

Labuan Private Foundation

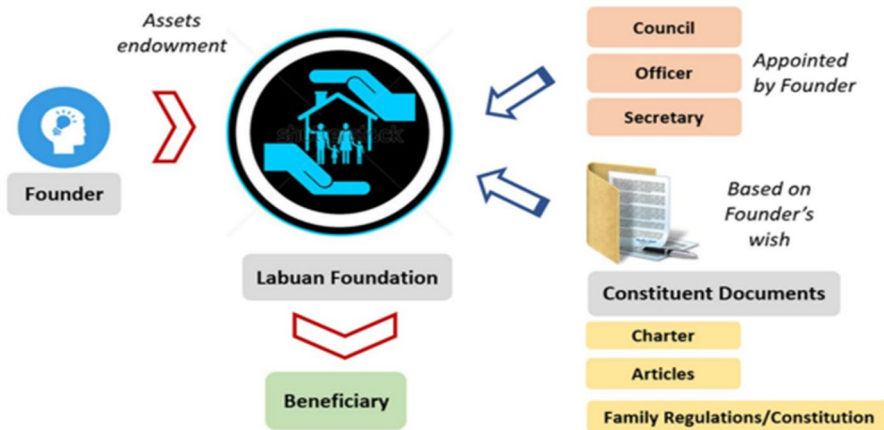
Fact Sheet

Introduction

A Foundation is an incorporated legal entity similar to a company which can be used to hold assets in its own name with the objective of managing these assets for the benefit of a class of person on a contractual basis. Labuan Foundations are ideal for wealthy individuals, families, companies, and non-profit organizations who wish to control their assets and business while enjoying legal protection. Typically, Labuan Foundations are used for asset protection, charitable purposes, business succession, wealth management and other legal activities. Labuan Islamic Foundation are provided as well where operations must be in compliance with Shariah principles.

What are foundations?

A Labuan foundation, as provided by the Labuan Foundations Act 2010, is a corporate body with a separate legal entity, established to manage its own property for any lawful purpose, be it for charitable or non-charitable purposes. Established by a founder, a typical structure for a Labuan foundation is depicted below:



ADVANTAGES

- ✓ Assets endowed are creditor proof
- ✓ Avoid internal conflict between family members
- ✓ Ensure continuity of assets through countless generations of family
- ✓ Founder reserve rights to manage assets
- ✓ Confidentiality provision of foundation ensures privacy of asset owners

Internal Structure of Labuan Foundation

- ✓ Founder endows his asset to foundation
- ✓ Council oversees the foundation management and ensure purpose of foundation is fulfilled
- ✓ Officer ensures proper administration of the foundation
- ✓ Secretary performs all secretarial functions including the filing and lodging of documents with LFSA
- ✓ Constituent document sets out the parameters within which the Labuan Foundation is to be managed and governed
- ✓ Beneficiaries who have vested interest in the assets of the foundation. Beneficiaries have no rights to the foundation's assets and are not owned by any fiduciary duties
- ✓ Officer must be independent from council member
- ✓ Founder, council member, and beneficiary can be the same person
- ✓ Custodian, auditor, and supervisory person is required for public foundation

Characteristics of Labuan Foundation

- ✓ No Minimum Capital Required
- ✓ Labuan foundation must be registered and have a registered office
- ✓ The Charter sets out the parameters of how the foundation is to be managed
- ✓ Exists in perpetuity at the discretion of the Founder
- ✓ Founder can be a council member of the Foundation which provides authority over the management of assets
- ✓ No statutory requirement for an audit unless ordered by Court
- ✓ All liabilities remain as corporate liabilities of the Foundation
- ✓ Labuan foundation is protected from foreign claims and cannot be forcefully liquidated to satisfy obligations from external events or parties
- ✓ Council members do not owe fiduciary duty to beneficiaries and hence, this eliminates beneficiaries' interest
- ✓ All aspect of the foundation is kept confidential except for the charter and strictly no information relating to the foundation shall be disclose unless required by law and court

PURPOSE

- ✓ Private Wealth Management
- ✓ Business succession tool
- ✓ Family business ownership preservation
- ✓ Charitable purposes

EXAMPLE OF ASSET

- ✓ Business
- ✓ Property
- ✓ CDS Account
- ✓ Shares
- ✓ Cash
- ✓ Insurance Policy
- ✓ Unit Trust
- ✓ Other onshore and offshore investments

TAXATION: Substance Requirement Under LBATA

As foundation is usually classified under investment holding, it is generally categorized as either Pure Equity Holding or Non-Pure Equity Holding, which are not subject to tax with fulfilling its Substance Requirements as follows:

Type	Tax	Audit Required	Substance Requirements	Remark
Non-Pure Equity Holding Company	0%	Optional	<ul style="list-style-type: none"> • Minimum annual spending: RM 20,000 • Minimum one full-time staff 	Companies that hold a variety of assets and earn different types of income (e.g. rent, royalties, bond, sukuk, debt instrument, properties, securities)
Pure Equity Holding Company	0%	Optional	<ul style="list-style-type: none"> • Minimum annual spending: RM 20,000 • Board meeting in Labuan at least once a year 	Company that holds equity participations and earn only dividends and capital gains

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

HOW TO APPLY?

BBS Trust Int'l Limited can assist you for the application of Labuan Foundation.

Contact us now for a non-obligation consultation!

Email: info@bbstrust.com or Call: +603-4815 6718