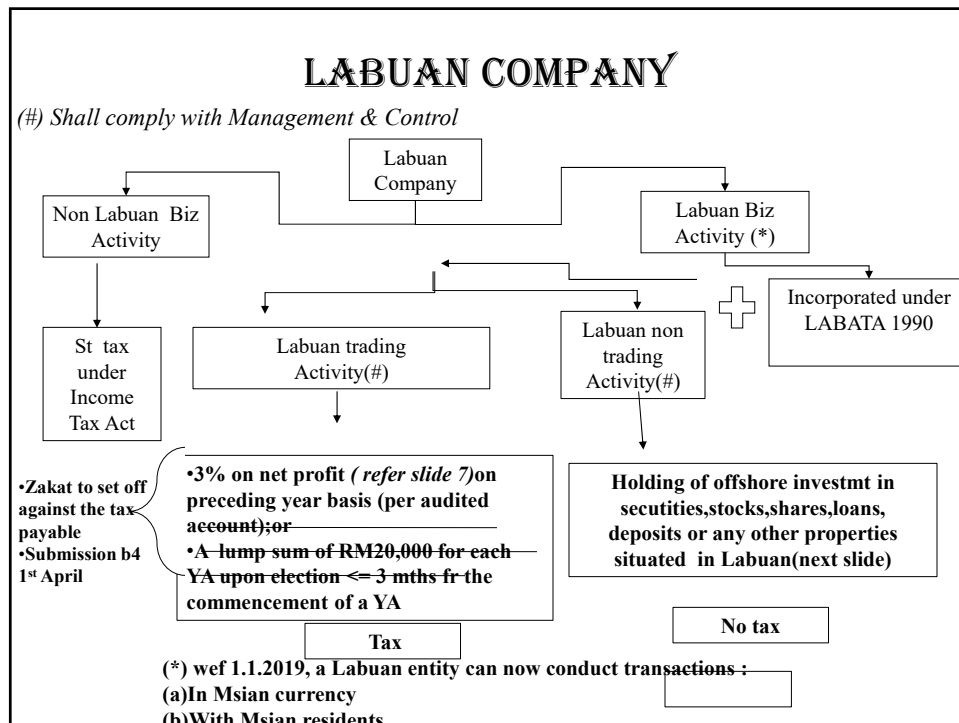


Labuan International Financial Centre

1



2

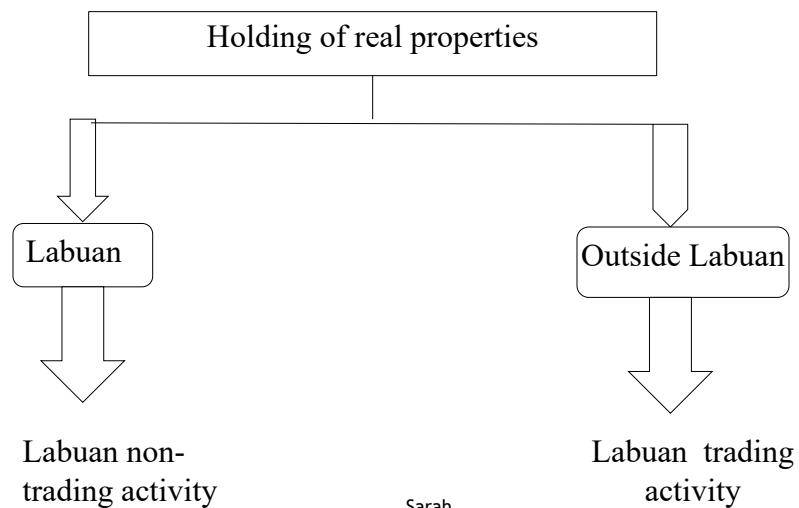
Management & Control

- \geq one BOD meeting to be held in Labuan in a year;
- Has its registered office in Labuan;
- Appoints a Labuan trust company as resident secretary in Labuan; and
- Keeps its accounting and business records including minutes of meeting in Labuan

Sarah

3

Real Estate Investment activities



Sarah

4

Labuan non trading activity

exclude the following income wef 1.1.2019:

- (a)royalty
- (b)Other income derived from an intellectual property right is receivable as consideration for the commercial exploitation of that right

Sarah

5

LABUAN COMPANIES

- WEF YA 2009 can make irrevocable election that any profit be assessed under income tax (Chargeable offshore company), submit Form to the IRB by 31.3 of the following year

Objective: to enjoy DTA incentives

Sarah

6

Labuan Business Activity

Required to fulfill substantive activities requirements:

- (a) Have adequate number of full time employees in Labuan(#);
and
- (b) Have incurred adequate amount of annual operating expenditure in Labuan

Failing which, will be subject to 24% x net profits as per the audited accounts

(#) pure equity holding is exempted from complying but have a minimum of AOE in Labuan of RM20,000

Sarah

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Deductions Not Allowed for Payment Made to Labuan Company by Resident

WEF 1.1.2021, pursuant to the Income Tax (Deductions Not Allowed for Payment Made to Labuan Company by Resident) Rules 2018, the Minister of Finance has prescribed the following limitations on tax deductions:

No.	Type of Payment	Amount Not Allowed for Deduction
1.	Interest payment / lease rental	25% of the amount of payment
2.	Other payments	97% of the amount of payment

W.e.f. 1.1.2021, the above restriction extended for payments made to ALL Labuan entities regardless whether they comply with the substance requirement or not

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Income from intellectual property right

(#) Net profits of Labuan trading activity and Labuan non trading activity shall exclude the following wef 1.1.2019:

- (a) Patent
- (b) Utility innovation and discovery; Pg 600, Diagram
- (c) Copyright Eg 50.3, pg 601
- (d) Trade mark & service mark
- (e) Industrial design
- (f) Layout design of integrated circuit
- (g) Secret processes or formulae and know how
- (h) Geographical indication and the grant of protection of a plant variety; and
- (i) Other like rights whether or not registered or registrable

Sarah

Subject to income tax rate @24%

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APPLICATION OF ITA1967

- An activity other than a Labuan biz activity carried on/ by a Labuan entity
- A Labuan business activity carried on/by a Labuan entity which makes an irrecoverable election to be assessed under ITA1967

Sarah

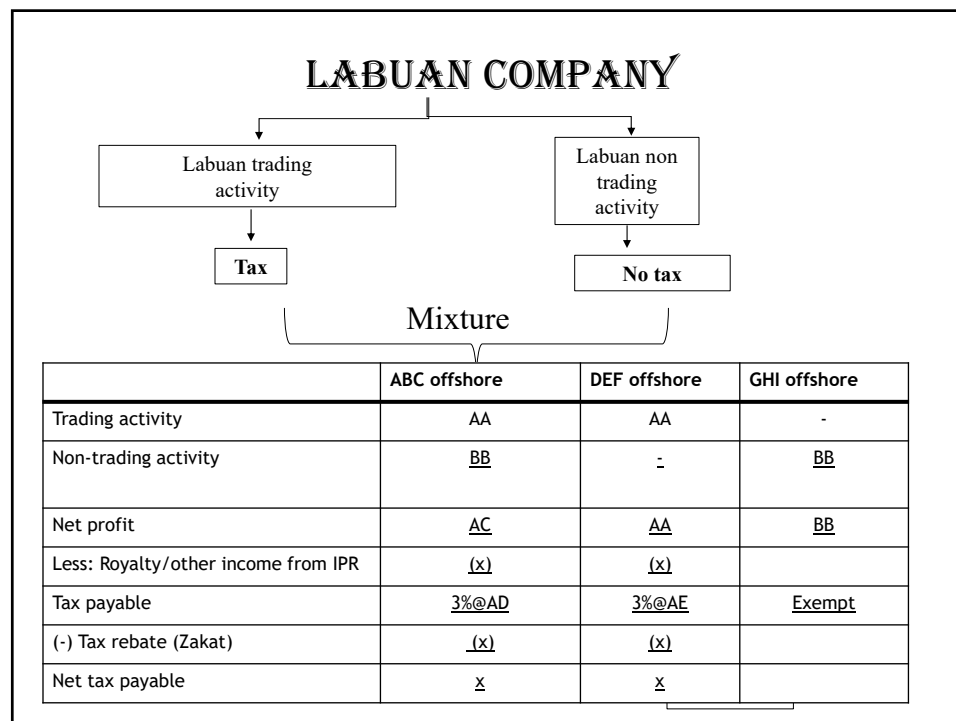
10

ZAKAT

- Set off against the income tax under LOBATA provided it is evidenced by a receipt issued by Labuan Islamic religious authority
- Any excess cannot be refunded/allowed to c/f

Sarah

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Labuan Business Activity

Required to fulfill substantive activities requirements:

- (a) Have adequate number of full time employees in Labuan(#); and
- (b) Have incurred adequate amount of annual operating expenditure in Labuan

Failing which, will be subject to 24% x net profits as per the audited accounts (Eg 50.4 pg604)

(#) pure equity holding(*) is exempted from complying but have a minimum of AOE in Labuan of RM20,000

- (*) (a) acquired a variety of investment assets and derived investment income, such as interest, rental & royalties; or
- (b) holding investments in shares and derived dividends, capital gains and realization of investment

Sarah

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PYQ March24 Q3

Jinoy Sdn Bhd (Jinoy) was incorporated in Malaysia in 2015, with a paid-up ordinary share capital of one million shares of RM1 each, held wholly by Pomp Labuan Ltd (Pomp).

Pomp meets the required substance requirements in Labuan and receives corporate management service fees and dividends from Jinoy.

(c) Explain the tax implications in relation to:

- Pomp receiving dividends and corporate management fees from Jinoy; and
- Jinoy paying the corporate management fees to Pomp.

(5 marks)

Sarah

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PYQ March24 Q3

(c) Labuan tax treatment

Pomp

Dividend and corporate management fees received from Jinoy

- As Pomp can meet the relevant substance requirements in Labuan, it would be able to enjoy the Labuan preferential tax treatment.
- The provision of corporate management services should be regarded as Labuan trading activity while the investment in Jinoy should be regarded as Labuan non-trading activity.
- Under the Labuan tax legislation, where a company carries on both Labuan trading and non-trading activities, it would be regarded as a company undertaking Labuan trading activity.
- In this case, Pomp will be taxed at 3% based on the net audited profits of the company.

Jinoy

Corporate management services payable by Jinoy to Pomp

- The payment for corporate management services by Jinoy to Pomp should be tax deductible, provided the amount is incurred in the production of the company's income.
- However, as Pomp is a Labuan company enjoying Labuan preferential tax treatment, the tax deduction will be restricted to 3% of the service fees payable.

Sarah

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TAX IMPLICATION

	Received from an Labuan company	Received by an Labuan company
Dividend income		<ul style="list-style-type: none"> •Exempted •Resident M'sian co receiving dividends from Labuan offshore co can credit such exempt dividends received to an exempt income account -> 2 tiers exempt div can be paid out
Capital gains		<u>offshore trading activity</u> Gains reflected as part of the profits -> subject to 3% <u>Offshore non trading activity</u> -> no tax

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TAX IMPLICATION

	Received from an Labuan company	Received by an Labuan company
Royalties/interest(*) / S4A(i)(ii) / S4(f) received by a non-R/offshore co	Exempted from WHT	
Section 4A(iii) received by a non-R from an offshore co approved to carry out leasing business	Exempted from WHT	
Distribution received fr offshore trust by the B	Exempted from tax	

(*) exemption will not be given if interest accrues to a non –R person in M’sia carrying on banking, insurance or finances business

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TAX IMPLICATION

	Received from an Labuan company	Received by an Labuan company
Capital gains arising from the sale of shares in an offshore company by the shareholders	Exempted	

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TAX INCENTIVES TO USERS OF LABUAN COMPANY

	Tax exempt	Applicable
Non citizen director	100% on Director fees	YAs 2011 to 2025