

## **AN UPDATE ON LABUAN BUSINESS ACTIVITIES**

### **LABUAN BUSINESS ACTIVITY TAX (REQUIREMENTS FOR LABUAN BUSINESS ACTIVITY) REGULATIONS 2021 (“Regulations 2021”) REPLACED THE REGULATIONS 2018**

The Government of Malaysia, published in the Federal Government Gazette (P.U.(A) 423) dated 22 November 2021, has revoked the Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2018 and replaced it with the [Regulations 2021](#).

What are the most significant changes being introduced in the latest Regulations 2021?

### **Inclusion of Labuan business activity (as Code 20) in the First Schedule of the Regulations 2021**

**Provided that** it meets the ‘*economic substance requirements*’ (“ESR”) of 2 full-time employees and the minimum OPEX of RM20,000 in Labuan in the basis period for a year of assessment, Labuan entity that carries on any one or more of the following business activities can now benefit from the 3% preferential tax rate under the [Labuan Business Activity Tax Act 1990](#) (“LBATA”) –

- (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 (Code 17)

### **When is the effective date?**

To take effect from 1 January 2019.

### **Labuan entities that undertake pure equity holding activities (Code 2 in the Second Schedule of the Regulations 2021)**

The Regulations 2021 also imposes the ESR to Labuan entities undertaking pure equity holding activities that they must comply with the ‘*control and management*’ conditions, and meet the minimum OPEX of RM20,000 in Labuan during the basis period for a year of assessment for the entities to be eligible for 0% tax rate under the LBATA.

The control and management conditions to be met are –

- (a) meeting of the board of directors to be held in Labuan at least once a year;
- (b) the registered office must be in Labuan;
- (c) the company secretary must be resident in Labuan; and
- (d) all accounting and business records (including minutes of meetings) to be kept in Labuan.

### **When is the effective date?**

To take effect from 1 January 2021.

## Contact us for more information

Please get in touch with us if you require further information about the new Code 20 of the Labuan business activity.

Please note that this update is intended to brief you of the latest changes affecting Labuan entities carrying on business activities which are available under the latest gazetted Schedules. It should not be used or relied upon as a substitute for a tax advice or a basis for formulating your or your client's business decisions when using Labuan entities.

Thank you.

Yours faithfully,

Sukor Ashak  
Managing Director  
**HMR Konsultan (Labuan) Ltd.**