



## LABUAN COMPANIES

All Labuan companies are governed by the Labuan Companies Act 1990 (“LCA”) and companies incorporated in Labuan, may carry on either trading or non-trading activity in, from or through Labuan. The LCA requires the engagement of services of a Labuan IBFC registered trust company to act as its incorporation agent.

JTC Kensington may act as your incorporation agent and resident secretary in accordance with the requirements under the LCA.

### Why Labuan International Business and Financial Centre (IBFC)

- **Strategic Location:** Situated in East Malaysia and sharing same time zone with major Asian cities that complements established financial centres such as Hong Kong, Singapore & Shanghai
- **Proven Track Record:** Recognised as a leading business and financial centre in the Asia-Pacific region with a strong and growing reputation
- **Clear Vision:** Committed to becoming Asia Pacific's leading mid-shore international business and financial centre
- **Balanced Approach:** Offers an optimal balance between client confidentiality and adherence to international best standards.
- **Robust Regulatory Framework:** Supported by well-structured and balanced legal and regulatory framework.
- **Tax Efficiency:** A tax-efficient jurisdiction to facilitate international businesses.
- **Treaty Benefits:** Provides access to Malaysia's double taxation treaty network with more than 70 countries.
- **Comprehensive Solutions:** Offers a full suite of solutions for business and investment structures to support cross border transactions, business dealings and wealth management needs.

### Labuan exemption

- **dividends received.**
- **Royalties received** from another Labuan company.
- **Distributions received** from Labuan trusts and Labuan foundations.
- **Distributions of profits after tax paid received** from Labuan partnerships.
- **Interest received** from a Labuan entity by another Labuan entity, resident or non-resident person (other than interest accruing to a business carried on by a non-resident person in Malaysia where that non-resident person is licensed to carry on business under the Financial Services Act 2013 and Islamic Financial Services Act 2013.
- **Amounts received** from another Labuan company in consideration of services, advice or assistance as specified in paragraphs 4A(i) and (ii) of Income Tax Act 1967.
- **Stamp duty** on all instruments in connection to a Labuan business activity, constitution documents & all instruments of transfer of shares in a Labuan entity, subject to complying with ESR & application to and with agreement by IRB.

### Other attractions of Labuan IBFC

- **NO** Withholding Tax.
- **NO** Inheritance Tax.
- **NO** Capital Gain Tax.
- **NO** exchange control.
- Tax system simple and clear.



### Labuan IBFC tax system

Labuan Business Activity Tax Act 1990 ("LBATA") governs the imposition, assessment and collection of tax on a Labuan business activity carried on by a Labuan entity in, from or through Labuan.

Labuan entities that carry on a **non-Labuan business activity** are subject to the provisions of the Malaysian Income Tax Act, 1967 ("ITA").

"Labuan business activity" means:

- > a Labuan trading or a Labuan non-trading activity carried on in, from or through Labuan
- > excluding any activity which is an offence under any written law

Pursuant to the Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2021 that took effect on 1<sup>st</sup> January 2019:

- > Labuan trading activity for licensed business activities are:
  - > Labuan insurer, Labuan reinsurer, Labuan takaful operator or Labuan retakaful operator.
  - > Labuan underwriting manager or Labuan underwriting takaful manager.
  - > Labuan insurance manager or Labuan takaful manager.
  - > Labuan insurance broker or Labuan takaful broker.
  - > Labuan captive insurer or Labuan captive takaful.
  - > Labuan International Commodity Trading Company.
  - > Labuan bank, Labuan investment bank, Labuan Islamic bank or Labuan Islamic investment bank.
  - > Labuan trust company.
  - > Labuan leasing company or Labuan Islamic leasing company.
  - > Labuan credit token company or Labuan Islamic credit token company.
  - > Labuan development finance company or Labuan Islamic development finance company.
  - > Labuan building credit company or Labuan Islamic building credit company.
  - > Labuan factoring company or Labuan Islamic factoring company.
  - > Labuan money broker or Labuan Islamic money broker.
  - > Labuan fund manager.
  - > Labuan securities licensee or Labuan Islamic securities licensee.
  - > Labuan fund administrator.
  - > Labuan company management.
  - > Labuan International Financial Exchange.
  - > Self-regulatory organisation or Islamic self-regulation organisation.
- > Labuan trading activity for non-licensed business activities covers any one or more of the following business activities:
  - > Administrative services
  - > Accounting services
  - > Legal services
  - > Backroom processing services
  - > Payroll services
  - > Talent management services
  - > Agency services
  - > Insolvency related services
  - > Management services (other than Labuan company management mentioned above).

- > Labuan non-trading activity has been restricted to investment holding, namely:
  - > Pure Equity Holding Company.
  - > Non-Pure Equity Holding Company.

### Substance Requirement under LBATA

- > Pursuant to section 2B(1) (b) of LBATA, the Labuan entities shall, for the purpose of the Labuan business activity, have:-
  - (i) an adequate number of fit and proper full-time employees in Labuan; and
  - (ii) an adequate amount of annual operating expenditure in Labuan, as prescribed by the Minister by regulations made under this Act.
- > Section 2B (1A) of LBATA provides that a Labuan entity carrying on a Labuan business activity which fails to comply with the substance requirement for a basis period for a year of assessment shall be charged to tax at the rate of twenty four per cent (24%) upon its chargeable profits for that year of assessment.

### Dealings with resident

All Labuan entities may conduct transactions with Residents of Malaysia in Ringgit Malaysia except for:

- > Issuing or offering to any Residents of Malaysia for subscription or purchase; or
- > Invite any resident to subscribe or purchase

any interest pursuant to the relevant provisions of the Interest Schemes Act 2016 where such issue or offer or invitation is made in Malaysia, other than Labuan, unless the provisions of the Interest Schemes Act 2016 are complied.

"Resident" here means:

- > in relation to a natural person, a citizen or permanent resident of Malaysia; or
- > in relation to any other person, a person who has established a place of business, and is operating in Malaysia.
- > and includes person who is declared to be a resident pursuant to paragraph 214(6)(a) of the Financial Services Act 2013 and paragraph 225(6)(a) of the Islamic Financial Services Act 2013.

The amount of deductions allowed in respect of payments made by Residents to Labuan entities are as follows: -

|                                |                 |
|--------------------------------|-----------------|
| > Interest expense             | 75% deductible  |
| > Lease rental                 | 75% deductible  |
| > General reinsurance premiums | 100% deductible |
| > Other type of payments       | 3% deductible   |



## Key corporate features of Labuan Companies

| Share Capital                   |                                                                                                                                                       |
|---------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| Permitted currencies            | Any foreign currency except Ringgit Malaysia                                                                                                          |
| Standard currency               | US\$                                                                                                                                                  |
| Minimum issued capital          | One (1) in any denomination in foreign currency                                                                                                       |
| Authorised capital              | N/A                                                                                                                                                   |
| Par / Nominal value             | N/A                                                                                                                                                   |
| Directors                       |                                                                                                                                                       |
| Minimum                         | One (1)                                                                                                                                               |
| Corporate directors             | Allowed                                                                                                                                               |
| Resident director requirements  | Compulsory                                                                                                                                            |
| Publicly accessible records     | No                                                                                                                                                    |
| Shareholders                    |                                                                                                                                                       |
| Minimum                         | One (1)                                                                                                                                               |
| Bearer shares                   | No                                                                                                                                                    |
| Corporate shareholders          | Allowed                                                                                                                                               |
| Local shareholders requirements | No                                                                                                                                                    |
| Publicly accessible records     | No                                                                                                                                                    |
| Company Secretary               |                                                                                                                                                       |
| Minimum                         | One (1)                                                                                                                                               |
| Requirements                    | A resident secretary who must be a Trust Officer of a trust company OR a Labuan / Malaysian domestic company wholly-owned by the Labuan trust company |
| Registered Office               |                                                                                                                                                       |
| Requirements                    | Principal office of a trust company in Labuan                                                                                                         |
| Accounts                        |                                                                                                                                                       |
| Records                         | Kept in Labuan                                                                                                                                        |
| Preparation of accounts         | Yes                                                                                                                                                   |
| Audit requirements and filing   | Required for Labuan companies which carry on Labuan Business Activities and licensed companies                                                        |
| Publicly accessible records     | No                                                                                                                                                    |

| Annual Requirements                                                                                                       |                                                                                                                                                                                                                        |
|---------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Annual Return                                                                                                             | Not later than thirty (30) days from the anniversary date of incorporation of the Labuan company                                                                                                                       |
| Annual Government Fee                                                                                                     | On or before the anniversary date of incorporation of the Labuan company                                                                                                                                               |
| Tax Filing                                                                                                                | Annual tax return needs to be filed with the Malaysian Director General of Inland Revenue by 31 March of that year of assessment. Normally, an extension of time for filing is allowed by the Inland Revenue.          |
| Taxation                                                                                                                  |                                                                                                                                                                                                                        |
| Subject to fulfilment of substance requirements under LBATA (Requirements for Labuan Business Activity) Regulations 2021: |                                                                                                                                                                                                                        |
| Trading activities (licensed and non-licensed business activities)                                                        | 3% of net audited profits.                                                                                                                                                                                             |
| Non-trading activities                                                                                                    | Nil.                                                                                                                                                                                                                   |
| Others                                                                                                                    | No withholding tax<br>No stamp duty on offshore instruments (subject to compliance with substance requirements and agreement by IRB)                                                                                   |
| Substance Requirements                                                                                                    |                                                                                                                                                                                                                        |
| Labuan Company undertaking Pure Equity Holding                                                                            | To comply with management and control requirement and minimum annual operating expenditure of RM20,000 in Labuan                                                                                                       |
| Labuan Company undertaking Non Pure Equity Holding                                                                        | 1 fit and proper full-time employee in Labuan and minimum annual operating expenditure of RM20,000 in Labuan                                                                                                           |
| Trading activities (licensed and non-licensed business activities)                                                        | Depending on type of business activity or license, minimum requirement will be between 2 to 4 fit and proper full-time employees in Labuan and annual operating expenditure in Labuan between RM50,000 to RM3,000,000. |
| Non-trading activities                                                                                                    |                                                                                                                                                                                                                        |
| Legal System                                                                                                              | Common Law                                                                                                                                                                                                             |
| Corporate Re-domiciliation                                                                                                | Yes                                                                                                                                                                                                                    |
| Double Taxation Treaty Access                                                                                             | Yes                                                                                                                                                                                                                    |
| Exchange Control                                                                                                          | No                                                                                                                                                                                                                     |



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## ABOUT JTC KENSINGTON

JTC Kensington is the brand name of Kensington Trust Group, a part-owned associate of JTC, offering trust, fiduciary and corporate services and fund administration.

JTC is a leading global professional services business with deep expertise in fund, corporate, private client and employer solutions services.

Every JTC person is an owner of the business and this fundamental part of our culture aligns us with the best interests of all of our stakeholders.

Our purpose is to maximise potential and our success is built on service excellence, long-term relationships and technology capabilities that drive efficiency and add value.

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