

A9 LABUAN

A9.1

TAX EXEMPTION FOR ISLAMIC FINANCE RELATED TRADING ACTIVITY

Existing Legislation

Presently, Labuan entities carrying out trading activities such as banking, insurance, and trust companies are taxed at a fixed rate of 3% on their audited net profits, while Labuan entities carrying out non-trading activities such as equity holding are taxed at a fixed rate of 0% on their audited net profits, provided the relevant substantial activities requirements are met.

Proposed Legislation

It is proposed that a full income tax exemption is granted to Labuan entities carrying on Islamic financial-related trading activities such as Islamic digital banking, Islamic digital bourses, *ummah*-related companies and Islamic digital token issuers for a period of 5 years.

Reference

Section 4 of the Labuan Business Activity Tax Act 1990 (LBATA 1990).

Effective Date

Year of assessment 2024 until year of assessment 2028.

Likely Tax Effects and Implications

This proposal aims to develop the Labuan International Business and Financial Centre (IBFC) as an Islamic and Shariah-compliant financial centre. However, the scope of activities that are eligible for the tax exemption and conditions remain unclear and clarification is required in due course.

A9.2

IMPLEMENTATION OF E-INVOICE

Existing Legislation

Presently, there is no requirement for Labuan entities to issue electronic invoice (e-Invoice).

Proposed Legislation

It is proposed that Labuan entities shall issue an electronic invoice for each transaction in respect of any goods sold or services performed by the person in that year of assessment. The conditions and specifications under which an electronic invoice is to be issued shall be as determined by the Director General under the guidelines issued.

Failure to issue electronic invoice would result in a fine of not less than RM200 and not exceeding RM20,000 or to imprisonment for a term not exceeding 6 months or both, upon conviction.

Reference

Section 2, Section 22A, new Section 22DA and new Section 22EA of the LBATA 1990.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

Labuan entities taxed under LBATA are also in scope for the e-Invoice initiative, slated to be implemented in phases starting from 1 August 2024.

A9.3

IMPLEMENTATION OF GLOBAL MINIMUM TAX

Existing Legislation

Presently, a Labuan entity carrying on a Labuan business activity shall be charged to tax in accordance with LBATA for each year of assessment in respect of that Labuan business activity.

Proposed Legislation

For the purposes of the imposition of Domestic Top-up Tax or Multinational Top-up Tax and the implementation of the GloBE Rules, Part XI of the Income Tax Act 1967 shall also apply to a Labuan entity which is a Constituent Entity that is a member of a Multinational Enterprise Group that has annual consolidated revenue of EUR 750 million or more in at least two of the four consecutive financial years immediately preceding the tested financial year.

Reference

Section 3 of the LBATA 1990.

Effective Date

Financial year beginning on 1 January 2025 and subsequent financial years.

Likely Tax Effects and Implications

Multinational Enterprise Groups in scope for the GloBE Rules would need to take into account its Labuan entities in calculating the Domestic Top-up Tax and Multinational Top-up Tax in Malaysia.

A9.4

ADMISSIBILITY OF ELECTRONIC RECORD

Existing Legislation

Presently, there is no provision stating that electronic records provided to the Director General are admissible as evidence in any proceedings under the LBATA 1990.

Proposed Legislation

An electronic record or a copy or print-out of an electronic record of any document stored or received by or communicated to the Director General on an electronic medium or by way of an electronic transmission, is admissible as evidence provided that:

- (a) the record or the copy or print-out is 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; or
- (b) otherwise authenticated in the manner provided in the Evidence Act 1950 for authentication of documents produced by computer.

Reference

New Section 21B of the LBATA 1990.

Effective Date

1 January 2024.

Likely Tax Effects and Implications

There is better clarity in the acceptance or use of electronic records when submitted to or communicated with the Director General.