

TECHNICAL - DIRECT TAXATION

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Requirement for Labuan entity carrying on “Other Trading Activities” to be taxed under the Income Tax Act 1967 with effect from YA 2019 onwards

The Labuan Branch of the Inland Revenue Board of Malaysia (“Labuan IRB”) informed the Association of Labuan Trust Companies in its letter dated 5 February 2021 (correspondence copied to All Tax Agents) that a Labuan entity carrying on “Other Trading Activities” (Code 23) is required to be taxed under the Income Tax Act (“ITA”) 1967 instead of the Labuan Business Activity Tax Act (“LBATA”) 1990 with effect from the year of assessment (“YA”) 2019 onwards.

The Labuan IRB indicated that the [Labuan Business Activity Tax \(Requirements for Labuan Business Activity\) 2018 \(Amendment\) Regulations 2020 \[P.U. \(A\) 375/2020\]](#) has caused a Labuan entity carrying on "Other Trading Activities" not to be included in the meaning of "Labuan entity" under S.2B(1) of the LBATA 1990 and is required to submit its Income Tax Return Form (“ITRF”) under the ITA 1967 by the due dates as follows: -

Year of assessment (YA)	Due date
2019	31 March 2021
2020 (accounting period up to 30 June 2020)	31 March 2021
2020 (accounting period up to 31 July 2020 - 31 December 2020)	According to the ITA 1967

Note:

1. No late tax filing penalty under S.112(3) of the ITA 1967 will be imposed if ITRFs are submitted within the above due dates.
2. The [Labuan Financial Services Authority in its letter dated 21 January 2020](#) specified that "Other Trading Activities" include administrative, accounting and legal services including backroom processing, payroll services, talent management, agency services, insolvency related services and management service.

The Institute would inform that it [has submitted a letter dated 24 February 2021 to the Labuan IRB](#), on behalf of members who wish to file the ITRF for a Labuan Entity carrying on “Other Trading Activities” under the ITA 1967, to request it to extend the above due date for tax filing for YA 2019 and YA 2020 (accounting period up to 30 June 2020 - 31 October 2020) to 30 June 2021. Members will be updated as soon as a written response has been obtained from the Labuan IRB.

The Labuan IRB also informed the following in respect of a Labuan entity carrying on “Other Trading Activities”: -

- No penalty will be imposed on non-submission of CP204 for YA 2019 and YA 2020.
- CP204 for YA 2021 must be submitted as soon as possible.

- The tax payment made under LBATA 1990 for the respective YA will be transferred to the ITA ledger.
- Application for income tax file registration should be forwarded to the [Labuan IRB \(refer to Labuan Branch in the linked document\)](#) using the [appropriate prescribed forms](#) together with [supporting documents \(refer to the submission list on page 3 of the linked document\)](#).

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