA refers to a letter which allowed a donee to act on behalf of the doner in performing the assigned tasks.
- The law related to the PA is governed by the *Akta Surat Kuasa Wakil* 1949 where it is only used in peninsular Malaysia for appointment of PA. For Sabah and Sarawak, the law relating to the PA is governed by the common law.
- The grant of an irrevocable PA for valuable consideration is a "disposal" as there is an "assignment". Hence, the disposal transaction to third party is the disposal transaction by the donee.
- There are 2 disposal transactions via PA which is subject to the RPGT:-
 - Doner to donee; and
 - Donee to third party.
- Generally, the disposal date will be the date the PA is granted to the donee and the disposal price will be the market value or consideration given for the grant of the PA.

vii. Treatments in Which Disposal Price is Deemed Equal to Acquisition Price [Paragraph 15.1 of the Guidelines]

- Effective 1st January 2022, Paragraph 3(1)(b) of Schedule 2 of the RPGT Act 1976 was amended to expand the scope of transactions in which the disposal price is deemed to be equal to the acquisition price, to include transactions involving the disposal of chargeable assets by a nominee or trustee of an individual, the wife of the individual or both, to a company controlled by the nominee or trustee for the individual, the wife of the individual or both.

viii. Responsibilities of Disposers [Paragraph 21 of the Guidelines]

- Disposers are required to submit completed and signed Form CKHT 1A or Form CKHT 1B within 60 days from the date of disposal of the asset.
- Every disposer needs to fill in Form CKHT 1A or Form CKHT 1B separately. If the disposer or acquirer are more than 1 person, the *Lampiran 1* and *Lampiran 2* need to be filled in accordingly.
- For disposal of real property with different acquisition date, the information in Part D of the Form CKHT 1A need to be filled according to the date and the part of acquisition. Every incidental cost for disposal and acquisition needs to be filled according to its part of disposal and acquisition.
- For disposal of shares with different acquisition date, the information in Part C, D and E of the Form CKHT 1B need to be filled according to the date and the part of acquisition. Every incidental cost for acquisition needs to be filled in according to its part of shares acquired.

- Disposers are required to submit completed *Lampiran 3* if the disposer i.e. Malaysian or permanent resident elects to apply for private property disposal tax exemption under Section 8 of the RPGT Act 1976 (once in a lifetime).
- Completed Form CKHT 3 must be submitted together with Form CKHT 1A or Form CKHT 1B where a copy of Form CKHT 3 must be provided to the acquirer for the submission together with the Form CKHT 2A.

ix. Responsibilities of Acquirer [Paragraph 23 of the Guidelines]

- Acquirers are required to submit completed, clear and signed Form CKHT 2A within 60 days from the date of acquisition of the asset.
- Every acquirer needs to fill in Form CKHT 2A separately. If the disposer or acquirer is more than 1 person, the *Lampiran 1* and *Lampiran 2* need to be filled in accordingly.
- The acquirer does not need to remit the payment under Section 21B of the RPGT Act 1976 if the completed Form CKHT 3 is received from the disposer. A copy of the completed Form CKHT 3 must be submitted together with Form CKHT 2A.

x. RPGT Payment [Paragraph 25.1 of the Guidelines]

- Effective 1st January 2022, the rates that apply in relation to the retention sum by acquirer under Section 21B of the RPGT Act 1976 are as follows:-

Disposer Category (According to Schedule 5 of the RPGT Act 1976)	Holding Period of Asset by Disposer	Retention Sum Rate by Acquirer (%)
Part I	Not take into account the holding period	3
Part II	Disposal within 3 years from the acquisition date	5
Part II	Disposal in the 4 th year and thereafter	3
Part III	Not take into account the holding period	7

xi. Payment Procedure [Paragraph 25.3 of the Guidelines]

- The Guidelines outline the latest procedure for RPGT payments i.e. e-TT system and provide an updated list of authorised banks and available services.

xii. Procedures for RPGT Refund [Paragraph 27 of the Guidelines]

- In the event of cancellation of disposal or sale transaction after the RPGT return is submitted or after the payment under Section 21B of the RPGT Act 1976 is made, the disposer or acquirer should inform the IRB by submitting the following documents:-
 - Disposal Cancellation Agreement;
 - Letter of repayment of stamp duty with supporting documents; or
 - Other official documents which may prove the cancellation of the disposal or sale transaction.
- If the sale and purchase agreement is cancelled after the said disposal has been reported to the IRB, the disposer will need to inform the aforesaid cancellation to the RPGT assessment unit of the IRB.

xiii. Offences and Penalties

Apart from the above, the Guidelines also outline the following:-

- Penalties that may be imposed on disposer under Sections 29(3), 30(2) and 14(5) of the RPGT Act 1976 [Paragraph 22 of the Guidelines];
- Prosecution against the acquirer pursuant to Sections 29(1) and 36 of the RPGT Act 1976 [Paragraph 24 of the Guidelines]; and
- Penalties that may be imposed on the disposer and acquirer in relation to RPGT payment under Sections 21B(2) and 21(4) of the RPGT Act 1976 [Paragraph 26 of the Guidelines].

It is noteworthy that the information contained in the earlier Guidelines on RPGT dated 18th June 2013 and 13th June 2013 remain applicable based on the provisions of the RPGT Act 1976 applicable at the time when the date of disposal of asset took place.

Note: For further information on the earlier Guidelines on RPGT, kindly refer to our [Tax Flash – July 2013](#) and [Tax Flash – July 2018](#) issues.

Questions and Answers in Relation to Digital Services and Sales Tax on Low Value Goods

The Royal Malaysian Customs Department [“RMCD”] had conducted a webinar on 17th January 2023 to provide an update on service tax on digital services [“SToDS”] and implementation of sales tax on low value goods [“LVG”].

Subsequently, the RMCD has on 3rd February 2023 published a list of [Questions and Answers](#) raised during the webinar. The list of questions and answers provides some clarity on the SToDS and the implementation of sales tax on LVG.

For other issues of our Tax Flash, please go to:
www.moore.com.my/publications



www.moore.com.my

This publication is provided gratuitously and without liability. It is intended as a general guide only and the application of its contents to specific situations will depend on the particular circumstances involved. Readers should seek appropriate professional advice regarding any particular problems that they encounter, and this tax update should not be relied on as a substitute for advice. Accordingly, Moore Advent Tax Consultants Sdn Bhd assumes no responsibility for any errors or omissions it may contain, whether caused by negligence or otherwise, or for any losses, however caused, sustained by any person that relies on it. Should further information, clarification or advice be required on any of the contents stated herein, please feel free to contact our tax team at tax@moore.com.my.