



Economic Substance Updates

The Department for International Tax Cooperation (DITC) advises industry of the following updates related to Economic Substance (ES) matters.

1. PDF OF SAMPLE ES RETURNS

The DITC is providing industry with the following sample ES Returns and Updated Form:

1. [Sample Economic Substance Return](#)
2. [Sample Economic Substance Return for Pure Equity Holding Companies](#)
3. [Sample Economic Substance Return showing the additional questions for High Risk IP Companies](#)
4. [Updated Form for Entity Tax Resident in Another Jurisdiction \(Sample\)](#)

Users of these Returns and Form may refer to these [notes](#), which explain the purpose of the Returns and Form, and provide a high-level overview of the required data points.

2. DITC PORTAL

The DITC Portal is open for CRS and FATCA reporting purposes, and functionality for ES reporting will be launched in the coming weeks.

Responsible Persons identified by Entities on their Economic Substance Notifications (ESN) will be sent a link to access their profile. Industry should note that on many ESNs filed to date, the DITC is aware that in cases where “Registered Office” was selected as the “Responsible Person”, email addresses are missing or are not current. Accordingly, where no valid email address is provided, it will not be possible to send the Entity the necessary link to access the DITC Portal.

As a matter of urgency, all Registered Offices should ensure a current general email address (personal email addresses are not permitted) **is on the General Registry system.** *To provide or update an email address, the details should be sent as soon as possible to Corishelpdesk@gov.ky.*

3. ES REPORTING DEADLINES

Reporting deadlines for ES have been extended, only for this first year. The deadlines are:

1. For Relevant Entities carrying on IP business who were due to file on or before 31 December 2020: **31 January 2021**
2. For all other ES Returns including the Form for Entity Tax Resident in Another Jurisdiction: **28 February 2021** unless the reporting deadline falls after 28 February 2021, in which case the

deadline remains at 12 months after the end of the financial year. Please see table below (under 4.4) for examples.

4. ECONOMIC SUBSTANCE NOTIFICATIONS

a. ESN 2020

The ESN submission window for 2020 is anticipated to open soon. Once it is available an update will be posted on [the news and updates](#) page on the DITC website.

b. REVIEW OF ESN 2019

On reviewing Economic Substance Notifications (ESNs) submitted for 2019, the DITC has identified certain issues which may require remedial action on the part of registered office providers to avoid the submission of inaccurate ES Returns. The five principal errors made in ESNs are noted below for industry's information and attention.

1. Entities that conducted Fund Management Business

"Excluded Persons" under the Securities Investment Business Law (SIBL) which re-registered as "Registered Persons" under SIBL, came into scope of the ES Law with effect from 15 January 2020. Therefore, such entities should have answered "**no**" to the question, "Did the entity carry on a Relevant Activity as defined in the ES Law 2018, during the year?"

Where the answer was given as "yes", a corrected ESN should be made as soon as possible.

2. Entities that conducted Holding Company Business

Holding Company Business under the ES Law cannot be conducted at the same time as any of the other relevant activities. Where an Entity has submitted an ESN for 2019 on the basis that such combination was possible, they should submit a corrected ESN as soon as possible.

However, in cases where an Entity has conducted Holding Company Business exclusively during part of a financial year, and one or more of the other relevant activities for the remainder of the financial year, and has submitted an ESN for 2019 on that basis, no action is necessary.

3. Entities that selected 2020 instead of 2019 in ESNs for 2019

In cases where an Entity incorrectly submitted an ESN for 2020 instead of for 2019, they should submit an ESN for 2019 (if they have not already done so).

4. ESN – ES Reporting Period

The year selected on the ESN “ESN Year” should be the year in which the Period commenced for the purposes of the ES Return. For example:

Pre-existing (relevant entity before 1 Jan 2019)	Financial Year Start	Financial Year End	ESN Year	Period in scope for the ESN and ES Test	ES Return deadline (first year)	ES Return deadline (subsequent years)
Yes	1 Jan 2019	31 Dec 2019	2019	1 Jul – 31 Dec 2019	28 Feb 2021*	31 Dec 2021, etc.
No	1 Jan 2019	31 Dec 2019	2019	1 Jan – 31 Dec 2019	28 Feb 2021*	31 Dec 2021, etc.
Yes	1 Apr 2019	31 Mar 2020	2019	1 Jul 2019 -31 Mar 2020	31 Mar 2021	31 Mar 2022, etc.
No	1 Apr 2019	31 Mar 2020	2019	1 Apr 2019 – 31 Mar 2020	31 Mar 2021	31 Mar 2022, etc.
Yes	1 Oct 2019	30 Sept 2020	2019	1 Oct 2019 – 30 Sept 2020	30 Sept 2021	30 Sept 2022, etc.
No	1 Oct 2019	30 Sept 2020	2019	1 Oct 2019 – 30 Sept 2020	30 Sept 2021	30 Sept 2022, etc.

*31 January 2021 if relevant entity is carrying on IP Business

As outlined above, some entities will be required to provide details on the ESN in advance of their year end. Accordingly, the ESN for a given year will remain open for amendment until the end of the following calendar year. For example, the ESN for 2019 remains open for amendment until 31 December 2020.

5. Entities that failed to submit an ESN (including certain Foreign Companies)

Certain entities (including certain foreign companies) failed to submit an ESN for 2019. In these cases, they should submit an ESN for 2019 as soon as possible.

5. OUTSOURCE SERVICE PROVIDERS (OSPs)

Domestic outsourcing is permitted under the ES Law. To enable a claim of outsourcing to be verified, the Tax Information Authority will require confirmation from the OSP. This verification will ensure that an outsourcing claim made by a relevant entity can be taken into account when assessing whether that Entity has satisfied the ES Test.

Please refer to this [sample](#) of the information, which the OSP will be required to provide in order to register as an OSP.

Further information on the process for OSPs to register via the DITC Portal will be released in due course. Upon this functionality being made available on the DITC Portal, OSPs should effect their registrations as soon as possible. Otherwise, the Entities to which they provide services may not be able to submit ES Returns on time, with the risk of incurring late filing charges.

Please refer to the DITC's [Economic Substance Legislation and Resources](#) for more information.

Questions relating to Economic Substance may be emailed to CaymanESPortal@gov.ky

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