

FAQs

Notification (s7(2) ES Law)

How do I submit my notification?

The Economic Substance (“ES”) notification will be required for all entities with separate legal personality and will be done via the General Registry system (CAP and CBP). It is anticipated that the notification form will be online in Q4 2019.

The process for notification on the General Registry system will be explained in further detail in a user guide which is expected to be published on the DITC website by September 2019.

Do I have to submit my notification annually?

Yes.

What is the notification deadline?

The notification will be a prerequisite to filing the annual return.

Reporting (s7(4) ES Law)

How do I submit my reporting?

This will be done on a new portal currently being developed. There will be a separate user guide published on this, expected timing Q2 2020.

The initial step for filing the ES return will be to confirm, on the new portal, the prepopulated information filed on the notification in the General Registry system.

When will the ES Portal be open for reporting?

Expected date is July / August 2020

What is the reporting deadline?

Within twelve months after the last day of the end of each financial year.

Security Investment Business Law (“SIBL”) - amendment

Please confirm the first reporting date for the purposes of the Economic Substance Law for persons engaged in the business of ‘managing securities’ who register with CIMA by Jan 15, 2020?

Existing fund management business which becomes a ‘registered person’ with CIMA as prescribed in the recent SIBL amendment will be in scope for ES. The deadline for entities to register is 15 January 2020. For year 1, the DITC will regard entities as in scope for ES from 15 January 2020, regardless of whether the entity registers in advance of that date. For example, an existing entity registers in November 2019, entity is in scope for ES from 15 January 2020. The first return will be for the period Jan – Dec 2020 and will be due 12 months after the year end (i.e. December 2021 assuming a calendar year end).

For new business, the ES Law will apply from the date the entity becomes a ‘registered person’ with CIMA. Similar to the above, the ES return will be due 12 months after the year end. For example; an entity, not previously an excluded person, registers as a registered person on September 2019 with CIMA. This entity must satisfy the ES test from September 2019. Assuming a calendar year end, the first return will be due on December 2020 for the period from date of registration (September 2019) to 31 December 2019.

Qualifying for ‘tax resident outside the islands’

Where the Cayman entity’s income is subject to withholding tax, does this qualify as ‘tax resident outside the islands’ for the purposes of the ES Law?

No.

When a Cayman entity’s parent is subject to tax with respect to the Cayman entity under CFC, GILTI or other similar rule, will this suffice to qualify the Cayman entity as ‘tax resident outside the islands’ for the purposes of the ES Law?

No.

More than one Relevant Activity

Where an Entity is engaged in more than one Relevant Activity during a relevant financial period, does the Entity have to comply with the ES requirements for each applicable Relevant Activity?

Yes, the entity will need to pass the ES test for each Relevant Activity however, only one notification under s7(2) will be required.

If you would like to suggest additional FAQs, please email the DITC at DITC.Compliance@gov.ky