

CAYMAN ISLANDS ECONOMIC SUBSTANCE LAW

EisnerAmper Governance Services Ltd.

In response to the efforts of the Organisation for Economic Co-operation and Development for Base Erosion and Profit Shifting standards regarding geographically mobile activities; The International Tax Co-operation (Economic Substance) Law, 2018 (the "Economic Substance Law") came into effect in the Cayman Islands on 1 January 2019. The Economic Substance Law was amended on 22 February 2019 by the publication of The International Tax Co-operation (Economic Substance) (Amendment of Schedule) Regulations, 2019 and further supplemented by the issuance of the first version of the related Guidance on Economic Substance for Geographically Mobile Activities (the "Guidance").

The Economic Substance Law provides that a relevant entity carrying on a relevant activity is required to satisfy the economic substance test in relation to that relevant entity. A relevant entity that is carrying on more than one relevant activity is required to satisfy the test in relation to each relevant activity.

A relevant entity in existence prior to 1 January 2019 must satisfy the economic substance test in relation to a relevant activity from 1 July 2019; whereas; a relevant entity formed on or after 1 January 2019 must satisfy the economic substance test in relation to a relevant activity from the date on which the relevant entity commences the relevant activity.





With the exception of an investment fund, unless its business is centrally managed and controlled in a jurisdiction outside of the Cayman Islands and the company or partnership is tax resident outside the Cayman Islands; a relevant entity means the following:

- A company (other than a domestic company) that is: (a) Incorporated under the Companies Law (2018 Revision); or (b) A limited liability company registered under the Limited Liability Companies Law (2018 Revision);
- A limited liability partnership that is registered in accordance with the Limited Partnership Law (2017 Revision); or
- A company that is incorporated outside of Cayman and registered under the Companies Law (2018 Revision).

Relevant activities include each of the following; banking business; distribution and service centre business; financing and leasing business; fund management business; headquarters business; holding company business; insurance business; intellectual property business; or shipping business.

A relevant entity conducting a relevant activity, will satisfy the economic substance test if it:

- Conducts Cayman Islands core income generating activities in relation to that relevant activity;
- Is directed and managed in an appropriate manner in the Cayman Islands in relation to that relevant activity; and
- Having regard to the level of relevant income derived from the relevant activity carried out in the Cayman Islands: has an adequate amount of operating expenditure incurred in the Islands; has an adequate physical presence (including maintaining a place of business or plant, property and equipment) in the Cayman Islands; and has an adequate number of full-time employees or other personnel with appropriate qualifications in the Cayman Islands.

A relevant entity may satisfy the economic substance test by outsourcing the conduct of its Cayman Islands core income generating activity to another person; provided that the relevant entity is able to monitor and control the carrying out of the Cayman Islands core income generating activity.

Pure equity holding companies are subject to a reduced economic substance test.

EisnerAmper Governance Services can assist you with all your economic substance requirements to ensure seamless operations of your business. Please contact our specialists for further information.

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