

## TAXES IN LABUAN

The Labuan Business Activity Tax Act distinguishes between “non-trading activities” and “trading activities”.

**“Labuan non-trading activity”** means an activity relating to the holding of investments in securities, stock, shares, loans, deposits and immovable properties by a Labuan company on its own behalf.

No taxes are levied for profits arising from Labuan non-trading activities.

**“Labuan trading activity”** includes banking, insurance, trading, management, licensing or any other activity, which is not a Labuan non-trading activity.

There are two options, and the Labuan company may every year choose under which one it wishes to pay its taxes. The two options are:

- 1) 3% on the net profits as they result from the audited accounts of the company. If the company opts for this choice, auditors must be appointed and an audit is mandatory.
- 2) A lump-sum of MYR20,000, in which case no audit and no auditors are required.

*If a Labuan Company has mixed business activities (non-trading and trading), both incomes will be taxed under trading activity.*

Beginning year of assessment 2008, Labuan companies may make an irrevocable election to be assessed under the Malaysia Income Tax Act, 1967 instead of Labuan Business Activity Tax Act.

As regards agreements for the avoidance of double taxation, Malaysia has ratified a large number of treaties in order to avoid double taxation. According to the Malaysian authorities all these treaties are also applicable to Labuan, but some countries have excluded Labuan Companies from these treaties (United Kingdom, Netherlands, Luxemburg, Sweden, Japan, Indonesia, Australia, South Africa, Chile, Seychelles and Spain). The treaty with Taiwan has been used and is one of the few Taiwan has entered into. For the Peoples Republic of China, the unofficial answer from tax officials is that the treaty applies to Labuan companies. The treaty with Thailand has been used successfully. According to Swiss tax authorities the treaty basically also applies to Labuan companies and it has been used successfully. The United States do not have a treaty with Malaysia, but Labuan companies can qualify as “check the box” companies. South Korea excludes Labuan from the treaty with Malaysia, unless some very strict conditions are met.