

Economic Substance Returns in the Cayman Islands

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Companies formed or registered in the Cayman Islands have been subject to economic substance requirements from 1 January 2019 pursuant to the International Tax Co-operation (Economic Substance) Act, as amended (**ES Law**) in respect of certain geographically mobile types of business (**Relevant Activities**). For companies that were registered prior to 1 January 2019, their obligations under the ES Law commenced on 1 July 2019, but for other companies the obligations commenced upon incorporation. More information on the ES Law requirements can be found in our legal guide [here](#).

Registered office clients of our service company, CO Services Cayman Limited (**CO Services**), that existed in 2019, will have already provided CO Services with details of any Relevant Activities carried on during their 2019 financial year for purposes of their annual economic substance notification to the Registrar of Companies in 2020 (and will currently be updating this information in respect of their 2020 financial year).

Typically, any company that carries on a Relevant Activity during a financial year is required to file an economic substance return (**ES Return**), demonstrating compliance with the economic substance test, within 12 months of the relevant financial year end. So for financial years ending on 31 December 2019, ES Returns would normally have been due by 31 December 2020. However, the online portal for such returns has only been functional since late January 2021, so the Department for International Tax Co-operation of the Cayman

Islands government (DITC) has extended the filing deadlines for ES Returns in respect of financial years ending between 31 December 2019 and 30 April 2020, as follows:

Relevant activity	Deadline for ES Return
All except IP business and business Tax Resident Overseas	30 April 2021
IP Business/TRO	28 February 2021

Economic Substance Returns

Any company that carried on a Relevant Activity for purposes of the ES Law during its 2019 financial year, must file an ES Return by the deadline stated above. When providing details for the economic substance notification clients of CO Services would have designated either an internal representative or CO Services as the person responsible for filing the return (**Responsible Person**).

By now, each Responsible Person should have received an email instructing them to register on the DITC's online portal (**DITC Portal**), and should do so as soon as possible. Once registered a Responsible Person can complete and file the ES Return on the DITC Portal. S.7(4) of the ES Law lists information that is to be included in the ES Return and other required information is set out in the International Tax Co-Operation (Economic Substance) Regulations, 2020 including the requirement for a copy of the company's financial statements

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for the relevant period. The form of ES Return contains fields for certain information, for example, the gross income from the Relevant Activity, and allows other information to be uploaded. The Responsible Person can also upload additional information to demonstrate how the relevant entity has satisfied the economic substance test. If a company states on its ES Return that any core income generating activities have been provided by an outsourced local service provider then that service provider must verify the outsourcing within 30 days. Copies of the relevant legislation and guidance are available at [Legislation & Resources | OFFICIAL SITE: Department for International Tax Cooperation \(ditc.ky\)](#).

What to do next

Client companies that have nominated CO Services as Responsible Person will be contacted separately to provide the required information for submission. In other cases, the Responsible Person should register on the DITC Portal to prepare the Return but CO Services can still be appointed as a secondary user and engaged to assist with filing the Return itself if required.

All clients that are required to file an ES Return in respect of their 2019 financial year, should begin compiling the required information as soon as possible. In particular, please note the requirement for all such companies to upload separate financial statements.

The DITC Portal generally allows for information in the ES Return to be inputted and saved but note that any document uploads (such as financial statements) should only be made when the Responsible Person is ready to submit the ES Return.

If you have any questions about the ES Return for any company or the ES Law generally, please get in touch with your usual Carey Olsen attorney contact.



PLEASE NOTE

'Carey Olsen' in the Cayman Islands is the business name of Carey Olsen Cayman Limited, a body corporate recognised under the Legal Practitioners (Incorporated Practice) Regulations (as revised). The use of the title 'Partner' is merely to denote seniority. Services are provided on the basis of our current terms of business, which can be viewed at www.careyolsen.com/sites/default/files/TermsOfBusiness.pdf

CO Services Cayman Limited is regulated by the Cayman Islands Monetary Authority as the holder of a corporate services licence (No. 624643) under the Companies Management Act (as revised).

This briefing is only intended to provide a very general overview of the matters to which it relates. It is not intended as legal advice and should not be relied on as such. © Carey Olsen 2021.



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