



GUIDELINES

LABUAN TRADING ACTIVITY AND LABUAN NON-TRADING ACTIVITY

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GUIDELINES OF THE DIRECTOR GENERAL

Section 17A of the Labuan Business Activity Tax Act 1990 [Act 445] provides that the Director General is empowered to issue Guidelines as the Director General thinks expedient or necessary.

A Guideline is published as a guidance for the public and officers of the Inland Revenue Board of Malaysia. It is intended to provide the Director General's clarification on the provisions of the tax law, to facilitate compliance with the law or to address any other related matters.

The Director General may revoke, review or amend the whole or any part of this Guideline by issuing a new Guideline.

**Director General of Inland Revenue,
Inland Revenue Board of Malaysia.**

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1. OBJECTIVE

The objective of this Guideline is to provide clarification on the definition of Labuan trading activity and Labuan non-trading activity as prescribed under the Labuan Business Activity Tax Act 1990 [Act 445] (LBATA) and the subsidiary legislation relating to the taxation of Labuan business activity.

2. LABUAN BUSINESS ACTIVITY

- 2.1. A Labuan entity that carries on a Labuan business activity is subject to Labuan business activity tax under the LBATA for each year of assessment in respect of that Labuan business activity.
- 2.2. A Labuan entity shall be incorporated and registered under the relevant Labuan legislation governing its establishment and holds a valid and effective operating licence from the Labuan Financial Services Authority (for Labuan trading activity only).
- 2.3. A Labuan entity, as set out in the Schedule to the LBATA, includes entities such as companies, foundations, partnerships, limited partnerships, limited liability partnerships and trusts.
- 2.4. A Labuan business activity is a Labuan trading activity or a Labuan non-trading activity carried on in, from or through Labuan, excluding any activity which is an offence under any written law.
- 2.5. A Labuan entity that carries on an activity other than those specified in paragraph 2.4 of this Guideline may be prescribed as carrying on a Labuan business activity by the Minister upon a written recommendation from the Director General of Inland Revenue (DGIR).

3. LABUAN TRADING ACTIVITY

- 3.1. The list of Labuan trading activities is as follows:
 - (a) banking;
 - (b) insurance;
 - (c) trading;
 - (d) management;
 - (e) licensing; or

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(f) any other activity which is not a Labuan non-trading activity.

- 3.2. A Labuan entity that carries on a Labuan trading activity shall comply with the substance requirements prescribed under subparagraph 2B(1)(b)(i) of the LBATA, namely to have an adequate number of full-time employees in Labuan, to have an adequate amount of annual operating expenditure in Labuan and to comply with any conditions relating to a fit and proper person for full-time employees.
- 3.3. Compliance with the substance requirements for each Labuan trading activity carried on by a Labuan entity is detailed out in the First Schedule of the Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2021 [P.U.(A) 423/2021] as follows:

No.	Labuan Trading Activity	Minimum Number of Full-Time Employees in Labuan	Minimum Amount of Annual Operating Expenditure in Labuan (RM)
1.	Labuan insurer, Labuan reinsurer, Labuan takaful operator or Labuan retakaful operator	3	200,000
2.	Labuan underwriting manager or Labuan underwriting takaful manager	4	100,000
3.	Labuan insurance manager or Labuan takaful manager	4	100,000
4.	Labuan insurance broker or Labuan takaful broker	2	100,000
5.	Labuan captive insurer or Labuan captive takaful—		
	(a) Labuan first party captive insurer or Labuan first party captive takaful; or	2	100,000
	(b) Labuan third party captive insurer or Labuan third party captive takaful	3	100,000

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No.	Labuan Trading Activity	Minimum Number of Full-Time Employees in Labuan	Minimum Amount of Annual Operating Expenditure in Labuan (RM)
6.	Labuan bank, Labuan investment bank, Labuan Islamic bank or Labuan Islamic investment bank	3	200,000
7.	Labuan trust company	3	120,000
8.	Labuan leasing company or Labuan Islamic leasing company which has—		
	(a) not more than 10 related Labuan leasing companies or Labuan Islamic leasing companies;	2 for each group of companies	100,000 for each Labuan leasing company or Labuan Islamic leasing company
	(b) 11 to 20 related Labuan leasing companies or Labuan Islamic leasing companies;	3 for each group of companies	100,000 for each Labuan leasing company or Labuan Islamic leasing company
	(c) 21 to 30 related Labuan leasing companies or Labuan Islamic leasing companies; or	4 for each group of companies	100,000 for each Labuan leasing company or Labuan Islamic leasing company

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No.	Labuan Trading Activity	Minimum Number of Full-Time Employees in Labuan	Minimum Amount of Annual Operating Expenditure in Labuan (RM)
	(d) more than 30 related Labuan leasing companies or Labuan Islamic leasing companies	1 additional employee for each group of companies for each increase of 10 related Labuan leasing companies or Labuan Islamic leasing companies	100,000 for each Labuan leasing company or Labuan Islamic leasing company
9.	Labuan credit token company or Labuan Islamic credit token company	2	100,000
10.	Labuan development finance company or Labuan Islamic development finance company	2	100,000
11.	Labuan building credit company or Labuan Islamic building credit company	2	100,000
12.	Labuan factoring company or Labuan Islamic factoring company	2	100,000
13.	Labuan money broker or Labuan Islamic money broker	2	100,000
14.	Labuan fund manager	2	100,000
15.	Labuan securities licensee or Labuan Islamic securities licensee	2	100,000

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No.	Labuan Trading Activity	Minimum Number of Full-Time Employees in Labuan	Minimum Amount of Annual Operating Expenditure in Labuan (RM)
16.	Labuan fund administrator	2	100,000
17.	Labuan company management	2	100,000
18.	Labuan International Financial Exchange	2	120,000
19.	Self-regulatory organisation or Islamic self-regulation organisation	2	120,000
20.	Labuan entity that carries on any one or more of the following business activity: (a) administrative services; (b) accounting services; (c) legal services; (d) backroom processing services; (e) payroll services; (f) talent management services; (g) agency services; (h) insolvency related services; (i) management services other than Labuan company management under item 17	2	50,000

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- 3.4. A Labuan entity that carries on a Labuan trading activity and complies with the substance requirements for the basis period for a year of assessment will be taxed at the rate of 3% on the net profit from that Labuan trading activity for that year of assessment. The net profit shall exclude any income derived from royalties and other income derived from intellectual property rights as reported in the audited accounts.

Example 1

Nern Thevada (Labuan) Ltd. is an investment bank incorporated under the Labuan Companies Act 1990 [Act 441]. Nern Thevada (Labuan) Ltd. has employed three full-time employees and incurred operating expenses exceeding RM200,000 in Labuan throughout the year of assessment 2025 (current year basis). Nern Thevada (Labuan) Ltd. will be taxed at the rate of 3% on the net profit reported in the audited accounts as it meets with the substance requirements under Item 6 of the First Schedule of P.U.(A) 423/2021.

- 3.5. A Labuan entity carrying on a Labuan trading activity that fails to comply with the prescribed substance requirements for a basis period for a year of assessment shall be subject to tax at the rate of 24% on the chargeable profits for that year of assessment.

4. LABUAN NON-TRADING ACTIVITY

- 4.1. Labuan non-trading activity means an activity relating to the holding of investments in:
- (a) securities;
 - (b) stocks;
 - (c) shares;
 - (d) loans;
 - (e) deposits; or
 - (f) any other property located in Labuan
- by a Labuan entity on its own behalf.

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- 4.2. Other property refers to immovable property comprising lands and buildings located within the boundaries / territory of Labuan only. Accordingly, if a Labuan entity derives income from the holding of investment in immovable property located outside Labuan, such investment holding activity is not a Labuan business activity and is subject to taxation under the Income Tax Act 1967 [Act 53] (ITA).
- 4.3. A Labuan entity that carries on a Labuan non-trading activity shall comply with the substance requirements prescribed under subparagraph 2B(1)(b)(ii) of the LBATA.
- 4.4. Compliance with the substance requirements for each Labuan non-trading activity carried on by a Labuan entity is detailed out in the Second Schedule to P.U.(A) 423/2021 as follows:

No.	Labuan Non-Trading Activity	Minimum Number of Full-Time Employees in Labuan	Minimum Amount of Annual Operating Expenditure in Labuan (RM)
1.	Investment holding activity other than pure equity holding activity	1	20,000
2.	Pure equity holding activity	Exempted	20,000

- 4.5. Pure equity holding means that a Labuan entity holds an equity and derives income solely in the form of dividends and capital gains.
- 4.6. The profits derived by a Labuan entity that carries on a Labuan non-trading activity and complies with the substance requirements for the basis period for a year of assessment are not subject to tax under the LBATA for that year of assessment. The profits shall exclude any income derived from royalties and other income derived from intellectual property rights.
- 4.7. A Labuan entity that carries on a Labuan non-trading activity but fails to comply with the prescribed substance requirements for a basis period for a year of assessment shall be taxed at the rate of 24% on the chargeable profits for that year of assessment.

Example 2

Blue Terrace Labuan Ltd. is a Labuan entity engaged in investment holding activities. In 2025, Blue Terrace Labuan Ltd. invested in immovable property located in Labuan and received rental income from that investment. It also employed two full-time employees and incurred annual operating expenditure of RM30,000 in Labuan. Blue Terrace Labuan Ltd. is not subject to tax under the LBATA for the year of assessment 2025 (current year basis) as it is categorised as a Labuan entity carrying on a Labuan non-trading activity that complies with the substance requirements.

Example 3

The facts are the same as in Example 2 except that Blue Terrace Labuan Ltd. invested in immovable property located in Kanchanaburi, Thailand. Such investment activity does not fall within the scope of Labuan non-trading activity for Blue Terrace Labuan Ltd. as the property investment involves immovable property situated outside the boundaries / territory of Labuan. Accordingly, the property investment activity of Blue Terrace Labuan Ltd. is not a Labuan business activity and may be subject to tax under the ITA.

5. LABUAN ENTITY CARRYING ON LABUAN TRADING ACTIVITY AND LABUAN NON-TRADING ACTIVITY

- 5.1. A Labuan entity that carries on both Labuan trading activity and Labuan non-trading activity shall be deemed to be carrying on a Labuan trading activity in accordance with subsection 2(2) of the LBATA.
- 5.2. Such Labuan entity is only required to fulfil the substance requirements applicable to the Labuan trading activity as specified in P.U.(A) 423/2021.
- 5.3. In circumstances where a Labuan entity carries on more than one Labuan trading activity as well as a Labuan non-trading activity within a basis period for a year of assessment, the substance requirements for the Labuan non-trading activity shall be deemed to follow the substance requirements of the Labuan trading activity identified by the Labuan entity as the core income generating activity (CIGA). At the same time, each Labuan trading activity carried on shall comply with its respective substance requirements as prescribed under P.U.(A) 423/2021 in accordance with subparagraph 2B(1)(b)(i) of the LBATA.

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- 5.4. CIGA is identified by determining the primary trading activity that generates the core income, namely the activity that contributes the most to the Labuan entity's income or has the most significant economic impact on the Labuan entity.
- 5.5. The determination of CIGA shall be based on the actual facts and actual circumstances of the business, including the main source of income as well as the amount of time and resources (such as employees, costs, management and others) allocated to each activity.
- 5.6. Failure to meet the substance requirements for each Labuan trading activity as prescribed, shall result in the Labuan entity being taxed at the rate of 24% under subsection 2B(1A) of the LBATA.

Example 4

Kwai River (Labuan) Ltd. is a newly established financial company incorporated under the Labuan Companies Act 1990. Kwai River (Labuan) Ltd. is a Labuan financial development company, which is a Labuan trading activity. The company is also involved in share investments in a start-up company incorporated in Hong Kong, which constitutes a Labuan non-trading activity. Therefore, Kwai River (Labuan) Ltd. is deemed to be carrying on a Labuan trading activity pursuant to subsection 2(2) of the LBATA.

Example 5

Andaman Nexus (Labuan) Ltd. is incorporated under the Labuan Companies Act 1990 and holds a valid operating licence under the Labuan Financial Services and Securities Act 2010 [Act 704]. In the year of assessment 2025 (current year), the company carries out the following activities:

Labuan Business Activity		Number of Full-Time Employees in Labuan	Annual Operating Expenditure in Labuan (RM)
Labuan trading activities	Fund manager – CIGA	2	120,000
	Accounting services	2	55,000
Labuan non-trading activity	Holding of securities	Nil	10,000

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Andaman Nexus (Labuan) Ltd. is found to be carrying on both Labuan trading and Labuan non-trading activities. Therefore, the company is deemed to be carrying on a Labuan trading activity under subsection 2(2) of the LBATA.

Referring to paragraph 5.3 of this Guideline, Andaman Nexus (Labuan) Ltd. has complied with the substance requirements for each Labuan trading activity carried out. Meanwhile, for the substance requirements of the Labuan non-trading activity, Andaman Nexus (Labuan) Ltd. shall comply with the substance requirements of the Labuan trading activity identified as the CIGA.

Since Andaman Nexus (Labuan) Ltd. has fulfilled all the substance requirements, the company is taxed at the rate of 3% on the net profit reported in the audited accounts.

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