LAWS OF MALAYSIA

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Act 445

LABUAN BUSINESS ACTIVITY TAX ACT 1990

As at 1 January 2026

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LABUAN BUSINESS ACTIVITY TAX ACT 1990

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LAWS OF MALAYSIA

Act 445

LABUAN BUSINESS ACTIVITY TAX ACT 1990

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LABUAN BUSINESS ACTIVITY TAX ACT 1990

An Act to provide for the imposition, assessment and collection of tax on a Labuan business activity carried on by a Labuan entity in or from Labuan and for matters connected therewith.

[*1 October 1990*, *P.U. (B) 589/1990*]

BE IT ENACTED by Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Labuan Business Activity Tax Act 1990 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) This Act shall have effect for the year of assessment 1991 and subsequent years of assessment.

Interpretation

2. (1) In this Act, unless the context otherwise requires—

"assessment" means any assessment or additional assessment made under this Act;

"basis period", in relation to a year of assessment, means the accounting period or periods ending in the calendar year coinciding with that year of assessment;

"Director General" means the Director General of Inland Revenue referred to in section 134 of the Income Tax Act 1967 [*Act 53*];

"electronic invoice" has the meaning assigned to it in the Income Tax Act 1967;

"Labuan" means the Federal Territory of Labuan;

"Labuan business activity" means a Labuan trading or a Labuan non-trading activity carried on in, from or through Labuan, excluding any activity which is an offence under any written law;

"Labuan company" means a Labuan company incorporated under the Labuan Companies Act 1990, and includes a foreign Labuan company registered under that Act;

"Labuan non-trading activity" means an activity relating to the holding of investments in securities, stock, shares, loans, deposits or any other properties situated in Labuan by a Labuan entity on its own behalf;

"Labuan trading activity" includes banking, insurance, trading, management, licensing, or any other activity which is not a Labuan non-trading activity;

"Minister" means the Minister for the time being charged with the responsibility for finance;

"official" means a person having an official duty under, or employed in carrying out, the provisions of the Income Tax Act 1967;

"person" includes a corporation, a partnership, a body of persons and a corporation sole;

"Special Commissioners" means the Special Commissioners of Income Tax appointed under section 98 of the Income Tax Act 1967;

"year of assessment" means calendar year.

(2) Where a Labuan entity carries on both a Labuan trading activity and a Labuan non-trading activity, such entity shall be deemed to be carrying on a Labuan trading activity.

(3) For the avoidance of doubt, it is declared that the provisions of the Income Tax Act 1967 shall apply in respect of—

(a) an activity other than a Labuan business activity carried on by a Labuan entity; and

(b) (*Deleted by Act 624*);

(c) (*Deleted by Act A1366*);

(d) a Labuan business activity carried on by a Labuan entity which makes an election under section 3A.

Designated Labuan business activity

2A. (1) The Minister may, on the recommendation of the Director General, in writing, designate any activity carried on by any Labuan entity to be a Labuan business activity.

(2) (*Deleted by Act 812*).

Labuan entity

2B. (1) The Labuan entities—

(a) shall be as specified in the Schedule; and

(b) shall, for the purpose of the Labuan business activity—

(i) in relation to a Labuan trading activity—

(A) have an adequate number of full time employees in Labuan;

(B) have an adequate amount of annual operating expenditure in Labuan; and

(C) comply with any condition in relation to a fit and proper person for full time employees,

as prescribed by the Minister by regulations made under this Act; and

(ii) in relation to a Labuan non-trading activity—

(A) have an adequate number of full time employees in Labuan;

(B) have an adequate amount of annual operating expenditure in Labuan;

(C) comply with any condition in relation to control and management in Labuan; and

(D) comply with any condition in relation to a fit and proper person for full time employees,

as prescribed by the Minister by regulations made under this Act.

(1A) A Labuan entity carrying on a Labuan business activity which fails to comply with regulations made under subsection (1) for a basis period for a year of assessment shall be charged to tax at the rate of twenty four per cent upon its chargeable profits for that year of assessment.

(1B) For the purposes of subsection (1A), the chargeable profits shall be the net profits as reflected in the audited accounts in respect of such

Labuan business activity of the Labuan entity for the basis period for that year of assessment.

(1C) The net profits referred to in subsection (1B) shall not include any income derived from royalty and other income derived from an intellectual property right if it is receivable as consideration for the commercial exploitation of that right.

(1D) Any income derived from intellectual property right referred to in subsection (1C) is subject to tax under the Income Tax Act 1967.

(1E) In this section, "intellectual property right" has the same meaning assigned to it under subsection 4(5).

(2) The Minister may, upon the recommendation of the Director General, by order published in the *Gazette*, amend the Schedule including for the purposes of declaring any other person as a Labuan entity.

PART II

CHARGEABILITY TO TAX

Scope of Charge

Labuan business activity chargeable to tax

3. (1) Subject to this Act, a Labuan entity carrying on a Labuan business activity shall be charged to tax in accordance with this Act for each year of assessment in respect of that Labuan business activity.

(2) Notwithstanding any other provisions of this Act and 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 revenue of seven hundred and fifty million euro or more in the Consolidated Financial Statements of the Ultimate

Parent Entity in at least two of the four consecutive Financial Years immediately preceding the tested Financial Year.

(3) Where one or more of the Financial Years of the Multinational Enterprise Group taken into account for the purposes of subsection (2) is of a period other than twelve months, for each of those Financial Years the seven hundred and fifty million euro annual revenue is adjusted proportionally to correspond with the length of the relevant Financial Year.

(4) For the purposes of subsections (2) and (3), "Consolidated Financial Statement", "Constituent Entity", "Financial Year", "GloBE Rules", "Multinational Enterprise Group" and "Ultimate Parent Entity" have the meaning assigned to them in Part XI of the Income Tax Act 1967.

Labuan business activity chargeable to Income Tax Act 1967 upon election

3A. (1) Notwithstanding any other provision of this Act, a Labuan entity carrying on a Labuan business activity may make an irrevocable election in the form as determined by the Director General that any profit of the Labuan entity for any basis period for a year of assessment and subsequent basis period to be charged to tax in accordance with the Income Tax Act 1967 in respect of that Labuan business activity.

(2) The election referred to in subsection (1) shall be made and furnished to the Director General within three months or any extended period as may be allowed by the Director General after the beginning of the basis period for a year of assessment:

Provided that for the basis period ending on a day in the year of assessment 2008, the election under this section may be made and furnished before 1 August 2008.

Residence

3B. For the purposes of the double taxation arrangements effected under section 132 of the Income Tax Act 1967—

(a) a Labuan entity carrying on a business or businesses is resident in Malaysia for the basis period for a year of assessment if at any time during that basis period the management and control of its business or of any one of its businesses, as the case may be, are exercised in Malaysia; and

(b) any other Labuan entity is resident in Malaysia for the basis period for a year of assessment if at any time during that basis period the management and control of its affairs are exercised in Malaysia by its directors, partners, trustees or other controlling authority.

Tax based on Return

Labuan trading activity

4. (1) Tax shall be charged at the rate of three per cent for a year of assessment upon the chargeable profits of a Labuan entity carrying on a Labuan business activity which is a Labuan trading activity for the basis period for that year of assessment.

(2) Subject to this Act, the chargeable profits of a Labuan entity carrying on a Labuan business activity which is a Labuan trading activity for a year of assessment shall be the net profits as reflected in the audited accounts in respect of such Labuan trading activity of the Labuan entity for the basis period for that year of assessment.

(3) For the avoidance of doubt, the net profits referred to in subsection (2) shall not include any income derived from royalty and other income derived from an intellectual property right if it is receivable as consideration for the commercial exploitation of that right.

(4) Any income derived from intellectual property right referred to in subsection (3) is subject to tax under the Income Tax Act 1967.

(5) For the purpose of this section, "intellectual property right" means a right arising from any patent, utility innovation and discovery, copyright, trade mark and service mark, industrial design, layout-design of integrated circuit, secret processes or formulae and know-how, geographical indication and the grant of protection of a plant variety, and other like rights, whether or not registered or registrable.

Filing of return of profits of Labuan entity charged to tax

5. (1) A Labuan entity carrying on a Labuan business activity to which subsection 2B(1A) or section 4 applies shall for each year of assessment furnish to the Director General a return of profits in the form as determined by the Director General a written of profits in the prescribed form within a period of seven months from the date following the close of the accounting period which constitutes the basis period for the year of assessment.

(2) The form referred to in subsection (1) shall be furnished to the Director General on an electronic medium or by way of electronic transmission in accordance with section 21C.

(3) For the purposes of this section, a return of profits for a year of assessment shall—

(a) specify the chargeable profit for that year of assessment; and

(b) contain such particulars as may be required by the Director General.

Assessment and additional assessment

6. (1) Where a Labuan entity has furnished a return of profits for a year of assessment in accordance with section 5, the Director General shall be deemed to have made, on the day on which the return of profits is furnished, an assessment in respect of that Labuan entity in the amount of tax on the chargeable profit, the tax and the chargeable profit being the respective amounts as specified in the return of profits.

(1A) For the purposes of this Act, where the Director General is deemed to have made an assessment under subsection (1)—

(a) the return of profits referred to in that subsection shall be deemed to be a notice of assessment; and

(b) the notice of assessment shall be deemed to have been served on the Labuan entity on the day on which the Director General is deemed to have made the assessment.

(2) The Director General, where for any year of assessment it appears to him that no or no sufficient assessment has been made on a person chargeable to tax, may in that year or within five years after its expiration make an assessment or additional assessment, as the case may be, in respect of that person in the amount or additional amount of chargeable profit and tax or in the additional amount of tax, in which according to the best of the Director General's judgment, the assessment with respect to that person ought to have been made for that year.

(3) The Director General, where for any year of assessment it appears to him that no or no sufficient assessment has been made on a person chargeable to tax in consequence of the Director General's determination pursuant to subsection 17D(3), may in that year or within seven years after its expiration make an assessment or additional assessment, as the case may be, in respect of that person in the amount or additional amount of chargeable profit and tax or in the additional amount of tax, in which according to the best of the Director General's judgment, the assessment with respect to that person ought to have been made for that year.

(4) The Director General where it appears to him that—

(a) any form of fraud or wilful default has been committed by or on behalf of any person; or

(b) any person has been negligent,

in connection with or in relation to tax, may at any time make an assessment in respect of that person for any year of assessment for the purpose of making good any loss of tax attributable to the fraud, wilful default or negligence in question.

Form and making of assessments

6A. (1) An assessment made under subsection 6(2), (3) or (4) shall—

(a) be made in the form as determined by the Director General;

(b) indicate, in addition to any other material included therein, the appropriate year of assessment and the amount or additional amount of chargeable profits and the tax charged thereon or the amount of tax or additional tax, as the case may be; and

(c) specify in the appropriate space in that form the date on which that form was duly completed.

(2) Where the form under subsection (1) appears to have been duly completed, the assessment shall, until the contrary is proved, be presumed to have been made on the date so specified.

Notice of assessment

6B. (1) As soon as may be after an assessment has been made under subsection 6(2), (3) or (4), the Director General shall cause a notice of assessment to be served, personally or by ordinary or registered post on the chargeable Labuan entity in respect of whom the assessment was made.

(2) Where the tax charged under an assessment is increased on appeal to the Special Commissioners or a court, then, as soon as may be after the appeal has been decided there shall be served, personally or by ordinary or registered post on the chargeable Labuan entity in respect of whom the assessment was made a notice of increased assessment.

(3) A notice served under subsection (1) or (2) shall indicate, in addition to any other material included therein—

(a) in the case of a notice served under subsection (1), the year of assessment and the amount or additional amount of the chargeable profits and the tax charged thereon, or the amount of the tax or additional tax, as the case may be;

(b) in the case of a notice served under subsection (2), the year of assessment and the amount of the increase in the tax charged; and

(c) in either case—

(i) the place at which payment is to be made;

(ii) the increase for late payment imposed by subsection 11(4) or (5); and

(iii) any right of appeal which may exist under this Act.

Finality of assessment

6C. (1) The assessment made, agreed to or determined, shall be final and conclusive for the purposes of this Act, where—

(a) no valid notice of appeal against an assessment has been given under section 99 of the Income Tax Act 1967 within the time specified by that section or any extension of time granted;

(b) an agreement has been come to with respect to an assessment pursuant to subsection 101(2) of the Income Tax Act 1967; or

(c) an assessment has been determined on appeal and there is no right of further appeal.

(2) Nothing in subsection (1) shall prejudice the exercise of any power conferred on the Director General by section 6.

Right of appeal

6D. (1) A person aggrieved by an assessment or additional assessment made on him may appeal to the Special Commissioners against the assessment or additional assessment in the same manner as an appeal against an assessment of income tax made under the Income Tax Act 1967, and sections 99, 100, 101 and 102 of the Income Tax Act 1967, as far as they are applicable and with the necessary modifications, shall apply to an appeal against an assessment or additional assessment made under this Act as if—

(a) every reference in those sections to income tax or to tax were a reference to Labuan business activity tax; and

(b) every reference in those sections to income were a reference to chargeable profits.

(2) Schedule 5 to the Income Tax Act 1967 shall apply with necessary modifications in relation to the procedures of hearing of appeals to the Special Commissioners and to the procedures of hearing of further appeals.

Tax charged upon Election

7. (*Deleted by Act 812*).

Absence of basis period

8. Where a Labuan entity carrying on a Labuan business activity does not have a basis period for a year of assessment, the Director General may direct that the basis period for that year of assessment and subsequent years of assessment to include a period or periods (which may be of any period) as specified in the direction.

Tax rebate

8A. (1) A rebate shall be granted to a Labuan entity upon tax charged under subsection 2B(1A) or section 4 for each year of assessment for any *zakat* which is paid in the basis period for that year of assessment to, and evidenced by a receipt issued by, a Labuan Islamic religious authority.

(2) Where the total amount of the rebate under subsection (1) exceeds the tax charged (before any such rebate) for any year of assessment, the excess shall not be paid to the Labuan entity or available as a credit to set off his tax liability for that year of assessment or any subsequent year.

PART III

NON-CHARGEABILITY TO TAX

Labuan non-trading activity

9. (1) Notwithstanding subsection 3(1), the profit of a Labuan entity carrying on a Labuan business activity which is a Labuan non-trading activity for the basis period for a year of assessment shall not be charged to tax under this Act for that year of assessment.

(2) For the avoidance of doubt, the profit of a Labuan entity carrying on a Labuan business activity which is a Labuan non-trading activity referred to in subsection (1) shall not include any income derived from royalty and other income derived from an intellectual

property right if it is receivable as consideration for the commercial exploitation of that right.

(3) Any income derived from intellectual property right referred to in subsection (2) is subject to tax under the Income Tax Act 1967.

(4) In this section, "intellectual property right" has the same meaning assigned to it under subsection 4(5).

Filing of return of profits of Labuan entity not charged to tax

10. (1) A Labuan entity carrying on a Labuan business activity which is a Labuan non-trading activity to which subsection 9(1) applies shall for each year of assessment furnish to the Director General a return of profits in the form as determined by the Director General within a period of seven months from the date following the close of the accounting period which constitutes the basis period for the year of assessment.

(2) The form referred to in subsection (1) shall be furnished to the Director General on an electronic medium or by way of electronic transmission in accordance with section 21C.

(3) For the purposes of this section, a return of profits for a year of assessment shall—

(a) specify the net profits as reflected in the audited accounts in respect of such Labuan non-trading activity for the basis period for that year of assessment; and

(b) contain such particulars as may be required by the Director General.

10A. (*Deleted by Act 591*).

PART IV

PAYMENT AND RECOVERY OF TAX

Payment of tax

11. (1) Except as provided in subsection (2), tax payable under an assessment for a year of assessment shall be due and payable on the due date whether or not that person appeals against the assessment.

(2) Where an assessment is made under subsection 6(2), (3) or (4), or where an assessment is increased under subsection 101(2) of the Income Tax Act 1967, the tax payable under the assessment or increased assessment shall, on the service of the notice of assessment or increased assessment, as the case may be, be due and payable on the person assessed at the place specified in that notice whether or not that person appeals against the assessment or increased assessment.

(3) Subject to subsection (5), where any tax due and payable under subsection (1) has not been paid by the due date, so much of the tax as is unpaid upon the expiration of that date shall, without any further notice being served, be increased by a sum equal to ten per cent of the tax so unpaid, and that sum shall be recoverable as if it were tax due and payable under this Act.

(4) Subject to subsection (5), where any tax due and payable under subsection (2) has not been paid within a period of thirty days after the service of the notice, so much of the tax as is unpaid upon the expiration of that period shall, without any further notice being served, be increased by a sum equal to ten per cent of the tax so unpaid, and that sum shall be recoverable as if it were tax due and payable under this Act.

(5) Where any tax is payable in accordance with subsection (1) or (2), the Director General may allow the tax to be paid by instalments in such amounts and on such dates as he may determine and in the event of default in payment of any one instalment on the date specified for payment, the balance of the tax then outstanding shall be due and payable on that date and shall, without any further notice being served, be increased by a sum equal to ten per cent of that balance, and that

sum shall be recoverable as if it were tax due and payable under this Act.

(6) Notwithstanding the foregoing subsections, the Director General may in his discretion for any good cause shown remit the whole or any part of that increased sum under subsection (3), (4) or (5) and, where the amount remitted has been paid, the Director General shall repay that amount.

(7) For the purposes of this section, "due date" means the last day of the seventh month from the date following the close of the accounting period which constitutes the basis period for the year of assessment.

Payment of difference and refund

12. (1) Where there is a difference between the amount paid under section 11 and the amount assessed by the Director General under section 6, the Labuan entity shall pay the difference or the Director General shall refund the excess, as the case may be.

(2) Any amount of excess in respect of tax payable for a year of assessment which is to be refunded to the Labuan entity under subsection (1) may be utilized by the Director General for the payment of—

(a) any other amount of tax which is due and payable (including any amount of instalments which are due and payable) by the Labuan entity under this Act, the Income Tax Act 1967, the Petroleum (Income Tax) Act 1967 [*Act 543*] or the Real Property Gains Tax Act 1976 [*Act 169*]; or

(b) any other amount of duty which is due and payable by the Labuan entity under the Stamp Act 1949 [*Act 378*].

(3) Where amount of excess in respect of a Labuan entity is ascertained in accordance with subsection 80C(1) of the Stamp Act 1949, subsection 111(4A) of the Income Tax Act 1967,

subsection 50(4) of the Petroleum (Income Tax) Act 1967 or subsection 24(7A) of the Real Property Gains Tax Act 1976, the excess shall be applied for the payment of tax which is due and payable (including any amount of instalments which are due and payable) by the Labuan entity under this Act.

Fund for Tax Refund

12A. (1) There shall be paid from time to time into the Fund for Tax Refund established under section 111B of the Income Tax Act 1967 such amount of tax collected under this Act as may be authorized by the Minister.

(2) The moneys of the Fund referred to in subsection (1) shall be applied for the making of a refund under section 12.

(3) Section 14A of the Financial Procedure Act 1957 [*Act 61*] shall not apply to any refund made under section 12.

13. (*Deleted by Act A1741*).

13A. (*Deleted by Act A1741*).

Tax payable notwithstanding proceedings instituted under any other written law

13B. The institution of any proceedings under any other written law against the Government or the Director General shall not relieve any person from the liability to pay any tax, debt or other sum under this Part.

Recovery by suit

14. (1) Tax due and payable may be recovered by the Government by civil proceedings as a debt due to the Government.

(1A) In any proceedings under this section, the court shall not entertain any plea that the amount of tax sought to be recovered is excessive, incorrectly assessed, under appeal or incorrectly increased under subsection 11(3), (4) or (5).

(2) The Director General and all authorized officers shall be deemed to be public officers authorized by the Minister under subsection 25(1) of the Government Proceedings Act 1956 [*Act 359*], in respect of all proceedings under this section.

(3) An "authorized officer" means an official authorized by the Director General for the purposes of this section.

PART V

RESPONSIBILITY FOR COMPLIANCE

Person chargeable

15. A Labuan entity shall be the person assessable and chargeable to tax imposed by this Act.

Officers responsible for compliance

16. Responsibility for doing all acts and matters required to be done by or on behalf of a Labuan entity for the purposes of this Act shall lie jointly and severally with—

(a) the manager or other principal officer in Malaysia;

(b) the resident director as provided in the Labuan Companies Act 1990;

(c) the secretary;

(d) in the case of a trust, the trustee or trustees;

(e) any person (however styled) performing the functions of any of the persons mentioned in the foregoing paragraphs;

(f) in the case of a company under liquidation or receivership, the liquidator or receiver, as the case may be;

(g) in the case of a partnership, the partner or partners;

(h) in the case of a Labuan limited partnership established under the Labuan Limited Partnerships and Limited Liability Partnerships Act 2010 [*Act 707*] or a Labuan Islamic limited partnership established under Part X of the Labuan Islamic Financial Services and Securities Act 2010, the general partner or partners;

(i) in the case of a Labuan limited liability partnership established under the Labuan Limited Partnerships and Limited Liability Partnerships Act 2010 or a Labuan Islamic limited liability partnership established under Part X of the Labuan Islamic Financial Services and Securities Act 2010, the designated partner or partners; and

(j) in the case of a Labuan foundation, its officer or officers.

Director's liability

16A. (1) Notwithstanding anything contrary to this Act or any other written law, where any tax is due and payable under this Act by a company, any person who is a resident director of that company during the period in which that tax is liable to be paid by that company, shall be jointly and severally liable for such tax that is due and payable and shall be recoverable under section 14 from that person.

(2) In this section, "director" means any person who—

(a) is occupying the position of director, by whatever name called, including any person who is concerned in the management of the company's business; and

(b) is, either on his own or with one or more associates, the owner of, or able directly or through the medium of other companies or by any other indirect means to control, not less than twenty per cent of the ordinary share capital of the company.

(3) For the purposes of paragraph (2)*(b)*, "associate" means, in relation to a person—

(a) in any of the following relationships to that person, that is to say, husband or wife, parent or remoter forebear, child or remoter issue, brother, sister and partner;

(b) the trustee or trustees of a settlement in relation to that person is, or any such relative of his, living or dead, as is mentioned in paragraph (a) of this definition is or was, a settlor;

(c) where that person is interested in any shares or obligations of a company which are subject to any trust or are part of the estate of a deceased person, any other person interested therein.

PART VI

SUPPLEMENTAL

Administration

The Director General

17. The Director General shall have the care and management of the tax.

Power of Director General to issue guidelines

17A. (1) The Director General may, generally in respect of this Act or in respect of any particular provision of this Act, issue guidelines as the Director General deems expedient or necessary to clarify the

provisions of this Act or to facilitate compliance of the law or any other matter relating to this Act.

(2) The Director General may revoke, revise or amend the whole or any part of any guidelines issued under this section.

Advance ruling

17B. (1) Subject to this section or any regulations made under this Act, on the application made by any person, the Director General shall make an advance ruling on the application of any provision of this Act to the person and to the arrangement for which the ruling is sought.

(2) An application under subsection (1) shall be made in the form to be made available by the Director General and shall contain particulars as may be required by the Director General.

(3) The Director General may at any time withdraw any advance ruling made under subsection (1) by giving a notice in writing of such withdrawal to the person to whom the ruling applies.

(4) Notwithstanding any other provisions of this Act, where an advance ruling applies to any person in relation to an arrangement and the person applies the provision in the manner stated in the ruling, the Director General shall apply the provision in relation to the person and that arrangement in accordance with the ruling.

(5) An advance ruling on any of the provisions of this Act shall apply to a person in relation to an arrangement if the provision is expressly referred to in the ruling and for the basis period for year of the assessment for which the ruling applies.

(6) A ruling made under subsection (1) shall not apply to a person in relation to an arrangement if—

(a) the arrangement is materially different from the arrangement stated in the ruling;

(b) there was a material omission or misrepresentation in, or in connection with the application of the ruling;

(c) the Director General makes an assumption about a future event or another matter that is material to the ruling, and that assumption subsequently proves to be incorrect; or

(d) the person fails to satisfy any of the conditions stipulated by the Director General.

Power to disregard certain transactions

17C. (1) The Director General may, without prejudice to such validity as it may have in any other respect or for any other purpose, disregard or vary the transaction and make such adjustments as he thinks fit, including the computation or re-computation of the chargeable profit, or the imposition of liability to tax, or make such assessment or additional assessment in respect of any person as may be necessary in consequence of his exercise of the powers, with a view to counteracting the whole or any part of any such direct or indirect effect of the transaction, where he has reason to believe that any transaction has the direct or indirect effect of—

(a) altering the incidence of tax which is payable or suffered by or which would otherwise have been payable by any person or suffered by any person;

(b) relieving any person from any liability which has arisen or which would otherwise have arisen to pay tax or to make a return;

(c) evading or avoiding any duty or liability which is imposed or would otherwise have been imposed on any person by this Act; or

(d) hindering or preventing the operation of this Act in any respect.

(2) In exercising his powers under this section, the Director General may require by notice any person to pay to him within the time specified in the notice the amount of tax that would be deducted by that person under this Act in consequence of his exercise of those powers.

(3) Without prejudice to the generality of subsections (1) and (2), the powers of the Director General conferred by this section shall extend—

(a) to the charging with tax of any person or persons who if not for any adjustment made by virtue of this section would not be chargeable with tax or would not be chargeable with tax to the same extent; and

(b) to the charging of a greater amount of tax than would be chargeable if not for any such adjustment.

(4) Where in consequence of any adjustment made under this section an assessment is made, a right to repayment is refused or a return of a repayment of tax is required, the particulars of the adjustment shall be given with the notice of assessment, with the notice refusing the repayment or with the notice requiring the return of a repayment, as the case may be.

(5) Transactions—

(a) between persons one of whom has control over the other; or

(b) between persons both of whom are controlled by some other person,

shall be deemed to be transactions of the kind to which subsection (1) applies if in the opinion of the Director General those transactions have not been made on terms which might fairly be expected to have been made by independent persons engaged in the same or similar activities dealing with one another at arm's length.

(6) For the purposes of this section—

(a) a person shall be taken to have control over the other in the same manner as provided under section 139 of the Income Tax Act 1967 as far as it is applicable and with the necessary modifications; and

(b) "transaction" means any trust, grant, covenant, agreement, arrangement or other disposition or transaction made or entered into orally or in writing, whether before or after the commencement of this Act, and includes a transaction entered into by two or more persons with another person or persons.

Power to substitute the price on certain transactions

17D. (1) This section shall apply notwithstanding section 17C and subject to any regulations prescribed under this Act.

(2) Subject to subsection (3), where a person in the basis period for a year of assessment enters into a transaction with an associated person for that year for the acquisition or supply of property or services, then, for all purposes of this Act, that person shall determine and apply the arm's length price for such acquisition or supply.

(3) Where the Director General has reason to believe that any property or services referred to in subsection (2) is acquired or supplied at a price which is either less than or greater than the price which it might have been expected to fetch if the parties to the transaction had been independent persons dealing at arm's length, the Director General may in the determination of the chargeable profit of the person, substitute the price in respect of the transaction to reflect an arm's length price for the transaction.

(4) The transactions referred to in subsection (2) shall be construed as a transaction between—

(a) persons one of whom has control over the other; or

(b) persons both of whom are controlled by some other person, in this section referred to as "third person".

(5) Without prejudice to the generality of paragraph 17C(6)*(a)*, for the purpose of subsection (4), "control" refers to persons one of whom owns shares of the other person, or a third person who owns shares of both persons, where the percentage of the share capital held in either situation is twenty per cent or more and—

(a) the business operations of that person depends on the proprietary rights, such as patents, non-patented technological know-how, trademarks or copyrights, provided by the other person or a third person;

(b) the business activities, such as purchases, sales, receipt of services, provision of services, of that person are specified by the other person, and the prices and other conditions relating to the supply are influenced by such other person or a third person; or

(c) where one or more of the directors or members of the board of directors of a person are appointed by the other person or a third person.

(6) In this section, "transaction" has the same meaning assigned to it under paragraph 17C(6)*(b)*.

Delegation of Director General's functions

18. (1) Any function of the Director General under this Act may be performed by any officer appointed under section 134 of the Income Tax Act 1967.

(2) The Director General may in writing delegate any of his functions under this Act to any other official.

Authorized officer

18A. (1) The Director General may, in writing, authorize any officer or other official to exercise the powers conferred under this Act.

(2) Any officer or official authorized under subsection (1) shall be deemed to be an authorized officer within the meaning of this Act.

(3) The Director General shall issue to each authorized officer exercising any of the powers conferred under section 22D an authority card which shall be signed by the Director General.

(4) Whenever the authorized officer exercises any of the powers conferred under section 22D, the authorized officer shall, on demand, produce to the person against whom the power is being exercised the authority card issued to him under subsection (3).

Power of Minister to give directions

19. The Minister may give to the Director General directions of a general character (not inconsistent with this Act) as to the performance of the functions of the Director General under this Act; and the Director General shall give effect to any direction so given.

Return of profits, etc., to be treated as confidential

20. (1) Any return of profits, statutory declaration or information made or received for the purposes of this Act shall be treated as confidential and shall not be communicated or disclosed to any person except for the purposes of this Act or with the written authority of the Minister.

(2) Where any official, whether during his employment or thereafter, contravenes subsection (1), he shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not exceeding one million ringgit or to imprisonment for a term not exceeding two years or to both.

(3) Any person who receives any return of profits, statutory declaration or information made or received for the purposes of this Act, knowing or having reasonable ground to believe at the time when he receives it that such return, declaration or information is communicated or disclosed to him in contravention of this Act, shall

not use such return, declaration or information or produce or disclose such return, declaration or information to any other person.

(4) Any person who contravenes subsection (3) commits an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not exceeding one million ringgit or to imprisonment for a term not exceeding two years or to both.

Power of Minister to make regulations

21. (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 132, 132A, 132B or 132C of the Income Tax Act 1967;

(c) providing for the scope and procedure applied in relation to any ruling made under section 17B; and

(d) prescribing fees charged in relation to any ruling made under section 17B.

(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.

Forms

21A. The Director General may, in such manner as he deems fit, determine such forms as are required by this Act in connection with the operation of this Act.

Admissibility of electronic record

21B. (1) Notwithstanding any other written law, where in any proceedings under this Act an electronic record of—

(a) any form as determined by the Director General is furnished on an electronic medium or by way of electronic transmission under section 21C; or

(b) any other documents are stored or received by or communicated to the Director General on an electronic medium or by way of electronic transmission,

the electronic record or the copy or print-out of that electronic record shall be admissible as evidence of the facts stated or contained therein:

Provided that the electronic record or the copy or print-out of that electronic record is—

(i) 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 under this section; or

(ii) otherwise authenticated in the manner provided in the Evidence Act 1950 [*Act 56*] for authentication of documents produced by computer.

(2) Where the electronic record of any form or document, or a copy or a print-out of that electronic record is admissible under subsection (1), it shall be presumed, until the contrary is proved, that electronic record or copy or print-out of that electronic record accurately reproduces the content of that form or document.

(3) For the purposes of this Act, "electronic medium" includes a data, text, an image or any other information stored, received or communicated by means of electronic, magnetic, optical, imaging or any other data processing device.

Electronic medium

21C. (1) Any person—

(a) shall, if so required under this Act; or

(b) may, if so allowed by the Director General,

furnish any form as determined by the Director General on an electronic medium or by way of an electronic transmission.

(2) For the purposes of subsection (1), the Director General may determine any conditions and specifications under which the form is furnished.

(3) For the purposes of subsection (1), a person *may, by a form, authorize a tax agent to furnish on his behalf any form in the manner provided for in subsection (1).

**(3A) The officer referred to in section 16 may, by a form, authorize an employee to furnish on his behalf any form in the manner provided for in subsection (1).

**(3B) The authorization referred to in subsections (3) and (3A) shall be furnished to the Director General on an electronic medium or by way of electronic transmission in accordance with this section.

***(4) The form as determined by the Director General in accordance with subsection (3) or (3A) on behalf of any person shall be presumed to have been furnished on that person's authority, until the contrary is proved, and the person shall be deemed to be cognizant of its contents.

(5) Where subsection (3) applies—

**NOTE—see* subparagraph 39*(c)*(i) of Act 875 which comes into operation on 1 January 2027.

***NOTE—see* subparagraph 39*(d)* of Act 875 which comes into operation on 1 January 2027.

****NOTE—see* subparagraph 39*(e)* of Act 875 which comes into operation on 1 January 2027.

(a) the person who authorizes the tax agent shall make a declaration in the form under this Act stating that—

(i) the tax agent is authorized to furnish the form to the Director General on his behalf; and

(ii) the information provided by him to the tax agent for the preparation of the form is true and correct;

(b) the tax agent shall make a declaration in the form furnished in accordance with subsection (1) stating that—

(i) the form is prepared in accordance with the information given by the person; and

(ii) he has received a declaration made by the person under paragraph *(a);*

(c) the person shall keep and retain in safe custody the form being the hard copy of the form so furnished and that hard copy shall be made under processes and procedures which are designed to ensure that the information contained in the form shall be the only information furnished in accordance with this section;

(d) the hard copy referred to in paragraph (*c*) shall be signed by the person; and

(e) the hard copy signed under paragraph *(d)* and the declaration made under paragraph *(a)* shall be kept and retained for a period of seven years from the end of the year of assessment in which the form is furnished.

(6) Any form referred to in subsection (1) is deemed to have been furnished by the person to the Director General on the date on which acknowledgement of receipt of the form is transmitted electronically by the Director General to the person.

(7) In this section, "tax agent" has the meaning assigned to it in section 153 of the Income Tax Act 1967.

Miscellaneous

Power to call for information

22. (1) For the purpose of this Act, the Director General may by notice in writing require any person to furnish such information or particulars as may be required by him or for compliance with any double taxation arrangements, tax information exchange arrangements or mutual administrative assistance arrangement referred to in subsection 22A(2) entered into by the Government of Malaysia.

(2) Where any person, without reasonable excuse, fails to comply with the notice mentioned in subsection (1), he shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit.

Disclosure of information in certain circumstances

22A. (1) Section 20 shall not prevent—

(a) the disclosure of information in respect of double taxation arrangements, tax information exchange arrangements or mutual administrative assistance arrangement to a duly authorized servant or agent of the Government with whom such arrangements have been made where such information is required to be disclosed under such arrangements;

(aa) the disclosure of information in relation to electronic invoice to the Director General of Customs and Excise (or to the public officers under his direction and control) or the use of information in relation to electronic invoice by the Director General of Customs and Excise, to such an extent as is necessary or expedient for the exercise of his function; and

(b) the disclosure of information upon a request from any tax authority of any Government of any territory outside Malaysia.

(2) For the purpose of subsection (1)—

"double taxation arrangement" means an arrangement between the Government of Malaysia and the Government of any territory outside Malaysia under section 132 of the Income Tax Act 1967;

"mutual administrative assistance arrangement" means an arrangement between the Government of Malaysia with the Government of any territory outside Malaysia with a view to the mutual administrative assistance in tax matters which includes simultaneous tax examinations, automatic exchange of information or tax administrations abroad under section 132B of the Income Tax Act 1967;

"tax information exchange arrangements" means an arrangement between the Government of Malaysia and the Government of any territory outside Malaysia under section 132A of the Income Tax Act 1967.

Power to call for specific returns and production of books

22B. For the purpose of obtaining full information for ascertaining whether or not a person is chargeable to tax or for determining his liability, the Director General may by notice in writing require that or any other person—

(a) to complete and deliver to the Director General within a time specified in the notice, not being less than thirty days from the date of service of the notice, any return specified in the notice;

(b) to attend personally before the Director General and produce for examination all books, accounts, returns and other documents which the Director General deems necessary;

(c) to make a return in accordance with paragraph *(a)* and also to attend in accordance with paragraph *(b)*; or

(d) to provide in writing such information or particulars which the Director General deems necessary.

Power to call for statement of bank accounts, etc.

22C. The Director General may by notice in writing require any person to furnish within a time specified in the notice, not being less than thirty days from the date of service of the notice, a statement containing particulars of—

(a) all banking accounts, being accounts which are in existence or have been in existence at any time during a period to be specified in the notice,—

(i) in his own name or in the name of a wife or dependent child of his or jointly in any such names;

(ii) in which he is or has been interested jointly or solely; or

(iii) on which he has or has had power to operate jointly or solely;

(b) all savings and loan accounts, deposits, building society accounts and co-operative society accounts in regard to which he has or has had any interest or power to operate jointly or severally during that period;

(c) all assets which he and any wife or dependent child of his possess or have possessed during that period;

(d) all sources of his and the gross income from those sources; and

(e) all facts bearing upon his present or past chargeability to tax.

Power to access buildings and documents, etc.

22D. (1) For the purposes of this Act, the Director General shall at all times have full and free access to all lands, buildings and places and to all books, documents, objects, articles, materials and things and may search such lands, buildings and places and may inspect, copy or make

extracts from any such books, documents, objects, articles, materials and things without making any payment by way of fee or reward.

(2) Where the Director General exercises his powers under subsection (1), the occupiers of such lands, buildings and places shall provide the Director General or an authorized officer with all reasonable facilities and assistance for the exercise of his powers under this section.

(3) The Director General may take possession of any books, documents, objects, articles, materials and things to which he has access under subsection (1) where in his opinion—

(a) the inspection of them, the copying of them or the making of extracts from them cannot reasonably be undertaken without taking possession of them;

(b) they may be interfered with or destroyed unless he takes possession of them; or

(c) they may be needed as evidence in any legal proceedings instituted under or in connection with this Act.

(4) A list of all things seized in the course of a search made under this section and of the places in which they are respectively found shall be prepared by the officer making the search and signed by him.

(5) Where in the opinion of the Director General it is necessary for the purpose of ascertaining the chargeable profit from a business for any period to examine any books, accounts or records kept otherwise than in the national language or English, the Director General may by notice in writing require any person carrying on the business during that period to furnish within a time specified in the notice, not being less than thirty days from the date of service of the notice, a translation in the national language or English of the books, accounts or records in question.

Duty to issue electronic invoice

22DA. (1) Subject to this section, a person shall, in a year of assessment issue an electronic invoice for each transaction in respect of any goods sold or services performed by the person in that year of assessment.

(2) For the purposes of subsection (1)—

(a) the persons who shall issue the electronic invoice and the particulars to be included in the electronic invoice are as prescribed by the Minister under section 82C of the Income Tax Act 1967; and

(b) 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 in accordance with section 17A of this Act.

(3) Any electronic invoice issued by a person in respect of goods sold or services performed under subsection (1) shall be transmitted electronically to and validated by the Director General.

(4) Where for any year of assessment a person is required to issue an invoice under any other written law in respect of goods sold or services performed, the electronic invoice issued in accordance with subsection (1) including any other particulars as may be required shall be construed as an invoice issued under that law, provided that where the particulars of electronic invoice are inconsistent with the requirements for the issuance of invoice under that law, the electronic invoice shall only be valid and enforceable for the purposes of this Act.

(5) Where for any year of assessment an electronic invoice is issued in accordance with subsection (1), the Director General shall not be liable for any loss or damage suffered by any person due to any error or omission arising, appearing in an electronic invoice provided that the error or omission was made in good faith and in the ordinary course of the discharge of the duties of the Director General or occurred or arose as a result of any defect or breakdown in the service or in the equipment used for the issuance of the electronic invoice.

(6) Subject to the conditions as may be determined by the Director General, where for any year of assessment a person–

(a) acquires any goods sold or enjoys any services performed; or

(b) provides electronic commerce platform in respect of any goods sold or services performed by any other person,

that person shall for that year of assessment issue a self-billed invoice in accordance with the conditions as may be imposed by the Director General and the invoice shall be treated as an electronic invoice.

(7) The Director General may, for any year of assessment in respect of any goods sold or services performed, determine a person to consolidate the number of transactions in respect of such goods sold or services performed in that year of assessment into a consolidated transaction invoice, and that person shall transmit the consolidated transaction invoice to the Director General within a specified time and in accordance with the conditions as determined by the Director General and such consolidated transaction invoice shall for the purposes of this section constitute an electronic invoice issued by that person.

(8) Where for any year of assessment a person makes an error or mistake in respect of any electronic invoice issued in accordance with this section, the person may for the purpose of rectifying the error or mistake issue a substitute electronic invoice within seventy-two hours from the time of issuance of the defective electronic invoice.

(9) Where for any year of assessment any goods sold or services performed by a person involves the issuance of credit note or debit note, the person issuing the credit note or debit note shall make adjustments in ascertaining his chargeable profits for that year of assessment accordingly.

(10) A person may, in respect of any goods sold or services performed by him in any year of assessment, add any additional particulars to the electronic invoice under this section.

(11) The provisions of the Personal Data Protection Act 2010 [*Act 709*] shall not apply to any personal data processed for electronic invoice issued or transmitted to the Director General under this section and any other related provisions of this Act.

Duty to keep documents for ascertaining chargeable profit and tax payable

22E. (1) Every person who is required to furnish a return of his profits for a year of assessment under this Act shall keep and retain in safe custody sufficient documents for a period of seven years from the end of that year of assessment for the purposes of ascertaining his chargeable profit and tax payable.

(2) Where a person referred to in subsection (1) has not furnished a return as required under this Act for a year of assessment, that person shall keep and retain the documents referred to in subsection (1) that relate to that year of assessment for a period of seven years after the end of the year in which the return is furnished.

(3) The Director General may waive all or any of the requirements under subsection (1) in respect of any profit.

(4) Any person who is required by this section to keep documents and—

(a) does so electronically, shall retain the document in an electronically readable form and shall keep the documents in such a manner as to enable the documents to be readily accessible and convertible into writing; or

(b) has originally kept documents in a manual form and subsequently converts those documents into an electronic form, shall retain those documents prior to the conversion in their original form.

(5) All documents that relate to any profit in Malaysia shall be kept and retained in Malaysia.

(6) For the purposes of this section, "documents" means—

(a) statement of profits; and

(b) invoices, vouchers, receipts and such other documents as are necessary to verify the particulars in a return.

Failure to issue electronic invoice

22EA. Any person who, without reasonable excuse, contravenes subsection 22DA(1), (6) or (7), shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than two hundred ringgit and not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Duty to provide information and furnish documents for ascertaining chargeable profit and tax payable

22EB. (1) Where a person has furnished to the Director General a return of profits in accordance with section 5 or 10, that person shall provide information and furnish documents as may be determined by the Director General for the purpose of ascertaining his chargeable profit and tax payable or net profit, as the case may be, on an electronic medium or by way of electronic transmission within thirty days after the due date for furnishing of the return of profits.

(2) For the purposes of subsection (1), section 21C shall apply accordingly with any necessary modifications.

Prosecution

22F. No prosecution for an offence under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

Offences and penalties

23. (1) Any person who—

(a) fails to furnish the correct particulars as required by the Director General under paragraph 5(3)*(b)* or 10(3)*(b)*;

(b) fails to comply with a notice given under section 22B, 22C or subsection 22D(5); or

(c) contravenes section 22EB,

shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not exceeding one million ringgit or to imprisonment for a term not exceeding two years or to both.

(2) Where a person has been convicted of an offence under subsection (1), the court may make a further order that the person shall comply with the relevant provision of this Act under which the offence has been committed within thirty days, or such other period as the court deems fit, from the date the order is made.

Default in furnishing return of profits

23A. (1) Any person who makes default in furnishing a return of profits in accordance with section 5 or 10 in respect of any one year of assessment shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not exceeding one million ringgit or to imprisonment for a term not exceeding three years or to both.

(2) In any prosecution under subsection (1), the burden of proving that a return of profits has been made shall be upon the accused person.

(3) Where a person has been convicted of an offence under subsection (1), the court may make a further order that the person shall comply with the relevant provision of this Act under which the offence

has been committed within thirty days, or such other period as the court deems fit, from the date the order is made.

(4) Where in relation to a year of assessment a person makes default in furnishing a return of profits in accordance with section 5 or 10 and no prosecution under subsection (1) has been instituted in relation to that default—

(a) the Director General may require that person to pay a penalty equal to treble the amount of tax which, before any repayment under this Act, is payable for that year; and

(b) if that person pays that penalty, or where the penalty is abated or remitted under subsection 24(5), so much, if any, of the penalty as has not been abated or remitted, he shall not be liable to be charged on the same facts with an offence under subsection (1).

(5) The Director General may require any person to pay an additional amount of penalty in accordance with subsection (4) in respect of any additional tax which is payable by that person for a year of assessment.

Penalty for incorrect return of profits and information

23B. (1) Any person who—

(a) makes an incorrect return of profits by omitting or understating any net profit of which he is required by this Act to make a return of profits on behalf of himself or another person; or

(b) gives any incorrect information in relation to any matter affecting his own chargeability to tax or the chargeability to tax of any other person,

shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not exceeding one million

ringgit or to imprisonment for a term not exceeding three years or to both.

(2) Where a person—

(a) makes an incorrect return of profits by omitting or understating any net profit of which he is required by this Act to make a return of profits on behalf of himself or another person; or

(b) gives any incorrect information in relation to any matter affecting his own chargeability to tax or the chargeability to tax of any other person,

then, if no prosecution under subsection (1) has been instituted in respect of the incorrect return of profits or incorrect information, the Director General may require that person to pay a penalty equal to the amount of tax which has been undercharged in consequence of the incorrect return of profits or incorrect information or which would have been undercharged if the return of profits or information had been accepted as correct; and, if that person pays that penalty, or where the penalty is abated or remitted under subsection 24(5), so much, if any, of the penalty as has not been abated or remitted, he shall not be liable to be charged on the same facts with an offence under subsection (1).

Recovery of penalty

23C. Any penalty imposed on any person under subsection 23A(4), 23A(5) or 23B(2) shall be collected as if it were part of the tax payable by that person, but shall not be treated as tax so payable for the purposes of any provision of this Act other than sections 11, 13B and 14.

Compounding of offences

24. (1) The Director General may, with the consent in writing of the Public Prosecutor, at any time before a charge is being instituted, compound any offence committed by any person under section 22,

22EA, 23 or 23A, or any regulations made pursuant to subsection 21(1) by making a written offer to the person reasonably suspected of having committed the offence to compound the offence upon payment to the Director General of a sum of money not exceeding fifty per centum of the amount of the maximum fine to which the person would have been liable to if he had been convicted of the offence, within such time as may be specified in the written offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Director General may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(3) Where an offence has been compounded under subsection (1), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and any document or thing seized in connection with the offence may be released by the Director General, subject to such terms as the Director General thinks fit.

(4) All sums of money received by the Director General under this section shall be paid into and form part of the Consolidated Fund.

(5) The Director General may abate or remit any penalty imposed under this Act except a penalty imposed on conviction.

25. (*Deleted by Act A1741*).

Exemption by Minister

26. (1) The Minister may, by order published in the *Gazette*, exempt any Labuan entity from all or any of the provisions of this Act either generally or in respect of any chargeable profits of that entity.

(2) Any order made under subsection (1) shall be laid before the Dewan Rakyat.

Service of documents

27. Any document, other than a notice of assessment issued under subsection 6(2), (3) or (4), required to be served on a Labuan entity for the purposes of this Act, shall be deemed to be properly served on the Labuan entity by leaving it at, or sending it by ordinary post to, the registered office of the Labuan entity.

Evidential provisions

27A. (1) In a suit under section 14, the production of a certificate signed by the Director General giving the name and address of the defendant and the amount of tax due from him shall be sufficient evidence of the amount so due and sufficient authority for the court to give judgment for that amount.

(2) In criminal or civil proceedings under this Act any statement purporting to be signed by the Director General or an authorized officer which forms part of or is annexed to the information, complaint or statement of claim, shall, until the contrary is proved, be evidence of any fact stated therein:

Provided that this subsection shall not apply to—

(a) a statement of the intent of the accused person or other defendant; or

(b) proceedings for an offence punishable by imprisonment.

(3) A transcript of any particulars contained in a return or other document relating to tax, if it is certified under the hand of the Director General or an authorized officer to be a true copy of the particulars, shall be admissible in evidence as proof of those particulars.

(4) No statement made or document produced by or on behalf of any person shall be inadmissible in evidence against that person in any proceedings against him for an offence under section 23A or 23B, or for the recovery of any sum due by way of tax or penalty, by reason only of the fact that he was or may have been induced to make the statement or produce the document by any lawful inducement or promise from the Director General or an authorized officer.

(5) *(a)* Save as provided in paragraph *(b)*, nothing in this Act shall—

(i) affect the operation of Chapter IX of Part III of the Evidence Act 1950; or

(ii) be construed as requiring or permitting any person to produce or give to a court, the Special Commissioners, the Director General or any other person any document, thing or information on which by that Chapter or those provisions he would not be required or permitted to produce or give to a court.

(b) Notwithstanding any other written law, where any document, thing, matter, information, communication or advice consists wholly or partly of, or relates wholly or partly to, the receipts, payments, income, expenditure, or financial transactions or dealings of any person, whether an advocate and solicitor, his client or any other person, it shall not be privileged from disclosure to a court, the Special Commissioners, the Director General or any authorized officer if it is contained in, or comprises the whole or part of, any book, account, statement, or other record prepared or kept by any practitioner or firm of practitioners in connection with any client or clients of the practitioner or firm of practitioners or any other person.

(c) Paragraph *(b)* shall also apply with respect to any document, thing, matter, information, communication or advice made or brought into existence before the commencement of that paragraph.

Errors and defects in assessments, notices and other documents

27B. (1) No assessment, notice or other document purporting to be made or issued for the purposes of this Act shall be quashed or deemed to be void or voidable for want of form, or be affected by any mistake, defect or omission therein, if it is in substance and effect in conformity with this Act or in accordance with the intent and meaning of this Act and—

(a) in the case of an assessment, the person assessed or intended to be assessed or affected thereby is designated according to common intent and understanding; and

(b) in any other case, the person to whom it is addressed and any other person referred to therein are so designated.

(2) An assessment purporting to be made or issued for the purposes of this Act shall not be impeached or affected by reason of a mistake therein as to—

(a) the name of a person charged to tax;

(b) the description of any income; or

(c) the amount of chargeable profit assessed or tax charged,

and a notice of assessment purporting to be so made or issued shall not be impeached or affected by any such mistake if it is served on the person in respect of whom the assessment was made or intended to be made and contains in substance and effect the particulars contained in the assessment.

(3) Notwithstanding subsection (2), if the amount of tax charged by an assessment has been incorrectly calculated by reference to the amount of the chargeable profit and the appropriate rate of tax applicable thereto, the amount of tax charged as shown in the assessment and the notice of assessment may, if the Director General so directs, be taken to be the amount of tax which ought to have been charged if it had been correctly calculated.

(4) A notice of tax payable purporting to be issued for the purposes of this Act shall not be impeached by reason of a mistake therein as to the name of the person liable to pay the tax if the notice is served on that person.

Authentication of notices, certificates and other documents

27C. (1) Subject to subsection (2), every notice, certificate or other document issued, served or given for the purposes of this Act by the Director General or an authorized officer shall be sufficiently authenticated if the name and office of the Director General is printed, stamped or otherwise written thereon.

(2) Where this Act provides for a notice, certificate or other document to be under the hand of any officer, the notice, certificate or document shall be signed in manuscript by that officer.

(3) A notice, certificate or other document issued, made, served or given for the purposes of this Act and purporting to be signed in manuscript by the Director General or an authorized officer shall be presumed, until the contrary is proved, to have been so signed.

Procedure where none laid down

28. In the event that any act or procedure is required or permitted to be done or taken under this Act and no means is determined or procedure laid down either in this Act or the regulations made under this Act, an application may be made to the Director General for directions as to the manner in which the act or procedure may be done or taken, and any act or procedure done or taken in accordance with his directions shall be a valid performance of such act or procedure.

**NOTE—see* section 28 and 29 of the Labuan Business Activity Tax (Amendment) (No. 2) Act 2024 [*Act A1741*] which comes into operation on 1 January 2025 which provides the following provision:

Year of assessment 2025

28. (1) In the year 2025, there shall be two years of assessment namely—

(a) the year of assessment 2025 in respect of the basis period ending in the year 2024 (preceding year basis); and

(b) the year of assessment 2025 in respect of the basis period ending in the year 2025 (current year basis).

(2) The year of assessment 2025 on current year basis shall be a separate year of assessment which follows the year of assessment 2025 on preceding year basis.

Saving and transitional provision

29. (1) If any Labuan entity is liable to tax on a preceding year basis under the principal Act prior to date of the commencement of this Act, then such Labuan entity shall continue to be so liable.

(2) Nothing in this Act shall affect any person's liability to be prosecuted or punished for any offence or breach committed under the principal Act or any proceedings brought, sentence imposed or action taken, before the date of the commencement of this Act in respect of such offence or breach.

(3) Any right, privilege, obligation or liability acquired, accrued or incurred before the date of coming into operation of this Act or any legal proceedings, remedy or investigation in respect of such right, privilege, obligation or liability shall not be affected by this Act and shall continue to remain in force as if this Act had not been enacted.

(4) Any compounding of offences under the existing section 24 of the principal Act which is pending immediately before the date of coming into operation of this Act shall, on or after the date of coming into operation of this Act, continue to be valid and shall be dealt with under section 24 of the principal Act as if section 24 of the principal Act had not been amended by this Act.

SCHEDULE

[Section 2B]

LABUAN ENTITY

1. A Labuan company.

2. A Labuan foundation established and registered under the Labuan Foundations Act 2010 [*Act 706*].

3. A Labuan Islamic foundation established and registered under the Labuan Islamic Financial Services and Securities Act 2010.

4. A Labuan Islamic partnership as defined in the Labuan Islamic Financial Services and Securities Act 2010.

5. A Labuan limited partnership established and registered under the Labuan Limited Partnerships and Limited Liability Partnerships Act 2010.

6. A Labuan limited liability partnership established and registered under the Labuan Limited Partnerships and Limited Liability Partnerships Act 2010.

7. A Labuan Islamic trust as defined in the Labuan Islamic Financial Services and Securities Act 2010.

8. A Labuan trust as defined in the Labuan Trusts Act 1996 [*Act 554*].

9. A Malaysian Islamic bank licensee as defined in the Labuan Islamic Financial Services and Securities Act 2010.

10. A Malaysian bank licensee as defined in the Labuan Financial Services and Securities Act 2010.

11. Any Labuan financial institutions as defined in the Labuan Financial Services Authority Act 1996 [*Act 545*].

12. Any person declared by the Minister to be a Labuan entity under subsection 2B(2).

LAWS OF MALAYSIA

Act 445

LABUAN BUSINESS ACTIVITY TAX ACT 1990

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A815	Labuan Offshore Business Activity Tax (Amendment) Act 1992	Year of assessment 1992 and subsequent years of assessment
Act 544	Finance Act 1996	Year of assessment 1996 and subsequent years of assessment
Act 557	Finance Act 1997	Year of assessment 1997 and subsequent years of assessment
Act 591	Finance (No. 2) Act 1998	Year of assessment 1999 and subsequent years of assessment
Act 624	Finance (No. 2) Act 2002	Year of assessment 2004 and subsequent years of assessment
Act 631	Finance Act 2003	Year of assessment 2004 and subsequent years of assessment
Act 644	Finance Act 2005	01-01-2006
Act 683	Finance Act 2007	Year of assessment 2009 and subsequent years of assessment
Act 693	Finance Act 2009	Year of assessment 2009 and subsequent years of assessment

Amending law	Short title	In force from
Act 702	Finance Act 2010	01-01-2010
Act A1366	Labuan Offshore Business Activity Tax (Amendment) Act 2010	11-02-2010
Act 742	Finance Act 2012	28-01-2011
Act 761	Finance Act 2014	24-01-2014
Act 773	Finance Act 2015	31-12-2015
Act 785	Finance Act 2017	Section 38 – 17-01-2017; Section 39 – 22-10-2016
Act A1532	Labuan Business Activity Tax (Amendment) Act 2017	19-05-2017
Act A1555	Labuan Business Activity Tax (Amendment) (No. 2) Act 2017	30-12-2017
Act A1577	Labuan Business Activity Tax (Amendment) Act 2018	28-12-2018
Act 812	Finance Act 2018	01-01-2019;
Act A1614	Labuan Business Activity Tax (Amendment) Act 2020	Paragraph 2*(a)* and sections 13 & 15 – 11-02-2020; Paragraph 2*(b)* and sections 3, 4, 5, 6, 7, 9, 10, 11, 12 and 14 – Year of assessment 2020 and subsequent years of assessment; Section 8 – 01-01-2019
Act 831	Finance Act 2020	See section 55 of Act 831
Act 833	Finance Act 2021	Section 53 – 1 January 2019;

Amending law	Short title	In force from
		Section 54 – the year of assessment 2020 and subsequent years of assessment; Sections 55 and 56 – the year of assessment 2022 and subsequent years of assessment; Sections 57 and 58 – 1 January 2022
Act 851	Finance (No. 2) Act 2023	See section 79 of Act 851
Act A1707	Labuan Business Activity Tax (Amendment) Act 2024	01-01-2024
Act A1741	Labuan Business Activity Tax (Amendment) (No. 2) Act 2024	See subsection 1(2), (3) and (4)
Act 874	Finance Act 2025	01-01-2026
Act 875	Measures for the Collection, Administration and Enforcement of Tax Act 2025	See section 31

LAWS OF MALAYSIA

Act 445

LABUAN BUSINESS ACTIVITY TAX ACT 1990

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Long title	Act A1366	11-02-2010
1	Act A1366	11-02-2010
2	Act 544	Year of assessment 1996 and subsequent years of assessment
	Act 557	Year of assessment 1997 and subsequent years of assessment
	Act 591	Year of assessment 1999 and subsequent years of assessment
	Act 624	Year of assessment 2004 and subsequent years of assessment
	Act 683	Year of assessment 2009 and subsequent years of assessment
	Act A1366	11-02-2010
	Act 785	17-01-2016
	Act 812	01-01-2019
	Act A1614	2*(a)* – 11-02-2020; 2*(b)* – Year of assessment 2020 and subsequent years of assessment
	Act 851	01-01-2024
	Act A1741	Para. 2*(a)*, 2*(b)*, 2*(c)*, 2*(d)* – 01-01-2025 Para. 2*(e)* – 01-01-2025 Definition of "basis period" in subsection 2(1) as amended by that paragraph 2*(e)* – Year of assessment 2025 in respect of the basis period ending in the year 2025 and subsequent years of assessment

Section	Amending authority	In force from
2A	Act A1366	11-02-2010
	Act 812	01-01-2019
2B	Act A1366	11-02-2010
	Act 812	01-01-2019
	Act A1614	Year of assessment 2020 and subsequent years of assessment
	Act 831	Para. 56*(a)* – 01-01-2021; Para. 56*(b)* – Year of assessment 2020 and subsequent years of assessment
	Act 833	01-01-2019
	Act A1741	Paragraphs 3*(a)* and 3*(b)* – 01-01-2025; Paragraphs 3*(c)* and *(d)* – Year of assessment 2025 in respect of the basis period ending in the year 2025 and subsequent years of assessment
3	Act A1366	11-02-2010
	Act 851	Financial Year beginning on 01-01-2025 and subsequent Financial Years
3A	Act 683	Year of assessment 2009 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment
	Act A1366	11-02-2010
	Act 831	01-01-2021
	Act 875	01-01-2026
3B	Act A1614	Year of assessment 2020 and subsequent years of assessment
4	Act A1366	11-02-2010
	Act 812	01-01-2019
	Act A1614	Year of assessment 2020 and subsequent years of assessment
5	Act A1366	11-02-2010
	Act A1741	Year of assessment 2025 in respect of the basis period ending in the year 2025 and subsequent years of assessment

Section	Amending authority	In force from
	Act 875	01-01-2026
6	Act A1366	11-02-2010
	Act A1614	Year of assessment 2020 and subsequent years of assessment
	Act A1741	Year of assessment 2025 in respect of the basis period ending in the year 2025 and subsequent years of assessment
6A	Act A1614	Year of assessment 2020 and subsequent years of assessment
	Act A1741	Year of assessment 2025 in respect of the basis period ending in the year 2025 and subsequent years of assessment
	Act 875	01-01-2026
6B	Act A1614	Year of assessment 2020 and subsequent years of assessment
	Act A1741	Year of assessment 2025 in respect of the basis period ending in the year 2025 and subsequent years of assessment
6C	Act A1614	Year of assessment 2020 and subsequent years of assessment
6D	Act A1614	Year of assessment 2020 and subsequent years of assessment
	Act 831	Year of assessment 2020 and subsequent years of assessment
7	Act A1366	11-02-2010
	Act 812	01-01-2019
8	Act A1366	11-02-2010
	Act 812	01-01-2019
	Act 833	Year of assessment 2020 and subsequent years of assessment
8A	Act 631	Year of assessment 2004 and subsequent years of assessment
	Act A1366	11-02-2010
	Act 812	01-01-2019

Section	Amending authority	In force from
	Act A1741	Year of assessment 2025 in respect of the basis period ending in the year 2025 and subsequent years of assessment
9	Act A1366	11-02-2010
	Act A1614	01-01-2019
	Act 851	Financial Year beginning on 01-01-2025 and subsequent Financial Years
10	Act A1366	11-02-2010
	Act 833	Year of assessment 2022 and subsequent years of assessment
	Act A1741	Year of assessment 2025 in respect of the basis period ending in the year 2025 and subsequent years of assessment
	Act 875	01-01-2026
10A	Act A815	Year of assessment 1992 and subsequent years of assessment
	Act 591	Year of assessment 1999 and subsequent years of assessment
11	Act 631	Year of assessment 2004 and subsequent years of assessment
	Act A1366	11-02-2010
	Act 812	01-01-2019
	Act 833	Year of assessment 2022 and subsequent years of assessment
	Act A1741	Year of assessment 2025 in respect of the basis period ending in the year 2025 and subsequent years of assessment
12	Act A1366	11-02-2010
	Act 812	01-01-2019
	Act 874	01-01-2026
12A	Act 702	01-01-2010
13	Act A1366	11-02-2010
	Act A1741	Year of assessment 2025 in respect of the basis period ending

Section	Amending authority	In force from
		in the year 2025 and subsequent years of assessment
13A	Act A1614	Year of assessment 2020 and subsequent years of assessment
	Act 831	Year of assessment 2020 and subsequent years of assessment
	Act A1741	Year of assessment 2025 in respect of the basis period ending in the year 2025 and subsequent years of assessment
13B	Act 831	01-01-2021
14	Act A1741	01-01-2025
15	Act A1366	11-02-2010
16	Act 624	Year of assessment 2004 and subsequent years of assessment
	Act A1366	11-02-2010
16A	Act 833	01-01-2022
17A	Act A1366	11-02-2010
17B	Act A1366	11-02-2010
17C	Act A1614	Year of assessment 2020 and subsequent years of assessment
17D	Act A1614	Year of assessment 2020 and subsequent years of assessment
18	Act 644	01-01-2006
18A	Act 875	01-01-2026
20	Act A1366	11-02-2010
	Act 831	01-01-2021
	Act A1741	01-01-2025
21	Act 761	24-01-2014
	Act 785	22-10-2016
	Act A1532	19-05-2017
	Act A1555	30-12-2017

Section	Amending authority	In force from
	Act A1577	28-12-2018
	Act A1741	01-01-2025
21A	Act 761	24-01-2014
	Act 875	01-01-2026
21B	Act 851	01-01-2024
	Act A1741	01-01-2025
	Act 875	01-01-2026
21C	Act A1741	Year of assessment 2025 in respect of the basis period ending in the year 2025 and subsequent years of assessment
	Act 875	Para. 39*(a)*, *(b)*, *(f)*, *(g)* and *(h)* and subpara. 39*(c)*(ii) – 01-01-2026; Subpara. 39*(c)*(i) and para. 39*(d)* and *(e)* – 01-01-2027
22	Act A1366	11-02-2010
	Act 742	28-01-2011
	Act 773	31-12-2015
22A	Act A1366	11-02-2010
	Act 742	28-01-2011
	Act 773	31-12-2015
	Act 851	01-01-2024
22B	Act A1614	Year of assessment 2020 and subsequent years of assessment
22C	Act A1614	Year of assessment 2020 and subsequent years of assessment
22D	Act A1614	Year of assessment 2020 and subsequent years of assessment
22DA	Act 851	01-01-2024
	Act A1707	01-01-2024
	Act A1741	01-01-2025
22E	Act A1614	Year of assessment 2020 and subsequent years of assessment
22EA	Act 851	01-01-2024

Section	Amending authority	In force from
22EB	Act A1741	Year of assessment 2025 in respect of the basis period ending in the year 2025 and subsequent years of assessment
22F	Act A1614	Year of assessment 2020 and subsequent years of assessment
23	Act A1366	11-02-2010
	Act 812	01-01-2019
	Act A1614	Year of assessment 2020 and subsequent years of assessment
	Act 833	01-01-2022
	Act A1741	01-01-2025
23A	Act A1741	01-01-2025
23B	Act A1741	01-01-2025
23C	Act A1741	01-01-2025
24	Act A1614	11-02-2020
	Act 831	01-01-2021
	Act A1741	01-01-2025
25	Act A1366	11-02-2010
	Act 812	01-01-2019
	Act A1741	01-01-2025
26	Act 624	Year of assessment 2004 and subsequent years of assessment
	Act A1366	11-02-2010
	Act A1741	01-01-2025
27	Act A1366	11-02-2010
	Act A1614	Year of assessment 2020 and subsequent years of assessment
	Act A1741	01-01-2025
27A	Act A1741	01-01-2025
27B	Act A1741	01-01-2025
27C	Act A1741	01-01-2025
28	Act A1366	11-02-2010

Section	Amending authority	In force from
	Act 875	01-01-2026
Schedule	Act A1366	11-02-2010