

## Client Alert

May 2017

## Automatic Exchange of Information – New Powers to Impose Penalties under the Labuan Tax Law

### Background

The Organisation for Economic Co-operation and Development's ("OECD") global standard on automatic exchange of information ("AEOI") is aimed at increasing global transparency and reducing the incidence of tax evasion across jurisdictions. To date, over 100 countries including Malaysia, have agreed to share information relating to the financial accounts of taxpayers automatically under the Convention on Mutual Administrative Assistance in Tax Matters.

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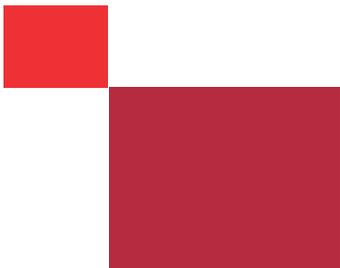
In Malaysia, regulations pertaining to the implementation of AEOI for taxpayers under the Income Tax Act 1967 ("ITA") were published on 23 December 2016. The intended date for the first exchange of information is September 2018, and all reporting financial institutions are required to furnish a return providing certain information on account holders to the Malaysian Inland Revenue Board ("IRB") by 30 June 2018. For more information on the AEOI in Malaysia, please see our previous Client Alert [here](#).

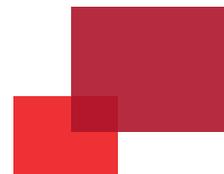
### Amendment to the Labuan Tax Law

The Labuan Business Activity Tax Act 1990 ("LBATA") governs the taxation of income earned by Labuan entities. On 18 May 2017, the Labuan Business Activity Tax (Amendment) Act 2017 ("**Amendment Act**") was published in the Federal Gazette to amend the LBATA and as such, it is now effective.

The Amendment Act empowers the Minister of Finance to make regulations prescribing penalties of a fine not exceeding one million ringgit, or imprisonment for a term not exceeding two years, or both, for the purpose of, among others, implementing the operation of a mutual administrative assistance arrangement having effect under Section 132B of the Income Tax Act 1967, including simultaneous tax examinations and AEOI.

The Deputy Finance Minister, Dato' Wira Othman Bin Aziz, stated in his second reading speech in Parliament for the Amendment Act that the main purpose for its introduction is to enforce AEOI requirements in Labuan.





## Comments

It is anticipated that the Amendment Act will soon be followed by the publication of AEOI regulations for Labuan entities paying taxes under the LBATA, similar to the AEOI regulations published on 23 December 2016 for taxpayers paying taxes under the ITA.

Some of the perceived advantages in incorporating a Labuan entity are the simplicity of regulation, the lower tax rates, and the protection of confidential information. While it remains to be seen how the AEOI requirements will be applied to Labuan entities, the Malaysian authorities will need to strike a balance between confidentiality and compliance with international standards in line with Malaysia's commitment to the OECD to implement AEOI from 2018 onwards.

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