

LABUAN BUSINESS ACTIVITY TAX (REQUIREMENTS FOR LABUAN BUSINESS ACTIVITY) REGULATIONS 2021

PU (A) 423
19 November 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 Business Activity) Regulations 2021.
- 1(2)** Except for regulation 3, these Regulations are deemed to have come into operation on 1 January 2019.
- 1(3)** Regulation 3 is deemed to have come into operation on 1 January 2021.

REQUIREMENTS FOR LABUAN BUSINESS ACTIVITY

- 2** A Labuan entity carrying on a Labuan business activity shall have the number of full time employees and the amount of annual operating expenditure—
 - (a) in relation to a Labuan trading activity, as specified in the First Schedule; and
 - (b) in relation to a Labuan non-trading activity, as specified in the Second Schedule,in the basis period for a year of assessment.

CONTROL AND MANAGEMENT IN LABUAN

- 3** For the purpose of item 2 of Second Schedule, a Labuan entity carrying on a Labuan business activity shall comply with the conditions in relation to control and management in Labuan as follows:
 - (a) meeting of the board of directors is convened in Labuan at least once a year;
 - (b) the registered office of the Labuan entity shall be situated in Labuan;
 - (c) the secretary of the Labuan entity appointed under the Labuan Companies Act 1990 [Act 441] shall be resident in Labuan; and
 - (d) the accounting and business records including the minutes of meeting of the Labuan entity's board of directors shall be kept in Labuan.

PROVISIONS RELATING TO THE COMPANY

- 4 For the purposes of company as specified in the First Schedule and Second Schedule—
- (a) a company shall be deemed to be related to another company in accordance with section 4 of the Labuan Companies Act 1990; and
- (b) where—
- (i) two or more companies are related within the meaning of section 4 of the Labuan Companies Act 1990;
- (ii) a company is so related to another company which is itself so related to a third company;
- (iii) the same person is holding more than fifty per cent of the shares in each of two or more companies; or
- (iv) each of two or more companies is so related to at least one of two or more companies to which subparagraph (iii) applies,
- all these companies are deemed to be in the same group.

REVOCATION

- 5 The Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2018 [P.U. (A) 392/2018] is revoked.

FIRST SCHEDULE

[Regulation 2 and 4]

(1) No.	(2) Labuan entity carrying on a Labuan trading activity	(3) Minimum number of full time employees in Labuan	(4) 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	4	100,000

	Labuan takaful manager		
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
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
	(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	2	100,000

	company		
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
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.	(a) Labuan entity that carries on any one or more of the following business activity: (b) administrative services; (c) accounting services; (d) legal services; (e) backroom processing services; (f) payroll services; (g) talent management services; (h) agency services; (i) insolvency related services; (j) management services other than Labuan company management under item 17	2	50,000

SECOND SCHEDULE

[Regulation 2 and 4]

(1) No.	(2) Labuan entity carrying on a Labuan non-trading activity	(3) Minimum number of full time employees in Labuan	(4) Minimum amount of annual operating expenditure in Labuan (RM)
1.	Labuan entity that undertakes investment holding activities other than pure equity holding activities	1	20,000
2.	Labuan entity that undertakes pure equity holding activities	Exempted under the Labuan Business Activity Tax (Exemption) Order 2020 [P.U. (A) 177/2020]	20,000