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## Sale of Property by Non-Citizens and Non-Permanent Residents

The law on real property gains tax (RPGT) has been amended[1] in a way that will have a significant impact on the sale of property in Malaysia by persons who are neither citizens nor permanent residents.[2]

The amount to be retained by a purchaser for the purposes of RPGT has been increased from 3% to 7% of the purchase price where the vendor is neither a Malaysian citizen nor a permanent resident.[3] If the consideration does not consist wholly of money, the amount to be retained will be the whole of the cash consideration or a sum of up to 7% of the total consideration, whichever is the lesser. On the disposal of property by a Malaysian citizen or permanent resident, the amount of retention remains at 3% of the purchase price.[4]

It is the current market practice for a deposit equivalent to 10% of the purchase price to be paid upon execution of the sale and purchase agreement. Since the purchaser is required to remit the retention sum to the Inland Revenue Board within 60 days from the date of the disposal[5] and the balance of the purchase price is usually only payable within 90 days, retention for the purposes of RPGT is typically made out of the amount of the deposit. With this amendment, foreign vendors can expect to receive only 30% of the deposit as the remaining 70% will be retained by the purchasers.

This new law came into effect on 1 January 2018.[6]

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[1] Finance (No 2) Act 2017

[2] *Ibid*, ss 15 to 18

[3] See s 16 of the Finance (No 2) Act 2017, which introduces a new subsection 1A to s 21B of the Real Property Gains Tax Act 1976

[4] Real Property Gains Tax Act 1976, s 21B(1)

[5] *Ibid*

[6] Finance (No 2) Act 2017, s 15