



LABUAN OTHER TRADING ACTIVITIES

As tax information is increasingly exchanged between tax authorities and with government across jurisdictions, it has become essential for businesses engaged in cross-border transactions to set up their structures with a clear and proper business purpose together with the appropriate commercial substance.

Labuan IBFC, with its unique features and attractive tax system, offers an ideal business environment for trading companies seeking to navigate the evolving tax landscape.

Labuan Other Trading Activities

The traditional trading activities have been abolished since Jan 2019.

However, in its place Labuan business activities include certain specific activities. Such activities are called Labuan Other Trading Activities.

Labuan Other Trading Activities are Labuan trading companies engaged in the following activities:

- > Administrative Services
- > Accounting Services
- > Legal Services
- > Backroom Processing Services
- > Payroll Services
- > Talent Management Services
- > Agency services
- > Insolvency Related Services
- > Management Services

** For the avoidance of doubt, management services exclude licence company management as defined in section 129 of the Labuan Financial Services and Securities Act 2010).*

Planning for carrying out Labuan Other Trading Activities

- > Proper documentation will be required
- > Proper flow of business transactions
- > Demonstrating adequate economic substance

Labuan IBFC taxation system

- > Labuan Business Activity Tax Act 1990 (“**LBATA**”) governs the imposition, assessment and collection of tax on a Labuan business activity carried on 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 1st January 2019:
 - > Labuan trading activity has been restricted to license business activities and selected type of trading activities only. Please refer to the above Regulations 2021.
 - > Labuan non-trading activity has been restricted to holding company, namely Pure Equity Holding and Non-Pure Equity Holding.



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.
- > The Substance Requirements for Labuan Other Trading Activities are as follows:
 - > To comply with having a minimum of two (2) fit and proper full-time employees in Labuan and incur a minimum annual operating expenditure of RM50,000 per annum in Labuan.

Dealings with resident

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

Why Labuan IBFC for International Other Trading Activities?

- > Tax system is simple, clear and straightforward.
- > Possible to establish tax residency in Malaysia by complying with the taxation guidelines including substance requirements in Labuan, Malaysia.
- > Access to Double Tax Agreements between Malaysia and over 70 countries.
- > Labuan is a sophisticated financial centre where it is possible to create substance in real terms. A Labuan trading company has the ability to maintain local office, employ local staff and access to local support services at a relatively low cost.
- > Strategically situated in the Asia Pacific region and sharing a common time zone with many large Asian cities.
- > No withholding tax on payments made to non-residents.
- > No stamp duty on instruments relating to offshore business activities including share transfer.
- > No foreign exchange controls.



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