

LABUAN BUSINESS ACTIVITY TAX (REQUIREMENTS FOR LABUAN INTERNATIONAL COMMODITY TRADING COMPANY) REGULATIONS 2021

PU (A) 482
21 December 2021

IN exercise of the powers conferred by paragraph 21(1)(a) read together with paragraph 2B(1)(b) of the Labuan Business Activity Tax Act 1990 [Act 445], the Minister makes the following regulations:

CITATION AND COMMENCEMENT

- 1(1)** These regulations may be cited as the Labuan Business Activity Tax (Requirements for Labuan International Commodity Trading Company) Regulations 2021.
- 1(2)** Subregulation 3(1) is deemed to have come into operation on 1 January 2019 until 31 December 2020.
- 1(3)** Subregulations 3(2) and 3(3) are deemed to have come into operation on 1 January 2021.

INTERPRETATION

- 2(1)** In these Regulations, unless the context otherwise requires—

“qualifying activity” means the trading of physical products and related derivative instruments in relation to—

- (a) petroleum and petroleum-related products including liquefied natural gas;
- (b) minerals;
- (c) agriculture products;
- (d) refined raw materials;
- (e) chemicals;
- (f) base minerals; or
- (g) coal;

“Global Incentives for Trading” means a programme of incentives for a Labuan International Commodity Trading Company to use Malaysia as its international trading base to undertake a qualifying activity;

“Labuan International Commodity Trading Company” means a Labuan company which—

- (a) is incorporated or registered under the Labuan Companies Act 1990 [Act 441];
- (b) is licensed under section 92 of the Labuan Financial Services and Securities Act 2010 [Act 704];
- (c) maintains a registered office in Labuan but is allowed to establish its business operational office anywhere in Malaysia; and;
- (d) undertakes a qualifying activity under the Global Incentives for Trading programme;

“related companies” means companies that are deemed to be related to each other in accordance with of section 4 of the Labuan Companies Act 1990.

Requirements for Labuan International Commodity Trading Company

- 3(1)** A Labuan International Commodity Trading Company which is a Labuan entity carrying on a Labuan business activity shall in a basis period for a year of assessment fulfill the following requirements:
- (a) have at least three full-time employees; and
 - (b) have an annual operating expenditure of at least three million ringgit (RM3,000,000.00).
- 3(2)** Where the Labuan International Commodity Trading Company has not more than five related companies to carry on the qualifying activity, that Labuan International Commodity Trading Company shall—
- (a) have not less than three full-time employees including at least two of them are full-time employees in its business operational office in Labuan in a group of companies; and
 - (b) incur an annual operating expenditure of at least three million ringgit (RM3,000,000.00) in Malaysia including at least one hundred thousand ringgit (RM100,000.00) therefrom is incurred in Labuan for each company.
- 3(3)** Subject to subregulation (2), where the Labuan International Commodity Trading Company has more than five related companies to carry on the qualifying activity, that Labuan International Commodity Trading Company shall also have an additional full-time employee in its business operational office in Labuan for every addition of up to five related companies in a group of companies.
- 3(4)** For the purpose of these Regulations, companies are deemed to be in the same group where—
- (a) two or more companies are related companies;
 - (b) a company is so related to another company which is itself so related to a third company;
 - (c) the same person is holding more than fifty per cent of the shares in each of two or more companies; or
 - (d) each of two or more companies is so related to at least one of two or more companies to which paragraph (c) applies.