



Tel : 04-2615669
Fax/Tel : 04-2628664
E-mail : secretariat@penangbar.org
Website : www.penangbar.org

No. 4. Green Hall,
1st Floor,
10200 Penang,
Malaysia.

JAWATANKUASA PEGUAM PULAU PINANG PENANG BAR COMMITTEE

CPC 23/22

14 Oct 2022

To Members of the Penang Bar,

Outcome of Discussions with the Inland Revenue Board of Malaysia, (Penang Branch) (IRB) On Stamp Duty and Related Matters

Based on Members' feedback and queries on the applicability of Stamp Duty and other related matters, the Penang Bar's Conveyancing Practice Subcommittee recently had a meeting with the Inland Revenue Board of Malaysia, (Penang Branch) (IRB) on 3 Oct 2022.

Members are requested to take note of the following matters that were discussed during the said meeting:-

1. Stamp Duty Applicable on Trust Deeds.

The Penang Bar's Conveyancing Practice Subcommittee referred to item 37 of Schedule 1 of the Stamp Act 1949.

IRB's position is that stamp duty will be calculated based on whether the trust deed has the effect of passing the beneficial interest of the trust property to the Trustee.

Examples: -

1. Situation A- In a situation where the beneficial interest has passed, the trust deed will be treated as a "conveyance" and "ad volarem" stamp duty shall be chargeable on the document. ***The Stamp Duty chargeable is ad volarem pursuant to item 32 (e) (i) of the Stamp Duty Act.***
2. Situation B- In a situation where NO beneficial interest has passed, the trust deed will be treated as a "declaration" and "ad volarem" stamp duty shall NOT be chargeable on the document.

The Trust Deed is considered as "***DECLARATION": of any use or trust of or concerning any property by any writing, not being a will, or an instrument chargeable with duty as a settlement***"(refer Item 69 of Schedule 1).

2. The Stamp Duty chargeable is of a nominal amount.

The Penang Bar's Conveyancing Practice Subcommittee enquired about the parameters and guidelines which guide IRB in determining whether the beneficial interest has passed. However, IRB was not able to give the parameters as will be a case-to-case interpretation of each trust deed. We have suggested another meeting with relevant authorities and discuss this issue further.

3. Exemption of Stamp Duty under the i-Miliki Scheme.

Currently, there is no circular on ["P.U (A)]" issued as yet. Therefore the purchaser has to pay stamp duty as usual and claim a refund of the stamp duty paid after the P.U. (A) has been issued.

4. Exemption of Stamp Duty for Acquisition of Undivided Share of a property valued at less than RM500, 000-00.

IRB referred to P.U. (A) 3/2021 which states that the exemption is only applicable for the purchase of one (1) property with a market value of less than RM500, 000-00. The exemption does not apply to the purchase of any undivided share of any property.

5. Delay in issuing “*Notis Taksiran untuk Penyeteman Am*” and in Responding to any amendments of Sijil Setem.

We have notified IRB of Members' challenges in getting *Notis Taksiran* for simple adjudication under “*Penyeteman Am*”. IRB informed that due to the high volume of cases, their staff are not able to issue the *Notis Taksiran* within a short time and has suggested that Members use the email service on their website to enquire and request the *Notis Taksiran* to be issued expeditiously. They are also aware that Members are adjudicating their documents at other IRB branches outside Penang. IRB confirmed that it is the prerogative of Members to do so.

6. Numerous unanswered phone calls.

We have notified IRB of Members' challenges in getting calls through despite numerous attempts. IRB informed that due to the high number of phone calls received and heavy workload, their staff are not able to answer the calls and has suggested that Members use the email service on their [website](#). The emails will be retrieved by the IRB HQ and will be directed to the relevant officers. However, they are not able to commit to the number of days to reply to emails.

Members will be updated further as and when we receive additional or further information from the IRB.

**Mohamad Redzuan bin Idrus
Chairman
Conveyancing Practice Subcommittee**