

# LABUAN SPECIAL TRUST

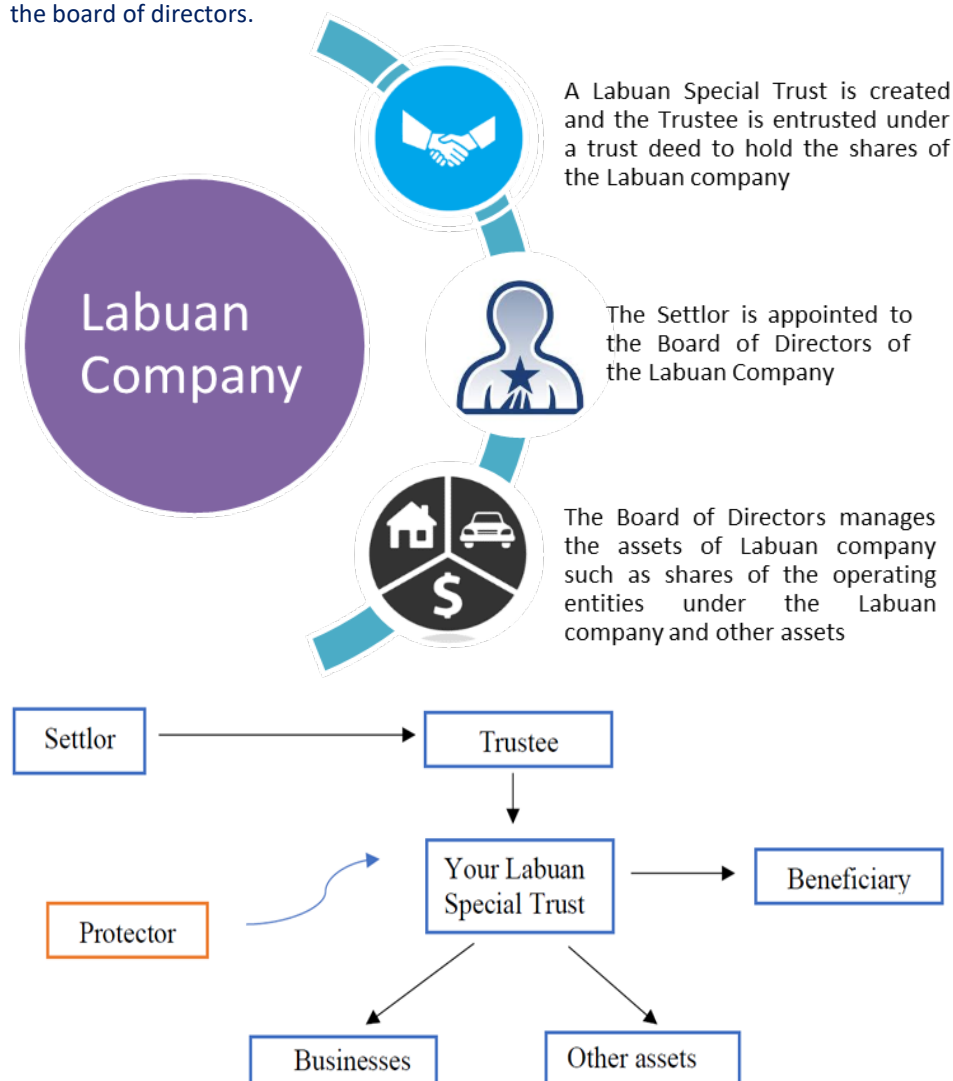
## Fact Sheet

Labuan Financial Business > Financial Service

### Introduction

The Labuan Trusts Act 1996 was amended in 2010 to create a new range of trust products, one of which was the Labuan Special Trust. It is best described as a new incarnation of a common law trust where the settlor retains full control of the management of the business which he had placed in the trust with little or no interference from the trustee, unlike in a normal trust arrangement where the settlor loses his or her rights over the assets settled in a trust and the trustee is given wide powers and duties under trust laws to manage the assets of a trust.

The expertise and intimate knowledge of a business typically resides with the founder of a business. No other person usually shares the knowledge of a business other than its founder, much less a trustee. Recognising this, the Labuan Special Trust was created to allow individuals to establish a trust to hold business assets for succession planning purposes without losing their power or rights to manage the business. The trustee of the Labuan Special Trust will only hold the shares of a Labuan company but will have no responsibility or power to manage the business assets of the Labuan company or operational entities under the Labuan company. The board of directors of the Labuan company will be responsible to manage the business assets. The founder and/or its representatives will be appointed to the board of directors.



### ADVANTAGES

- ✓ A starting point to establish a family office and preparation for succession planning.
- ✓ Owners are able to retain full rights to the assets.
- ✓ Creditor proof for assets transferred into the Special Trust. (After 2 years of transferring)
- ✓ Consolidate family assets worldwide to manage them efficiently.
- ✓ Fixed annual maintenance cost regardless of total assets value under management.
- ✓ Hassle free, save cost and time for assets succession without going through the process of applying probate for distribution
- ✓ Assets in the Trust are not subject to Distribution Act
- ✓ Existence of the trust in perpetuity.
- ✓ No exchange control in Labuan.
- ✓ Double Taxation Treaty Access.

## Key features

- ❑ Settlor
  - ✓ Person setting up the trust, may be individual or corporate, Malaysian resident or non-resident.
- ❑ Trustee
  - ✓ One trustee must always be a licensed Labuan Trust Company.
  - ✓ More trustee(s) can be appointed, if required.
  - ✓ A trustee shall not be a director of the company where shares are held by the said trustee.
  - ✓ Holds the trust funds and responsible for its administration for benefits of the beneficiaries.
- ❑ Protector
  - ✓ May be appointed by settlor, who acts like a “watchdog” over the trustee for the benefit of the beneficiary.
  - ✓ The settlor or beneficiary may also be a protector.
  - ✓ These parties can also act on advisory/ consultancy basis.
- ❑ Assets of the Trust
  - ✓ May encompass Malaysian assets, however, consent from the Labuan Financial Services Authority (Labuan FSA) needs to be obtained if Malaysian assets are to be injected into Trust.
  - ✓ No consent of Labuan FSA is required for injection of non-Malaysian assets.
- ❑ Shares Held
  - ✓ Trustee owns shares in an underlying asset holding vehicle (Labuan Company) on an “own and retain” basis Trustee will not get involved in the day-to-day running of the underlying company.
  - ✓ Allows for separation of the custodianship of the assets from the investment of the assets.
- ❑ Letter of Wishes
  - ✓ Settlor can also use Trust Deed to provide guidance to the Trustee in matters affecting trust (particularly distribution) for situations that may arise post his/her demise.

## TAXATION: Substance Requirement under LBATA

As most of the special trusts are classified under investment holding, it is generally involved in either Pure Equity Holding or Non-Pure Equity Holding which are not subject to tax with fulfilling its Substance Requirements, as follows,

- ✓ **Pure Equity Holding**

To comply with management and control requirement in Labuan, the entity is to hold at least a minimum of one board meeting in Labuan for each calendar year and incur a minimum annual operating expenditure of RM 20,000 per annum in Labuan.
- ✓ **Non-Pure Equity Holding**

To comply with minimum of ONE full time employee in Labuan and a minimum annual operating expenditure of RM 20,000 per annum in Labuan.

Failing which, the Labuan incorporated entity shall be charged a tax rate of 24% for that year of assessment.

### EXAMPLE OF ASSET UNDER THE TRUST

- ✓ Business
- ✓ Property
- ✓ CDS Account
- ✓ Shares
- ✓ Cash
- ✓ Insurance policy
- ✓ Unit trust
- ✓ Other onshore and offshore investments

## HOW TO APPLY?

**BBS Trust Int'l Limited can assist you for the application of Labuan Special Trust to Labuan FSA.**

**Contact us now for a non-obligational consultation!**

Email: [info@bbstrust.com](mailto:info@bbstrust.com) or Call: +603-4815 6718