



## 马来西亚中国服务部税务月刊


### 纳闽税法框架

纳闽岛是南中国海域中的岛屿，位于马来西亚东部的沙巴州。它也被誉为提供国际金融和商业服务的离岸金融中心。

虽然纳闽是马来西亚的一个联邦直辖区，对于从事纳闽商业活动的公司，可享有优惠税务待遇，比如较低的公司所得税(固定税率 3%或最高税额马币 2 万令吉)，支付给非纳税居民的款项豁免缴付预扣税，外籍董事获取的董事费豁免缴付个人所得税等。纳闽也不征收资本利得税，不动产利得税或遗产税。

此外，纳闽公司不受外汇管制和外资股权的约束和限制。对于中资企业拓展海外业务，纳闽将会在海外拓展策略中扮演着至关重要的角色。藉此，我们德勤马来西亚中国服务部提供您以下相关信息。

## 纳闽税法框架的概况

1.	<b>纳闽在哪里？</b>	<p>纳闽距离马来西亚东部的沙巴州海岸仅 18 公里，距离亚庇（沙巴首府）171 公里。属于马来西亚联邦直辖区，拥有约 10 万人口。</p> 											
2.	<b>什么是纳闽实体？</b>	<p>纳闽实体是指按 1990 年纳闽公司法令下成立或注册的纳闽实体，以纳闽信托/伊斯兰信托，纳闽基金/伊斯兰基金和纳闽有限责任公司/有限责任合伙公司为实体从事纳闽商业活动。</p>											
3.	<b>什么是纳闽商业活动？</b>	<p>纳闽商业活动是指纳闽实体与非纳税居民或其他纳闽实体以其他货币（除马来西亚令吉）从事纳闽贸易或纳闽非贸易活动。</p>											
4.	<b>纳闽贸易活动和非贸易活动</b>	<p><b>纳闽贸易活动</b></p> <ul style="list-style-type: none"> <li>• 银行</li> <li>• 保险</li> <li>• 贸易</li> <li>• 管理</li> <li>• 专利许可</li> <li>• 船舶经营</li> </ul> <p>或其他不属于纳闽非贸易活动的业务。</p>	<p><b>纳闽非贸易活动</b></p> <p>是指与纳闽实体为其本身持有证券，股票，马来西亚本地公司股份，贷款，存款，或任何其他位于纳闽的资产投资有关的活动。</p>										
<b>纳闽的税收制度</b>													
1.	<b>哪一种税制将被应用？</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%; text-align: center;">描述</th> <th style="width: 50%; text-align: center;">课税方式</th> </tr> </thead> <tbody> <tr> <td>纳闽非贸易活动</td> <td style="text-align: center;">不会被征税</td> </tr> <tr> <td>纳闽贸易活动</td> <td>以审计后的净利润的 3% 来征税，或者最高税额马币 2 万令吉</td> </tr> <tr> <td>从事纳闽贸易和非贸易活动 - 被视为纳闽贸易活动</td> <td>以审计后的净利润的 3% 来征税，或者最高税额马币 2 万令吉</td> </tr> <tr> <td>纳闽非商业活动</td> <td>按 1967 年马来西亚所得税法令征税 - 24%</td> </tr> </tbody> </table>	描述	课税方式	纳闽非贸易活动	不会被征税	纳闽贸易活动	以审计后的净利润的 3% 来征税，或者最高税额马币 2 万令吉	从事纳闽贸易和非贸易活动 - 被视为纳闽贸易活动	以审计后的净利润的 3% 来征税，或者最高税额马币 2 万令吉	纳闽非商业活动	按 1967 年马来西亚所得税法令征税 - 24%	
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2.	<b>纳闽有双边税收协定吗？</b>	<p>一般上，纳闽公司可以联通马来西亚签署超过 70 个双边征税协定的网络。然而，纳闽被特别的排除在马来西亚与澳大利亚，智力，德国，印度，印度尼西亚，日本，卢森堡，荷兰，南非，西班牙，瑞典，塞舌尔共和国和英国签署的双边征收协定之外。</p>											
3.	<b>个人</b>	<p>居住在纳闽的个人，在马来西亚产生或获取的收入将被征税。在马来西亚获得的国外收入将被豁免缴纳个税。马来西亚对纳税居民的税率区间为 0%-28%，对于非纳税居民税率为 28%。</p> <p>以下列出了一些特定的个人税务豁免，有效期直到课税年 2020 年：</p>											

	纳税人	税务豁免
	在纳闽实体，包括在经批准的其他地区的办公室或营业地受委任管理阶层人员的外籍人士	其总收入的 50%
	在纳闽实体受委任董事职责的外籍人士	董事费
	在纳闽受雇于纳闽实体的马来西亚公民，所获取的房屋津贴和纳闽联邦津贴。	其房屋和纳闽联邦津贴总值的 50%
4.	<b>资本利得税</b>	马来西亚无资本利得税，除了买卖不动产或不动产公司的股票。
5.	<b>预扣税</b>	纳闽公司支付非纳税居民或另一家需按纳闽商业税法令（LBATA）纳税的纳闽公司，有关版权费，利息，技术或管理费和其他 1967 年所得税法令第 4（f）条款下的收益，将不会被征收预扣税。
6.	<b>间接税</b>	由于纳闽是享有自由贸易港的地位，因此没有征收间接税【如消费税（除汽油，柴油，液化石油气，航空和电信服务）和关税】。
7.	<b>印花税</b>	以下的文件将被豁免印花税： <ul style="list-style-type: none"> <li>• 所有经纳闽实体执行的与纳闽商业活动相关的文件；</li> <li>• 所有纳闽公司组织章程，法规，宪章，规则，法令，合伙协定或其他文件，以及列明实体的职务，商业，权限和责任范围的一个或多个文件；和</li> <li>• 所有纳闽实体股权转让的相关文件。</li> </ul>



## **Deloitte Malaysia Chinese Services Group Publication**

### **The Labuan Tax Framework**

Labuan is an island in the South China Sea off the coast of the state of Sabah in East Malaysia. It is also known as an offshore financial centre offering international financial and business services.

Although Labuan is a federal territory within Malaysia, there are preferential tax treatments for companies conducting Labuan business activities, such as low corporate income tax of either a fixed tax rate of 3% or RM20,000 per annum, withholding tax exemption on payment to non-residents, tax exemption on fees paid to non-citizen directors and so on. There is also no capital gains tax, estate or inheritance taxes in Labuan.

In addition, Labuan companies are free from foreign exchange control regulations and foreign ownership restriction. For Chinese companies that have their sights set on overseas expansion, Labuan may play a meaningful role in their expansion strategies. In this connection, we are pleased to provide you with some related information.

## Overview of The Labuan Tax Framework

<p>1. <b>Where is Labuan?</b></p>	<p>Labuan is 18km off the coast of Sabah, East Malaysia and 171 kilometers from Kota Kinabalu (capital city of Sabah). It is a federal territory of Malaysia with an estimated population of 100,000.</p>  <p>The map shows the island of Labuan in the South China Sea, positioned between the states of Sabah and Sarawak. A line connects Labuan to the mainland, with 'Brunei' labeled nearby.</p>									
<p>2. <b>What is a Labuan entity?</b></p>	<p>Labuan entity means a Labuan entity incorporated or registered under the Labuan Companies Act 1990, Labuan trusts/Islamic trusts, Labuan foundation/Islamic foundation and Labuan limited/limited liability partnership undertaking Labuan business activities.</p>									
<p>3. <b>What is a Labuan business activity?</b></p>	<p>Labuan business activity means a Labuan trading or a Labuan non-trading activity carried on or carried in, from, or through Labuan in a currency other than Ringgit Malaysia, by a Labuan entity with non-resident or with another Labuan entity.</p>									
<p>4. <b>Labuan trading and non-trading activities</b></p>	<p><b><u>Labuan trading activities</u></b></p> <ul style="list-style-type: none"> <li>• Banking</li> <li>• Insurance</li> <li>• Trading</li> <li>• Management</li> <li>• Licensing</li> <li>• Shipping operations</li> </ul> <p>Or any other activity which is not a Labuan non-trading activity.</p>	<p><b><u>Labuan non-trading activities</u></b></p> <p>An activity relating to the holding of investments in securities, stock, shares held by a Labuan entity in a domestic company, loans, deposits or any other properties situated in Labuan by a Labuan entity on its own behalf.</p>								
<p><b>Taxation System in Labuan</b></p>										
<p>1. <b>What tax regimes apply?</b></p>	<table border="1" style="width: 100%;"> <thead> <tr> <th style="text-align: center;">Description</th> <th style="text-align: center;">Tax Treatment</th> </tr> </thead> <tbody> <tr> <td>Labuan Non-Trading Activity</td> <td>Not subject to tax</td> </tr> <tr> <td>Labuan Trading Activities</td> <td>3% of net profits per audited accounts; or RM20,000 upon election</td> </tr> <tr> <td>Carrying out both Labuan Trading and Non-trading activities - Deemed to be Labuan Trading Activity</td> <td>3% of net profits per audited accounts; or RM20,000 upon election</td> </tr> </tbody> </table>	Description	Tax Treatment	Labuan Non-Trading Activity	Not subject to tax	Labuan Trading Activities	3% of net profits per audited accounts; or RM20,000 upon election	Carrying out both Labuan Trading and Non-trading activities - Deemed to be Labuan Trading Activity	3% of net profits per audited accounts; or RM20,000 upon election	
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		Non-Labuan Business Activity	Tax under Malaysian Income Tax Act 1967 – 24%
2.	<b>Does Labuan have any tax treaties?</b>	Generally, Labuan companies can access most of Malaysia’s network of more than 70 DTAs. However, Labuan has been specifically excluded from DTAs with Australia, Chile, Germany, India, Indonesia, Japan, Luxembourg, Netherlands, South Africa, Spain, Sweden, the Republic of Seychelles and the United Kingdom.	
3.	<b>Individuals</b>	Individual residents in Labuan, income accruing in or derived from Malaysia are subject to tax. Foreign sourced income received in Malaysia by resident individual is tax-exempt. The rate of tax ranges from 0% to 28% for resident individuals and a flat rate of 28% for non-resident individuals.  The following tax exemptions are available to certain individuals up to YA 2020:	
		<b>Taxpayers</b>	<b>Tax exemptions</b>
		Non-citizen individuals employed in a managerial capacity with a Labuan entity in Labuan, co-located office or marketing office of a Labuan entity in other parts of Malaysia	50% of gross income from such employment
		Non-citizen individuals acting in their capacity as a director of a Labuan entity	Directors’ fee received
		Citizen of Malaysia who received housing allowance and Labuan Territory allowance from exercising an employment in Labuan with a Labuan entity	50% of gross housing allowance and gross Labuan Territory allowance received
4.	<b>Capital Gains</b>	Malaysia has no capital gains tax other than tax on sale of real properties or shares in real property companies.	
5.	<b>Withholding Taxes</b>	Royalties, interest, technical or management fees and other gains or profits under Section 4(f) of the Income Tax Act 1967 paid by a Labuan company to a non-resident person or another Labuan company subject to tax under LBATA are exempted from income tax and thus not subject to withholding tax.	
6.	<b>Indirect Taxes</b>	There are no indirect taxes [such as Goods and Services Tax (with exception of petrol,	

		diesel, liquefied petroleum gas, freight services and telecommunication services) and custom duties] since Labuan enjoys free port status.
7.	<b>Stamp Duty</b>	<p>The following instruments are exempted from stamp duty:</p> <ul style="list-style-type: none"><li>• all instruments which are executed by a Labuan entity in connection with a Labuan business</li><li>• all Memorandum and Articles of Association, statute, charter, rules, by-laws, partnership agreement or other instrument, under or by which a Labuan entity is established and the scope of that entity's function, business, powers and duties are set out, whether contained in one or more documents; and</li><li>• all instruments of transfer of shares in a Labuan entity.</li></ul>

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