



LABUAN COMPANIES LIMITED BY GUARANTEE

A Labuan company may be set up as a company limited by guarantee under the Labuan Companies Act 1990 (“LCA”).

Company limited by guarantee means a company formed on the principle of having the liability of its members limited by its memorandum to such amount as the members may respectively undertake to contribute to the assets of the company in the event of it being wound up.

Common purposes of Companies Limited by Guarantee (“CLBG”)

- > Trade associations
- > Charitable bodies
- > Professional and learned societies
- > Community projects
- > Religious bodies
- > Incorporated clubs and other non-profit groups that require corporate status

Most guarantee companies are set up for non-profit making purposes. It may be used for commercial undertakings or trading but of very rare occurrence.

Statutory requirements of CLBG

- > Annual General Meeting
- > Maintain proper accounting records and prepare accounts of the Company
- > Annual tax return needs to be filed with the Malaysian Director General of Inland Revenue (IRB) by 31 March any extended period allowed by the IRB for each year of assessment

Key features / requirements of CLBG

- > Separate legal entity
- > No share capital
- > Limited liability
- > Constituted by the Memorandum & Articles of Association
- > Members - minimum one (1) member, either corporate or individual
- > Directors - at least one (1) director
- > Company Secretary in Labuan
- > Registered Office in Labuan and it is the principal office of a trust company in Labuan
- > No participation in profits for a non-profit company

Incorporation agent

The LCA requires the engagement of services of a Labuan IBFC registered trust company to act as its incorporation agent.

Kensington Trust Labuan Limited is a licensed trust company in Labuan and may assist you with the incorporation and administration of your company.



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 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 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.

As the business activity of CLBG is generally non-profit generating, but in case it has funds deposited in the bank and earn interest, and occasionally – carry on a trading activity to support its operations, then the following substance requirements may apply.

Pure Equity Holding

To comply with management and control requirement in Labuan, that includes holding of at least a minimum of one board meeting in Labuan for each calendar year and incur minimum annual operating expenditure of RM20,000 per annum in Labuan.

Non Pure Equity Holding

To comply with minimum of one (1) full time employee in Labuan and minimum annual operating expenditure of RM20,000 per annum in Labuan.

Trading Activities / Charitable Activities

These activities are not deemed as Labuan business activities and will thus be subjected to the provision of Malaysia’s Income Tax Act 1967.

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 CONTACTS



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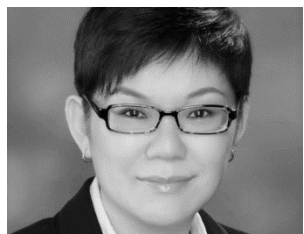
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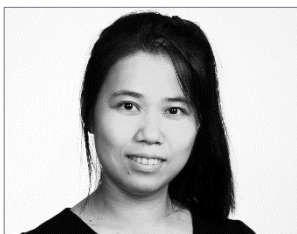
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Our purpose is to maximise potential and our success is built on service excellence, long-term relationships and technology capabilities that drive efficiency and add value.

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