



Economic Substance Regulations Approved

The Department for International Tax Cooperation (DITC) advises industry that Cabinet approved the [International Tax Co-Operation \(Economic Substance\) \(Amendment of Schedule\) \(No. 3\) Regulations, 2019](#) on Tuesday, 10 September 2019.

The International Tax Co-operation (Economic Substance) Law, 2018 (ES Law) provides Cabinet with powers to make regulations to amend the Schedule of the ES Law (section 15). These Regulations were published in the Gazette on Tuesday, 10 September 2019.

The amendments to the definitions in the Schedule of the ES Law are outlined below (changes in red):

1. Domestic Company

“domestic company” means a company that is **not part of an MNE Group and that is —**

- (a) **only** carrying on business in the Islands and which complies with section 4(1) of the Local Companies (Control) Law (2019 Revision) or section 3(a) of the Trade and Business Licensing Law (2019 Revision); or
- (b) a company referred to in section 9 or 80 of the Companies Law (2018 Revision)”

2. MNE Group

“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.**

The changes outlined in 1 & 2 above are intended to ensure that:

- a company which is part of an MNE Group cannot avail of the domestic company exemption. The MNE Group definition is updated to remove the cross reference to the CbCR Regulations which has an inherent US\$850m threshold.
- a company which is carrying on both business in the Islands as well as business exterior to the islands cannot avail of the domestic company exemption.

3. Core Income Generating Activities (CIGA)

“Cayman Islands core income generating activities” means activities that are of central importance to a relevant entity in terms of generating relevant income and, **~~if carried on by a relevant entity,~~ must be carried on in the Islands including —**

This deletion does not change the meaning of CIGA that is currently outlined in the Economic Substance Guidance Notes V2.0.

Industry is further advised that the Guidance Notes are under review and will be updated to reflect these changes to the ES Law.

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