



# CORPORATE MIGRATION OR RE-DOMICILIATION IN LABUAN IBFC

Corporate migration or re-domiciliation occurs when a company undergoes a relocation process from one jurisdiction to another, while retaining its legal identity.

Section 16 of Labuan Companies Act 1990 (LCA) states subject to section 7 of the LCA a foreign company incorporated under the laws of any country other than Malaysia, or of any jurisdiction within such a country, may, if it is so authorized by the laws of that country or jurisdiction, apply to the Labuan Financial Services Authority (Labuan FSA) to be registered as being continued in Labuan as if it had been incorporated under the LCA.

## Application for corporate migration or re-domiciliation

Any person intending to apply for re-domiciliation in Labuan may submit an application to Labuan FSA.

**Kensington Trust Labuan Limited is a licensed trust company in Labuan and may assist you with the application for corporate migration or re-domiciliation to Labuan including license application and administration of your Labuan Company.**

## Why consider re-domiciliation to Labuan?

- > Creating tax and economic substance.
- > Enjoying the benefits of double tax treaties.
- > Access to modern infrastructure.
- > Availability of talent.
- > Access to capital markets and financing.
- > Political and social stability.
- > Lower operating cost.
- > Aligning its place of registration with its shareholders' base.
- > Availability of business-friendly legislation.

## Pre-approval

A foreign company may, prior to applying for the re-domiciliation registration as a Labuan company, request that such registration be pre-approved in principle by Labuan FSA.

Once pre-approved, a certificate confirming the approval will be issued and the applicant has 12 months from the date of the certificate to complete the re-domiciliation.

## Documentation required for application

Before migrating a foreign company ("the Company") to Labuan, the following documents are required from the Company:-

- > Directors' Resolution of the Company to:
  - > Appoint Kensington Trust Labuan Limited ("Kensington Trust") as the trust company in Labuan to handle the application for re-domiciliation with Labuan FSA.
  - > Appoint Kensington Secretaries Ltd. as Company Secretary.

*NOTE: The Company's Articles of Association must allow the appointment of corporate secretary.*
- > Letter of Good Standing of the Company from the Registrar of Companies of country of origin.
- > Letter of consent from shareholders, debenture holders and/or creditors of the Company
- > Letter of Consent from the Registrar of Companies of the country of origin to allow the Company to migrate out.
- > Certified true copy of documents of the Company:-
  - > Certificate of Incorporation
  - > Memorandum & Articles of Association
  - > Latest Register of Members, Directors and Secretaries
  - > Discontinuance of Deregistration Certificate from Country of Origin
- > Letter of Declaration/Affidavit by all Directors
- > Other supporting documents upon request by Labuan FSA.



### 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 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 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.

### 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

### Why is Labuan IBFC ideal choice for re-domiciliation?

- > Well-regulated international business and financial centre conforming to international standards and practices.
- > It is strategically located, with connections to all key markets in Asia and easily accessible by international or domestic flights. It shares a similar time zone with most countries in Asia, making it an ideal place to deal with Asian businesses.
- > Significantly lower operating and maintenance costs as compared to other jurisdictions.
- > Access to a large pool of highly skilled workforce in Malaysia with good command of English, Chinese and Bahasa Malaysia. Work permit and dependent visa to stay in Labuan and/or Malaysia may be applied.
- > ZERO withholding tax on payments of dividend and interest to non-residents.
- > No foreign exchange controls.
- > No inheritance tax.
- > Double Tax Agreements between Malaysia and over 70 countries.
- > 100% exemption for director’s fees received by non-citizen directors of Labuan companies.



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JTC is a publicly listed, global professional services business with deep expertise in fund, corporate and private client 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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