

A hand with red nail polish holds a set of keys next to a miniature white house with a red roof and blue windows. The background is a blurred blue shirt.

Taxation of Unit Holders of Real Estate Investment Trusts/ Property Trust Funds

Public ruling No. 1/2021





What are REITs?

- REITs stand for ***Real Estate Investment Trusts***

- REITs allow investors to enter into a wide-range of real estate investments ***without actually holding properties directly***

- It is a closed-end Fund/ Trust investment instrument that enables ordinary investors to participate in the real estate market with a lower threshold

- Generally managed by professional agents familiar with real estate



If REITs distributors ration out 90% of their total YA income to unit holders, then they will be ***exempted from tax*** for that YA with no tax credit.

Tax Treatment for REITs holders

REITs holders are taxed in the YA where the distributed income is received. However, such distribution would carry with it, a tax credit, which can be utilized by the unit holders to off-set against the tax charged on them pursuant to subsection 110(9A) of the ITA.



On the contrary, tax exempt income received by REIT/ PTF and subsequently distributed to unit holders continue to be ***tax exempt*** in the hands of these unit holders.

Tax Treatment for REITs holders (con't)

Where unit holder is tax exempted but the distribution of income from a REIT/ PTF has been subjected to withholding tax (WHT) under section 109D of the ITA, that unit holder would be entitled to a ***refund*** under section 111 of the ITA.



Tax Treatment for REITs holders (con't)

The tax rates applicable to the unit holders would depend on their residence status.

A summary of the relevant tax rates are according to the chart:

Chargeable Person	YA 2009 to 2015		YA 2016 to 2025	
	Type of Tax	Rate	Type of Tax	Rate
(A) Company	(i) Resident	Corporate	Corporate	24% ²
	(ii) Non-Resident	WHT (final tax)	WHT (final tax)	24% ²
(B) Foreign Institutional Investor	WHT (final tax)	10%	WHT (final tax)	10%
(C) Individual	(i) Resident	WHT (final tax)	WHT (final tax)	10%
	(ii) Non-Resident	WHT (final tax)	WHT (final tax)	10%
(D) Others	(i) Resident	WHT (final tax)	WHT (final tax)	10%
	(ii) Non-Resident	WHT (final tax)	WHT (final tax)	10%

*** Note:**

The tax rate of 24% for resident company and non-resident company have effect for the YA2016 and subsequent YA.



Depending on the residence status...

Unit Holder	Residence Status
Daya Maju Sdn Bhd	Resident company
Gupta India Pte Ltd	Non-resident company
Padzli	Resident individual
Johnson	Non-resident individual
German Pension Fund	Non-resident foreign institutional investor
Discretionary Trust	Resident and non-resident

Would result in different tax rates as follows:

Unit Holder	Tax Treatment
Daya Maju Sdn Bhd	Corporate Tax 24% ³
Gupta India Pte Ltd	WHT 24% ⁴
Padzli	WHT 10% ⁴
Johnson	WHT 10% ⁴
German Pension Fund	WHT 10% ⁴
Discretionary Trust	WHT 10% ⁴

*** Note:**

Daya Maju Sdn Bhd is not subject to WHT but is taxable at the corporate tax rate of 24% for the YA 2021.

WHT charged on Gupta India Pte. Ltd, Mr Padzli, Mr Johnson, German Pension Fund and Discretionary Trust is the final tax for the YA 2021.



Reference

- Phl.hasil.gov.my. 2021. *TAXATION OF UNIT HOLDERS OF REAL ESTATE INVESTMENT TRUSTS / PROPERTY TRUST FUNDS PUBLIC RULING NO. 1/2021*. [online] Available at: <https://phl.hasil.gov.my/pdf/pdfam/PR_01_2021.pdf>.



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