
TECHNICAL

Direct Taxation

AMENDMENTS TO LABUAN TAX LEGISLATIONS

1. [Labuan Business Activity Tax \(Amendment\) Act 2017 \(Act A1532\)](#)

The above Act was gazetted on 18 May 2017 and amends section 21 of the Labuan Business Activity Tax Act 1990 [Act 445] (as per clause 39 of the [Finance Act 2017 \[Act 785\]](#)), by deleting the words in subsection (1) and inserting subsection (2) as follows:

21. Power of Minister to make regulations

- 1.** The Minister may make regulations—
 - (a) generally for the purpose of carrying out, or giving effect to, the provisions of this Act;
 - (b) for the purpose of implementing or facilitating the operation of an arrangement having effect under section 132B of the Income Tax Act 1967 ~~and prescribing penalties for any contravention or failure to comply with any of the provisions of any regulations made under this paragraph.~~
- 2.** *The regulations made under this section may prescribe a penalty of a fine not exceeding one million ringgit or imprisonment for a term not exceeding two years or both for any contravention or failure to comply with any of the provisions of the regulations.*

2. [Labuan Business Activity Tax \(Exemption\) 2013 \(Amendment\) Order 2017 \[P.U. \(A\) 156/2017\]](#)

The above Order was gazetted on 30 May 2017 and is deemed to have come into operation from the year of assessment 2013 onwards. It amends paragraph 2 of the [Labuan Business Activity Tax \(Exemption\) Order 2013 \[P.U. \(A\) 99/2013\]](#) by substituting for the definition of “qualifying activity” the following definition:

“qualifying activity” means the trading with non-resident companies in currency other than Malaysian currency of physical products and related derivative instruments in relation to liquefied natural gas.

3. [Labuan Business Activity Tax \(Exemption\)\(No.2\) 2013 \(Amendment\) Order 2017 \[P.U. \(A\) 157/2017\]](#)

The above Order was gazetted on 30 May 2017 and amends the [Labuan Business Activity Tax \(Exemption\)\(No.2\) Order 2013 \[P.U. \(A\) 100/2013\]](#).

3.1 P.U. (A) 100/2013 is amended in paragraph 2 in the definition of “qualifying activity” as follows:

Paragraph 2

“qualifying activity” means ~~the trading of physical and related derivative instruments of~~

(a) the trading with non-resident companies in currency other than Malaysian currency of physical products and related derivative instruments in relation to-

(a) (i) petroleum and petroleum-related products, including liquefied natural gas;

(b) (ii) minerals;

(c) (iii) agriculture products;

(d) (iv) refined raw materials;

(e) (v) chemicals; and

(f) (vi) base minerals; or

~~in any currency other than Ringgit.~~

(b) the trading with resident companies in currency other than Malaysian currency of physical products and related derivative instruments in relation to-

(i) petroleum and petroleum-related products, including liquefied natural gas; and

(ii) coal.

The above amendments are deemed to have come into operation from the year of assessment 2013 onwards except for the insertion of paragraph 2(b) which is deemed to have come into operation on 10 June 2013.

3.2 P.U. (A) 100/2013 is amended in paragraph 5 as follows:

Paragraph 5

Non-application

5. This Order shall not apply to the Labuan International Commodity Trading Company which carries on solely the trading of physical **products** and related derivative instruments ~~of~~ **in relation to** liquefied natural gas, for the first three years of its operation.

The above amendments are deemed to have come into operation from the year of assessment 2013 onwards.

Members may read the Act and Gazette Orders in full at the official website of the [Attorney-General's Chambers](#).

You may write to the Institute at technical@ctim.org.my or secretariat@ctim.org.my in respect of any suggestions, concerns or comments you may have on the above Act and Gazette Orders.

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