



LAWS OF MALAYSIA

Act A1741

**LABUAN BUSINESS ACTIVITY TAX (AMENDMENT)
(NO. 2) ACT 2024**

Date of Royal Assent	...	...	24 December 2024
Date of publication in the <i>Gazette</i>	...	...	31 December 2024

LAWS OF MALAYSIA

Act A1741

LABUAN BUSINESS ACTIVITY TAX (AMENDMENT) (NO. 2) ACT 2024

An Act to amend the Labuan Business Activity Tax Act 1990.

[]

ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Labuan Business Activity Tax (Amendment) (No. 2) Act 2024.

(2) Paragraphs 2(*a*), 2(*b*), 2(*c*), 2(*d*), 3(*a*) and 3(*b*), and sections 13, 14, 15, 16, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29 come into operation on 1 January 2025.

(3) Paragraph 2(*e*) comes into operation on 1 January 2025 and the definition of “basis period” in subsection 2(1) as amended by that paragraph shall have effect for the year of assessment 2025 in respect of the basis period ending in the year 2025 and subsequent years of assessment.

(4) Paragraphs 3(*c*) and (*d*), and sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 17 and 19 have effect for the year of assessment 2025 in respect of the basis period ending in the year 2025 and subsequent years of assessment.

Amendment of section 2

2. The Labuan Business Activity Tax Act 1990 [*Act 445*], which is referred to as the “principal Act” in this Act, is amended in subsection 2(1)—

- (a) in the definition of “Labuan trading activity”, by deleting the words “, shipping operations”;
- (b) by deleting the definition of “shipping operations”;
- (c) by deleting the definition of “domestic company”;
- (d) by inserting before the definition of “basis period” the following definition:

‘ “assessment” means any assessment or additional assessment made under this Act;’; and
- (e) in the definition of “basis period”, by substituting for the words “immediately preceding” the words “coinciding with”.

Amendment of section 2B

3. Section 2B of the principal Act is amended—

- (a) in subparagraph (1)(b)(i)—
 - (i) in subsubparagraph (A), by deleting the word “and” at the end of the subsubparagraph;
 - (ii) in subsubparagraph (B), by substituting for the comma at the end of the subsubparagraph the words “; and”; and
 - (iii) by inserting after subsubparagraph (B) the following subsubparagraph:

“(C) comply with any condition in relation to a fit and proper person for full time employees,”;

(b) in subparagraph (1)(b)(ii)—

- (i) in subsubparagraph (B), by deleting the word “and” at the end of the subsubparagraph;
- (ii) in subsubparagraph (C), by substituting for the comma at the end of the subsubparagraph the words “; and”; and
- (iii) by inserting after subsubparagraph (C) the following subsubparagraph:

“(D) comply with any condition in relation to a fit and proper person for full time employees,”;

(c) by substituting for subsection (1B) the following subsection:

“(1B) For the purposes of subsection (1A), the chargeable profits shall be the net profits as reflected in the audited accounts in respect of such Labuan business activity of the Labuan entity for the basis period for that year of assessment.”; and

(d) in subsection (1C), by substituting for the words “paragraph (1B)(a)” the words “subsection (1B)”.

Substitution of section 5

4. The principal Act is amended by substituting for section 5 the following section:

“Filing of return of profits of Labuan entity charged to tax

5. (1) A Labuan entity carrying on a Labuan business activity to which subsection 2B(1A) or section 4 applies shall for each year of assessment furnish to the Director General a return of profits in the prescribed form within a period of seven months from the date following the close of the accounting period which constitutes the basis period for the year of assessment.

(2) The prescribed form referred to in subsection (1) shall be furnished to the Director General on an electronic medium or by way of electronic transmission in accordance with section 21c.

(3) For the purposes of this section, a return of profits for a year of assessment shall—

- (a) specify the chargeable profit for that year of assessment; and
- (b) contain such particulars as may be required by the Director General.”.

Amendment of section 6

5. Section 6 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) Where a Labuan entity has furnished a return of profits for a year of assessment in accordance with section 5, the Director General shall be deemed to have made, on the day on which the return of profits is furnished, an assessment in respect of that Labuan entity in the amount of tax on the chargeable profit, the tax and the chargeable profit being the respective amounts as specified in the return of profits.”; and

(b) by inserting after subsection (1) the following subsection:

“(1A) For the purposes of this Act, where the Director General is deemed to have made an assessment under subsection (1)—

- (a) the return of profits referred to in that subsection shall be deemed to be a notice of assessment; and
- (b) the notice of assessment shall be deemed to have been served on the Labuan entity on the day on which the Director General is deemed to have made the assessment.”.

Amendment of section 6A

6. Subsection 6A(1) of the principal Act is amended by substituting for the words “section 6” the words “subsection 6(2), (3) or (4)”.

Amendment of section 6B

7. Section 6B of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “section 6” the words “subsection 6(2), (3) or (4)”;
- (b) by substituting for the words “by post” wherever appearing the words “by ordinary or registered post”; and
- (c) in subsection (3)—
 - (i) in paragraph (a), by inserting after the words “tax charged” the words “thereon, or the amount of the tax or additional tax, as the case may be”; and
 - (ii) in subparagraph (c)(ii), by substituting for the words “subsection 13A(2)” the words “subsection 11(4) or (5)”.

Amendment of section 8A

8. Subsection 8A(1) of the principal Act is amended by substituting for the words “tax charge under section 4” the words “tax charged under subsection 2B(1A) or section 4”.

Substitution of section 10

9. The principal Act is amended by substituting for section 10 the following section:

“Filing of return of profits of Labuan entity not charged to tax

10. (1) A Labuan entity carrying on a Labuan business activity which is a Labuan non-trading activity to which subsection 9(1) applies shall for each year of assessment furnish to the Director General a return of profits in the prescribed form within a period of seven months from the date following the close of the accounting period which constitutes the basis period for the year of assessment.

(2) The prescribed form referred to in subsection (1) shall be furnished to the Director General on an electronic medium or by way of electronic transmission in accordance with section 21c.

(3) For the purposes of this section, a return of profits for a year of assessment shall—

- (a) specify the net profits as reflected in the audited accounts in respect of such Labuan non-trading activity for the basis period for that year of assessment; and
- (b) contain such particulars as may be required by the Director General.”.

Substitution of section 11

10. The principal Act is amended by substituting for section 11 the following section:

“Payment of tax

11. (1) Except as provided in subsection (2), tax payable under an assessment for a year of assessment shall be due and payable on the due date whether or not that person appeals against the assessment.

(2) Where an assessment is made under subsection 6(2), (3) or (4), or where an assessment is increased under subsection 101(2) of the Income Tax Act 1967, the tax payable under the assessment or increased assessment shall, on the

service of the notice of assessment or increased assessment, as the case may be, be due and payable on the person assessed at the place specified in that notice whether or not that person appeals against the assessment or increased assessment.

(3) Subject to subsection (5), where any tax due and payable under subsection (1) has not been paid by the due date, so much of the tax as is unpaid upon the expiration of that date shall, without any further notice being served, be increased by a sum equal to ten per cent of the tax so unpaid, and that sum shall be recoverable as if it were tax due and payable under this Act.

(4) Subject to subsection (5), where any tax due and payable under subsection (2) has not been paid within a period of thirty days after the service of the notice, so much of the tax as is unpaid upon the expiration of that period shall, without any further notice being served, be increased by a sum equal to ten per cent of the tax so unpaid, and that sum shall be recoverable as if it were tax due and payable under this Act.

(5) Where any tax is payable in accordance with subsection (1) or (2), the Director General may allow the tax to be paid by instalments in such amounts and on such dates as he may determine and in the event of default in payment of any one instalment on the date specified for payment, the balance of the tax then outstanding shall be due and payable on that date and shall, without any further notice being served, be increased by a sum equal to ten per cent of that balance, and that sum shall be recoverable as if it were tax due and payable under this Act.

(6) Notwithstanding the foregoing subsections, the Director General may in his discretion for any good cause shown remit the whole or any part of that increased sum under subsection (3), (4) or (5) and, where the amount remitted has been paid, the Director General shall repay that amount.

(7) For the purposes of this section, “due date” means the last day of the seventh month from the date following the close of the accounting period which constitutes the basis period for the year of assessment.”.

Deletion of section 13

11. The principal Act is amended by deleting section 13.

Deletion of section 13A

12. The principal Act is amended by deleting section 13A.

Amendment of section 14

13. Section 14 of the principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) In any proceedings under this section, the court shall not entertain any plea that the amount of tax sought to be recovered is excessive, incorrectly assessed, under appeal or incorrectly increased under subsection 11(3), (4) or (5).”.

Amendment of section 20

14. Subsection 20(1) of the principal Act is amended by inserting after the words “except for the purposes of this Act” the words “or with the written authority of the Minister”.

Amendment of section 21

15. Subsection 21(1) of the principal Act is amended—

(a) in paragraph (b), by substituting for the full stop at the end of the paragraph a semi colon; and

(b) by inserting after paragraph (b) the following paragraphs:

“(c) providing for the scope and procedure applied in relation to any ruling made under section 17B; and

(d) prescribing fees charged in relation to any ruling made under section 17B.”.

Amendment of section 21B

16. Section 21B of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) Notwithstanding any other written law, where in any proceedings under this Act an electronic record of—

- (a) any prescribed form is furnished on an electronic medium or by way of electronic transmission under section 21c; or
- (b) any other documents are stored or received by or communicated to the Director General on an electronic medium or by way of electronic transmission,

the electronic record or the copy or print-out of that electronic record shall be admissible as evidence of the facts stated or contained therein:

Provided that the electronic record or the copy or print-out of that electronic record is—

- (i) certified by the Director General to contain all or any information furnished, stored, communicated or received on an electronic medium or by way of electronic transmission under this section; or
- (ii) otherwise authenticated in the manner provided in the Evidence Act 1950 [*Act 56*] for authentication of documents produced by computer.”; and

(b) by substituting for subsection (2) the following subsection:

“(2) Where the electronic record of any prescribed form or document, or a copy or a print-out of that electronic record is admissible under subsection (1), it shall be presumed, until the contrary is proved, that electronic record or copy or print-out of that electronic record accurately reproduces the content of that prescribed form or document.”.

New section 21c

17. The principal Act is amended by inserting after section 21B the following section:

“Electronic medium

21c. (1) Any person—

(a) shall, if so required under this Act; or

(b) may, if so allowed by the Director General,

furnish any prescribed form on an electronic medium or by way of an electronic transmission.

(2) For the purposes of subsection (1), the conditions and specifications under which any prescribed form is to be furnished shall be as determined by the Director General.

(3) For the purposes of subsection (1), a person may authorize in writing a tax agent to furnish on his behalf any prescribed form in the manner provided for in subsection (1).

(4) A prescribed form furnished in accordance with subsection (3) on behalf of any person shall be presumed to have been furnished on that person’s authority, until the contrary is proved, and the person shall be deemed to be cognizant of its contents.

(5) Where subsection (3) applies—

(a) the person who authorizes the tax agent shall make a declaration in the prescribed form under this Act stating that—

(i) the tax agent is authorized to furnish the prescribed form to the Director General on his behalf; and

(ii) the information provided by him to the tax agent for the preparation of the prescribed form is true and correct;

(b) the tax agent shall make a declaration in the prescribed form furnished in accordance with subsection (1) stating that—

(i) the prescribed form is prepared in accordance with the information given by the person; and

(ii) he has received a declaration made by the person under paragraph (a);

(c) the person shall keep and retain in safe custody the prescribed form being the hard copy of the prescribed form so furnished and that hard copy shall be made under processes and procedures which are designed to ensure that the information contained in the prescribed form shall be the only information furnished in accordance with this section;

(d) the hard copy referred to in paragraph (c) shall be signed by the person; and

(e) the hard copy signed under paragraph (d) and the declaration made under paragraph (a) shall be kept and retained for a period of seven years from the end of the year of assessment in which the prescribed form is furnished.

(6) Any prescribed form referred to in subsection (1) is deemed to have been furnished by the person to the Director General on the date on which acknowledgement of receipt of the prescribed form is transmitted electronically by the Director General to the person.”.

Amendment of section 22DA

18. Subsection 22DA(8) of the principal Act is amended by substituting for the words “three days from the date” the words “seventy-two hours from the time”.

New section 22EB

19. The principal Act is amended by inserting after section 22EA the following section:

“Duty to provide information and furnish documents for ascertaining chargeable profit and tax payable

22EB. (1) Where a person has furnished to the Director General a return of profits in accordance with section 5 or 10, that person shall provide information and furnish documents as may be determined by the Director General for the purpose of ascertaining his chargeable profit and tax payable or net profit, as the case may be, on an electronic medium or by way of electronic transmission within thirty days after the due date for furnishing of the return of profits.

(2) For the purposes of subsection (1), section 21C shall apply accordingly with any necessary modifications.”.

Substitution of section 23

20. The principal Act is amended by substituting for section 23 the following section:

“Offences and penalties

23. (1) Any person who—

(a) fails to furnish the correct particulars as required by the Director General under paragraph 5(3)(b) or 10(3)(b);

(b) fails to comply with a notice given under section 22B, 22C or subsection 22D(5); or

(c) contravenes section 22EB,

shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not exceeding one million ringgit or to imprisonment for a term not exceeding two years or to both.

(2) Where a person has been convicted of an offence under subsection (1), the court may make a further order that the person shall comply with the relevant provision of this Act under which the offence has been committed within thirty days, or such other period as the court deems fit, from the date the order is made.”.

New sections 23A, 23B and 23C

21. The principal Act is amended by inserting after section 23 the following sections:

“Default in furnishing return of profits

23A. (1) Any person who makes default in furnishing a return of profits in accordance with section 5 or 10 in respect of any one year of assessment shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not exceeding one million ringgit or to imprisonment for a term not exceeding three years or to both.

(2) In any prosecution under subsection (1), the burden of proving that a return of profits has been made shall be upon the accused person.

(3) Where a person has been convicted of an offence under subsection (1), the court may make a further order that the person shall comply with the relevant provision of this Act under which the offence has been committed within thirty days, or such other period as the court deems fit, from the date the order is made.

(4) Where in relation to a year of assessment a person makes default in furnishing a return of profits in accordance with section 5 or 10 and no prosecution under subsection (1) has been instituted in relation to that default—

- (a) the Director General may require that person to pay a penalty equal to treble the amount of tax which, before any repayment under this Act, is payable for that year; and

- (b) if that person pays that penalty, or where the penalty is abated or remitted under subsection 24(5), so much, if any, of the penalty as has not been abated or remitted, he shall not be liable to be charged on the same facts with an offence under subsection (1).

(5) The Director General may require any person to pay an additional amount of penalty in accordance with subsection (4) in respect of any additional tax which is payable by that person for a year of assessment.

Penalty for incorrect return of profits and information

23B. (1) Any person who—

- (a) makes an incorrect return of profits by omitting or understating any net profit of which he is required by this Act to make a return of profits on behalf of himself or another person; or
- (b) gives any incorrect information in relation to any matter affecting his own chargeability to tax or the chargeability to tax of any other person,

shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not exceeding one million ringgit or to imprisonment for a term not exceeding three years or to both.

(2) Where a person—

- (a) makes an incorrect return of profits by omitting or understating any net profit of which he is required by this Act to make a return of profits on behalf of himself or another person; or
- (b) gives any incorrect information in relation to any matter affecting his own chargeability to tax or the chargeability to tax of any other person,

then, if no prosecution under subsection (1) has been instituted in respect of the incorrect return of profits or incorrect information, the Director General may require that person to pay a penalty equal to the amount of tax which

has been undercharged in consequence of the incorrect return of profits or incorrect information or which would have been undercharged if the return of profits or information had been accepted as correct; and, if that person pays that penalty, or where the penalty is abated or remitted under subsection 24(5), so much, if any, of the penalty as has not been abated or remitted, he shall not be liable to be charged on the same facts with an offence under subsection (1).

Recovery of penalty

23C. Any penalty imposed on any person under subsection 23A(4), 23A(5) or 23B(2) shall be collected as if it were part of the tax payable by that person, but shall not be treated as tax so payable for the purposes of any provision of this Act other than sections 11, 13B and 14.”.

Amendment of section 24

22. Section 24 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “section 22 or 23” the words “section 22, 22EA, 23 or 23A”; and

(b) by inserting after subsection (4) the following subsection:

“(5) The Director General may abate or remit any penalty imposed under this Act except a penalty imposed on conviction.”.

Deletion of section 25

23. The principal Act is amended by deleting section 25.

Amendment of section 26

24. Section 26 of the principal Act is amended in the English language text by substituting for the words “that company” the words “that entity”.

Amendment of section 27

25. Section 27 of the principal Act is amended—

- (a) by substituting for the words “section 6” the words “subsection 6(2), (3) or (4)”;
- (b) by deleting the words “or a notice of demand issued under section 13”; and
- (c) by substituting for the words “by post” the words “by ordinary post”.

New sections 27A, 27B and 27C

26. The principal Act is amended by inserting after section 27 the following sections:

“Evidential provisions

27A. (1) In a suit under section 14, the production of a certificate signed by the Director General giving the name and address of the defendant and the amount of tax due from him shall be sufficient evidence of the amount so due and sufficient authority for the court to give judgment for that amount.

(2) In criminal or civil proceedings under this Act any statement purporting to be signed by the Director General or an authorized officer which forms part of or is annexed to the information, complaint or statement of claim, shall, until the contrary is proved, be evidence of any fact stated therein:

Provided that this subsection shall not apply to—

- (a) a statement of the intent of the accused person or other defendant; or
- (b) proceedings for an offence punishable by imprisonment.

(3) A transcript of any particulars contained in a return or other document relating to tax, if it is certified under the hand of the Director General or an authorized officer to be a true copy of the particulars, shall be admissible in evidence as proof of those particulars.

(4) No statement made or document produced by or on behalf of any person shall be inadmissible in evidence against that person in any proceedings against him for an offence under section 23A or 23B, or for the recovery of any sum due by way of tax or penalty, by reason only of the fact that he was or may have been induced to make the statement or produce the document by any lawful inducement or promise from the Director General or an authorized officer.

(5) (a) Save as provided in paragraph (b), nothing in this Act shall—

(i) affect the operation of Chapter IX of Part III of the Evidence Act 1950; or

(ii) be construed as requiring or permitting any person to produce or give to a court, the Special Commissioners, the Director General or any other person any document, thing or information on which by that Chapter or those provisions he would not be required or permitted to produce or give to a court.

(b) Notwithstanding any other written law, where any document, thing, matter, information, communication or advice consists wholly or partly of, or relates wholly or partly to, the receipts, payments, income, expenditure, or financial transactions or dealings of any person, whether an advocate and solicitor, his client or any other person, it shall not be privileged from disclosure to a court, the Special Commissioners, the Director General or any authorized officer if it is contained in, or comprises the whole or part of, any book, account, statement, or other record prepared or kept by any practitioner or firm of practitioners in connection with any client or clients of the practitioner or firm of practitioners or any other person.

- (c) Paragraph (b) shall also apply with respect to any document, thing, matter, information, communication or advice made or brought into existence before the commencement of that paragraph.

Errors and defects in assessments, notices and other documents

27B. (1) No assessment, notice or other document purporting to be made or issued for the purposes of this Act shall be quashed or deemed to be void or voidable for want of form, or be affected by any mistake, defect or omission therein, if it is in substance and effect in conformity with this Act or in accordance with the intent and meaning of this Act and—

- (a) in the case of an assessment, the person assessed or intended to be assessed or affected thereby is designated according to common intent and understanding; and
- (b) in any other case, the person to whom it is addressed and any other person referred to therein are so designated.

(2) An assessment purporting to be made or issued for the purposes of this Act shall not be impeached or affected by reason of a mistake therein as to—

- (a) the name of a person charged to tax;
- (b) the description of any income; or
- (c) the amount of chargeable profit assessed or tax charged,

and a notice of assessment purporting to be so made or issued shall not be impeached or affected by any such mistake if it is served on the person in respect of whom the assessment was made or intended to be made and contains in substance and effect the particulars contained in the assessment.

(3) Notwithstanding subsection (2), if the amount of tax charged by an assessment has been incorrectly calculated by reference to the amount of the chargeable profit and the appropriate rate of tax applicable thereto, the amount of tax charged as shown in the assessment and the notice of assessment may, if the Director General so directs, be taken to be the amount of tax which ought to have been charged if it had been correctly calculated.

(4) A notice of tax payable purporting to be issued for the purposes of this Act shall not be impeached by reason of a mistake therein as to the name of the person liable to pay the tax if the notice is served on that person.

Authentication of notices, certificates and other documents

27c. (1) Subject to subsection (2), every notice, certificate or other document issued, served or given for the purposes of this Act by the Director General or an authorized officer shall be sufficiently authenticated if the name and office of the Director General is printed, stamped or otherwise written thereon.

(2) Where this Act provides for a notice, certificate or other document to be under the hand of any officer, the notice, certificate or document shall be signed in manuscript by that officer.

(3) A notice, certificate or other document issued, made, served or given for the purposes of this Act and purporting to be signed in manuscript by the Director General or an authorized officer shall be presumed, until the contrary is proved, to have been so signed.”.

Application of sections 28 and 29

27. Where there is any inconsistency between sections 28 and 29 of this Act and any provision of the principal Act, the provision of the principal Act shall be void to the extent of the inconsistency.

Year of assessment 2025

28. (1) In the year 2025, there shall be two years of assessment namely—

- (a) the year of assessment 2025 in respect of the basis period ending in the year 2024 (preceding year basis); and
- (b) the year of assessment 2025 in respect of the basis period ending in the year 2025 (current year basis).

(2) The year of assessment 2025 on current year basis shall be a separate year of assessment which follows the year of assessment 2025 on preceding year basis.

Saving and transitional provision

29. (1) If any Labuan entity is liable to tax on a preceding year basis under the principal Act prior to date of the commencement of this Act, then such Labuan entity shall continue to be so liable.

(2) Nothing in this Act shall affect any person's liability to be prosecuted or punished for any offence or breach committed under the principal Act or any proceedings brought, sentence imposed or action taken, before the date of the commencement of this Act in respect of such offence or breach.

(3) Any right, privilege, obligation or liability acquired, accrued or incurred before the date of coming into operation of this Act or any legal proceedings, remedy or investigation in respect of such right, privilege, obligation or liability shall not be affected by this Act and shall continue to remain in force as if this Act had not been enacted.

(4) Any compounding of offences under the existing section 24 of the principal Act which is pending immediately before the date of coming into operation of this Act shall, on or after the date of coming into operation of this Act, continue to be valid and shall be dealt with under section 24 of the principal Act as if section 24 of the principal Act had not been amended by this Act.