

Tax Information Authority



CAYMAN ISLANDS

Economic Substance For Geographically Mobile Activities

AMENDMENT TO GUIDANCE 2.0

Issued pursuant to section 5 of
The International Tax Co-operation (Economic Substance) Law, 2018 as amended
("ES Law")

Date of Amendment Issue: 17 September 2019

Guidance 2.0 is amended with immediate effect, as follows:

Section I

Page 2: A 3 Summary of the ES Law

The words ***“if carried on by a relevant entity”*** are deleted where they occur after the words *“Cayman Islands CIGA means activities that are of central importance to a relevant entity in terms of generating relevant income and which”*.

Page 4: B 2 2019 ES Regulations

- (a) The words ***“and the International Tax Co-Operation (Economic Substance) (Amendment of Schedule) (No.3) Regulations, 2019 came into force on the 10 September 2019 (“2019 ES Regulations No. 3”)*** are inserted after the words *“(“2019 ES Regulations No.2”)*.
- (b) The words ***“(n) MNE Group”*** are added to the list of defined terms.
- (c) The words ***“and the ES Regulations No.3”*** are inserted in the last paragraph after the words *“ES Regulations No.2”*.

Section II

Page 6: A 2 Scope of the ES Law

The definition of “domestic company” is amended as follows:

- (a) The words ***“not part of an MNE Group and that is”*** are inserted after the words *“means a company that is”*; and
- (b) The word ***“only”*** is inserted in paragraph (a) immediately before the words *“carrying on business”*.

Page 7: A 2 Scope of the ES Law,

The first paragraph of the section “(1) Companies carrying on business in the Islands” is deleted in its entirety and replaced with the following paragraph:

“A company that complies with section 4(1) of the LCCL or section 3(a) of the TBL is a domestic company if it not part of an MNE Group and is only carrying on business in the Islands; a company that is not carrying on business in the Islands or a company that carries on business both in the Islands and exterior to the Islands cannot be a domestic company for the purposes of the ES Law.”

Section III

Page 14: A 2 The Economic Substance Test (“ES Test”)

The words **“, if carried on by a relevant entity”** are deleted where they occur after the words *“Cayman Islands CIGA means activities that are of central importance to a relevant entity in terms of generating relevant income and which”*.

Section V

Page 30: Determination of whether ES test is satisfied

The words **“, if carried on by a relevant entity”** are deleted where they occur after the words *“includes those listed activities”*.

Section VI

Page 36 plus: Glossary

In the definition of the words *“Cayman Islands core income generating activities”*, the words **“, if carried on by a relevant entity,”** are deleted.

The definition of “domestic company” is amended as follows:

- (c) The words **“not part of an MNE Group and that is”** are inserted after the words *“means a company that is”* ; and
- (d) The word **“only”** is inserted in paragraph (a) immediately before the words *“carrying on business”*.

The definition of “MNE Group” is deleted in its entirety and replaced with the following:

“MNE Group” means any Group that includes two or more enterprises for which the tax residence is in different jurisdictions or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction.”