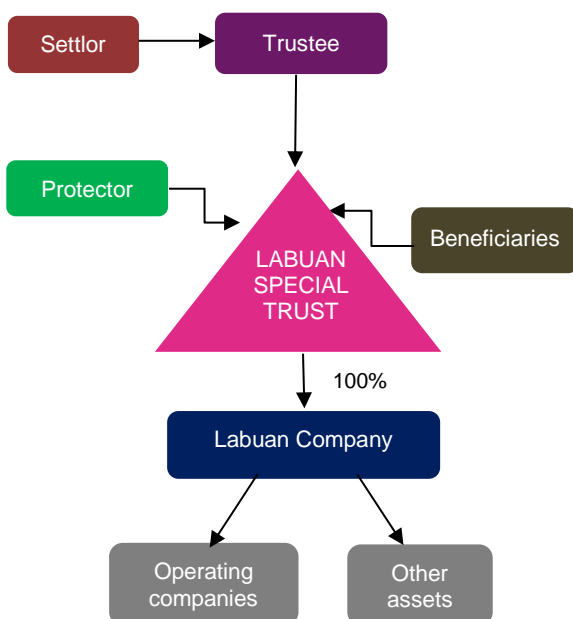


# LABUAN SPECIAL TRUST

In 2010, amendments were made which allowed for the introduction of a new type of trust called the Labuan Special Trust (“LST”), which to a large extent modelled itself against the Virgin Islands Special Trust Act (VISTA) in the British Virgin Islands. A significant advantage in a LST is that it can be used to hold and retain shares indefinitely in a company, which in turn may be used to own assets such as cash, real estate, art securities, businesses, insurance policies etc. In this context, “company” refers to either a Labuan company or a partnership interest in a Labuan limited liability partnership.

Contrary to conventional approach, it allows management of the company to be carried out by its directors without any power of intervention being exercised by the trustee (other than those prescribed under the legislation). Therefore, a trustee appointed under a LST shall have no fiduciary responsibility or duty of care in respect of the property of, or the conduct of the affairs of, the company, except when acting, or required to act, on an intervention call ie. made by an interested person whom may have a complaint concerning the conduct of the company’s affairs.

Typical diagram of Labuan special trust



Key features of Labuan special trust

### Settlor

Person setting up the trust, may be individual or corporate, Malaysian resident or non-resident.

### Trustee

- > One trustee must always be a licensed Labuan Trust Company.
- > More trustee(s) can be appointed, if required.
- > However, a trustee shall not be a director of the company where shares are held by the said trustee.
- > Holds the trust funds and responsible for its administration for benefit of the beneficiaries.

### Protector

- > May be appointed by settlor, who acts like a “watchdog” over the trustee for the benefit of the beneficiary.
- > The settlor or beneficiary may also be a protector.
- > These parties can also act on advisory / consultancy basis

### Beneficiary

Person legally entitled to enforce and benefit from the trust. Can include individual or reference to a class, charities, minors, corporations etc.



### Labuan Company

- > Company owned by the Trustee.
- > Trustee will not get involved in the day-to-day running of this company and its underlying companies.
- > Allows for the separation of the custodianship of the assets from the investment of the assets.

### Assets of the Trust

- > May encompass Malaysian assets, however consent from the Labuan Financial Services Authority ("Labuan FSA") needs to be obtained if Malaysian assets are to be injected into Trust.
- > No consent of Labuan FSA is required for injection of non-Malaysian assets.

### Duration of Trust

No perpetuity period

### Letter of Wishes

Settlor can also use Letter of Wishes to provide guidance to the Trustee in matters affecting trust (particularly distribution) for situations that may arise post his demise. Though not legally binding, Trustee normally rely on this letter.

### Advantages

- > Trustee does not interfere in the management or conduct of any business of the underlying companies.
- > Trustee shall not instigate or support any action by the company against any of its directors for breach of duty to the company or procure the appointment or removal of any of the directors.
- > Provisions for unenforceable claims; a two-year claw-back period and requirements for legal procedures should a creditor attempt to prove a trust is fraudulent.
- > Meets the contemporary needs of High Net Worth Individuals or families who recognise that members of the next, younger and better educated generation may wish to attempt more sophisticated investment options; yet by separating the roles indicated above, the founders of wealth (the older generation) can still keep the original legacy intact. This feature is one of the most sought after in Trust Law.
- > Existence of the trust in perpetuity.
- > Option not to register the trust to protect privacy.
- > No foreign exchange controls in Labuan.
- > Double Tax Agreements between Malaysia and over 70 countries.
- > No capital gain tax, inheritance tax.
- > Withholding tax exemption on payments made to non-residents.



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JTC is a publicly listed, award-winning provider of fund, corporate and private wealth services to institutional and private clients.

Founded in 1987, we have c.650 people working across our global office network and are trusted to administer assets of c.US\$100 billion.

The principle of true shared ownership is fundamental to our culture and aligns us completely with the best interests of our clients.

### We value shared ownership

- > We operate around the principle that if our people have a stake in the business, they will do a better job for our clients.

### We value relationships

- > We aim to work with clients who share our belief in the importance of building strong relationships over time.

### We invest in our people

- > Over 70% of our employees hold a relevant professional qualification or are working towards this through our dedicated JTC Academy.

### We embrace technology

- > Our market-leading systems and operating platforms are robust, powerful and flexible.



#### REGULATION AND TERMS OF BUSINESS

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JTC Group entities that carry on regulated business are (respectively): regulated by the British Virgin Islands Financial Services Commission; the Cayman Islands Monetary Authority; the Guernsey Financial Services Commission; the Jersey Financial Services Commission; the Commission de Surveillance du Secteur Financier and the Ordre des Experts-Comptables (Luxembourg); the Financial Services Commission (Mauritius); De Nederlandsche Bank (Netherlands); the South African Financial Sector Conduct Authority as an authorised financial services provider; chartered and regulated to provide trust services by the South Dakota Division of Banking in South Dakota (USA); a member of l'Association Romande des Intermédiaires Financiers (Switzerland); licensed by the Isle of Man Financial Services Authority and authorised and regulated by the Financial Conduct Authority (UK).

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