

Cayman Islands Economic Substance: publication of approved forms for economic substance returns and extension to the reporting deadlines

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On Thursday, 12 November 2020 the Department for International Tax Cooperation (“DITC”) published an advisory related to economic substance (“ES”) matters that contains approved forms to be used for ES reporting, sets out an extension to the deadlines for ES reporting and flags certain issues to be considered when preparing the economic substance notification (“ESN”) for an entity.

Approved forms

The advisory contains the following forms and information that will be required to be submitted for ES reports under the International Tax Co-Operation (Economic Substance) Law (2020 Revision):

- [a sample of the form of ES return](#) to be filed by a relevant entity that is carrying on the business of a pure equity holding company;
- [a sample of the form of ES return](#) to be filed by a relevant entity that is carrying on another category of relevant activity;
- [a sample of the form of ES return](#) to be filed by a relevant entity that is carrying on high risk intellectual property business (this form contains additional questions compared to the form described in the second point above);
- [an updated version of the form](#) to be submitted by an entity that carries on a relevant activity and claims to be tax resident in a jurisdiction outside of the Cayman Islands in respect of that activity; and

- [a sample of the information](#) to be submitted by an outsource service provider.

Completing the ES return

Any entity that has filed an ESN in which it confirms that it is a relevant entity carrying on a relevant activity is required to complete an ES return in the appropriate form. Each sample form contains commentary that is intended to assist with completing the form. The information that is required to be entered in each form includes the data points listed in Section IV.B of the ES Guidance version 3.0 that was published on 13 July 2020 and certain other matters.

At present an ES return for an entity cannot be accessed and completed on the DITC portal but this function is expected to be added shortly. Once the function is available the “responsible person” identified in the ESN for an entity should receive from the DITC a link to the profile for that entity in order to complete and submit the ES return. The ES return for each entity will be pre-populated with information submitted by the entity in its ESN.

For each entity in respect of which Carey Olsen was designated the responsible person we will prepare the ES return using information provided to us regarding the entity and its business. For entities for which Carey Olsen was not designated the responsible person we can advise on questions in respect of completing the ES return and the information that is required to be submitted.

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Outsource service providers

The Tax Information Authority will require an outsource service provider to confirm that it provides services to a reporting entity in order for the Tax Information Authority to take into account such outsourcing when assessing whether the entity satisfies the ES test.

The process by which an outsource service provider may provide the confirmation and register on the DITC Portal has yet not been published. The advisory notes that once this function is enabled on the DITC Portal then each outsource service provider should register promptly as a failure to do so may prevent the timely filing of an ES return by a relevant entity to which that that provider provides services.

Deadline for submitting the ES return

The deadline for ES reporting by an entity in respect of its financial year that commenced in 2019 has been extended as follows:

- for a relevant entity carrying on intellectual property business that was required to complete its ES reporting by 31 December 2020 the new deadline is 31 January 2021; and
- in all other cases the new deadline is 28 February 2021 unless the deadline would otherwise fall after 28 February 2021 in which case the deadline remains 12 months after the end of the financial year of the reporting entity.



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