

Notes on ES Return

Purpose of the form:

S.4(1) of the ES Law provides that a relevant entity which carries on a relevant activity is required to satisfy the economic substance test (“ES test”) in relation to that relevant activity.

This form is the mechanism for such entities to provide the required information and appropriate supporting evidence to the Authority in order for the Authority to assess if the entity has satisfied the ES test. All entities which confirmed on the Economic Substance Notification (ESN) that they are a relevant entity carrying on a relevant activity are required to complete this form. Relevant entities which carry on holding company business are subject to the reduced ES test, while relevant entities that carry on high risk IP business are subject to the additional requirements outlined in S4(7) of the ES Law. The forms for each of these are also linked below.

Purpose of these Notes:

The purpose of these Notes is to provide a high-level overview of the process and data points that will be required on the three forms in advance of its launch in the DITC Portal.

Deadline and process for submission of this form:

These forms are required for each financial year that an entity is a relevant entity carrying on a relevant activity and is due within twelve months after the last day of the end of the financial year. The first reporting period is based on the financial year commencing in 2019.

These forms will only be available for submission via the DITC portal. A link to access the DITC portal will be sent, in due course, to the person (either Director or Registered Office (“RO”)) who was selected on the ESN as the point of contact for providing this information to the Authority. The link will be sent to the email address that was used by the RO at registration or in the case of a Director, the email address registered on CAP. The Authority recommends that the RO reviews these email details to ensure they are correct and current.

On accessing the DITC portal, there will be an option to add additional secondary users who can assist with completing the filing. The forms will be available for completion as a manual entry. Options for bulk upload may be added in due course.

Overview of the data required on this form:

Included in the link below is an overview of the data points required on each form. These data points reflect the requirements of S.7(4) of the ES Law and the ES Regulations, 2020. The forms linked below also include information bubbles which provide some specific details on a number of the data points outlined on the form.

Entities should note that the Authority will look at each form in its entirety before making an initial determination on whether the ES Test has been passed or failed. Where an entity is flagged as at risk of failing the test, the Authority may contact the entity to request additional information. Therefore the Authority recommends that when submitting the forms, the entity considers adding the relevant

supporting information to corroborate a claim that it has passed the ES test to reduce any additional follow up from the Authority.

The Authority will systematically spontaneously exchange information in accordance with relevant international standards and scheduled agreements under the Tax Information Authority Law (2017 Revision) with other competent authorities in respect of relevant entities that fail to satisfy the ES Test in relation to relevant activities and in relation to high risk IP business. The schema outlining the requirements of this exchange is publicly available [here](#).

[ES Return \(sample\)](#)

[ES Return - showing additional HRIP questions \(Sample\)](#)

[ES Return PEHC \(sample\)](#)

If you have any queries, please email CaymanESPortal@gov.ky