

TECHNICAL

Direct Tax

EXEMPTION ORDERS IN RELATION TO A RESTRUCTURING SCHEME OF A LICENSED PERSON OR ITS CORPORATE GROUP

The following Exemption Orders were gazetted on 22 December 2015:

1. [Real Property Gains Tax \(Exemption\) Order 2015 \[P.U.\(A\)302-2015\]](#)

The main provisions of the Order are summarized below:

<i>Para. No.</i>	<i>Summary</i>
1(2)	<p>Effective date</p> <p>The Order is deemed to have come into operation on 1 November 2014.</p>
2(1)	<p>Exemption</p> <p>Subject to conditions stated below, exemption from payment of RPGT is granted to any person on chargeable gains accruing on the disposal (specified) of any chargeable asset pursuant to a restructuring scheme of a licensed person (defined) or its corporate group.</p>
2(2)	<p>“Disposal” refers to the disposal made pursuant to –</p> <ol style="list-style-type: none"> a) a scheme carried out by a licensed insurer (LI), other than a licensed professional insurer, for the purpose of complying with S.16(1) and S.276 of the <u>Financial Services Act 2013</u> (FSA), and the scheme is approved by Bank Negara Malaysia (BNM) under S.100(6) of that Act; b) a scheme carried out by a licensed takaful operator (LTO), other than a licensed professional retakaful operator, for the purpose of complying with S.16(1) and S.286 of the <u>Islamic Financial Services Act 2013</u> (IFSA), and the scheme is approved by BNM under S.112(6) of that Act; c) an acquisition or disposal of shares by a LI or a LTO for the purpose of the scheme referred to in (a) or (b) respectively; d) a process of obtaining a licence under S.10 of the FSA or S.10 of the IFSA, or surrendering a licence under S.22 of the FSA, or S.19 of the IFSA, by a LI or a LTO arising from the scheme referred to in (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, in compliance with S.114 of the FSA or S.126 of the IFSA and BNM has indicated in writing that it has no objection to the scheme or transaction; 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 –

	<p>i. in connection with an application under the FSA (S.110 or S.111) which is approved by BNM under that Act (S.112(3)) or as required under that Act (S.280(2) or (3)); or</p> <p>ii. in connection with an application under the IFSA (S.122 or S.123) which is approved by BNM under the IFSA (S.124(3)) or as required under that Act (S.290(1)).</p>				
2(3)	<p>The exemption applies only to a disposal (as specified above) which is –</p> <p>a) made on or after 1 November 2014 but not later than 30 June 2018; and</p> <p>b) approved or not objected to by BNM</p>				
2(4)	<p>Application for an exemption is made on the “prescribed form” and must be accompanied by:</p> <p>a) a copy of the letter of approval or non-objection from BNM; and</p> <p>b) a statutory declaration under the Statutory Declarations Act 1960 by the board of directors of the licensed person or its corporate group confirming that the disposal is made solely for the purposes of the schemes and transactions listed under para. 2(2)(a) to (f).</p>				
2(5)	<p>Definitions</p> <p>The following terms have the same meanings as those assigned to these terms under the respective Acts named below:</p> <table border="1"> <thead> <tr> <th>FSA</th><th>IFSA</th></tr> </thead> <tbody> <tr> <td> <ul style="list-style-type: none"> financial group corporate group licensed person* licensed insurer professional reinsurer </td><td> <ul style="list-style-type: none"> licensed takaful operator professional retakaful operator </td></tr> </tbody> </table> <p>* “licensed person” is defined in the FSA as a “person licensed under section 10 to carry on a licensed business” while “licensed business” is defined as “banking business, insurance business or investment banking business”.</p>	FSA	IFSA	<ul style="list-style-type: none"> financial group corporate group licensed person* licensed insurer professional reinsurer 	<ul style="list-style-type: none"> licensed takaful operator professional retakaful operator
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2. [Stamp Duty \(Exemption\) Order 2015 \[P.U.\(A\)303-2015\]](#)

The main provisions are summarized below:

Para. No.	Summary
1(2)	<p>Effective date</p> <p>The Order is deemed to have come into operation on 1 November 2014.</p>
2(1)	<p>Exemption</p> <p>Subject to conditions stated below, exemption from stamp duty is granted in respect of all instruments executed pursuant to a restructuring scheme of a</p>

	licensed person (defined) or its corporate group.
2(2)	The instruments referred to above are instruments executed pursuant to the same schemes and transactions as listed in the table above, under para. 2(2)(a) to (f) for the RPGT (Exemption) Order 2015.
2(3)	The exemption applies to instruments specified in para. 2(2) above which are – a) executed on or after 1 November 2014 but not later than 30 June 2018; and b) approved or not objected to by BNM
2(4)	The application must be accompanied by: a) a copy of the letter of approval or non-objection from BNM; and b) a statutory declaration under the Statutory Declarations Act 1960 by the board of directors of the licensed person or its corporate group confirming that the instruments are executed solely for the purpose of the schemes and transactions listed under para. 2(2)(a) to (f).
2(5)	Definitions Definitions of terms are the same as found in para. 2(5) of the RPGT (Exemption) Order 2015.

Members may read the Orders in full at the official website of the [Attorney-General's Chambers](#).

You may write to the Institute at technical@ctim.org.my or secretariat@ctim.org.my in respect of any suggestions, concern or comments you may have on the Orders so that we may raise them to the LHDNM.

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