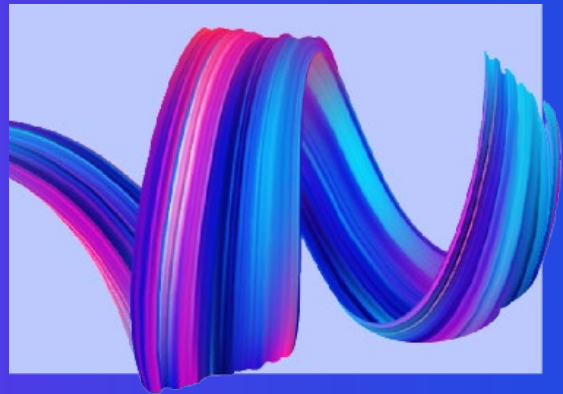


Substance requirements

Isle of Man



Background

The Isle of Man (“IOM”) introduced the IOM’s Economic Substance Requirements (“ESR”) in respect of accounting periods commencing on or after 1 January 2019. As a result, an IOM tax resident entity (an IOM resident company or relevant partnership) will need to have “adequate substance” on the IOM in respect of every accounting period for which it has income from a “relevant sector”.

It is worth highlighting that a relevant entity must have income from the relevant sector to be within the scope of the rules (i.e. there are no substance requirements where a relevant entity, for example, holds intellectual property (“IP”) but does not receive any income from the holding of the IP).

All IOM relevant entities firstly need to determine whether they are in scope of the rules; where a relevant entity is in scope of the rules, further analysis will need to be undertaken to determine whether it has sufficient substance in the IOM.

The regime can be summarised in terms of a three stage process.

Stage 1: Identify IOM relevant entities with income from “relevant sectors”

An IOM relevant entity with income from one or more of the following sectors will be required to consider whether it has “adequate substance” in the IOM. The “relevant sectors” are:



The legislation provides further detail in relation to each of the above sectors.

Stage 2: Consider whether relevant entity in relevant sector has “adequate substance”

A relevant sector entity will need to consider whether it has “adequate substance” in the IOM. A relevant sector entity (except for a pure equity holding entity) will be considered to have adequate substance in the IOM if the entity:

- is directed and managed (company) or managed (partnership) in the Island;
- has an adequate number of qualified employees (company) and/or individual partners (partnership), physical presence and expenditure proportionate to the level of activity carried on in the Island; and
- conducts core income-generating activity in the Island.

Further definitions are provided in the legislation in relation to each of these requirements. However, in particular, it is highlighted that certain entities with income from IP could be considered to be “high-risk” for the purposes of the ESR, in which case there is a rebuttable presumption that such entities do not have sufficient core income-generating activity in the IOM to meet the adequate substance requirements.

Stage 3: Enforcement of the substance requirements

In order to demonstrate meaningful enforcement of the ESR, there is a formal hierarchy of sanctions for non-compliant entities with increasing severity of sanctions imposed for persistent non-compliance. The legislation states that:

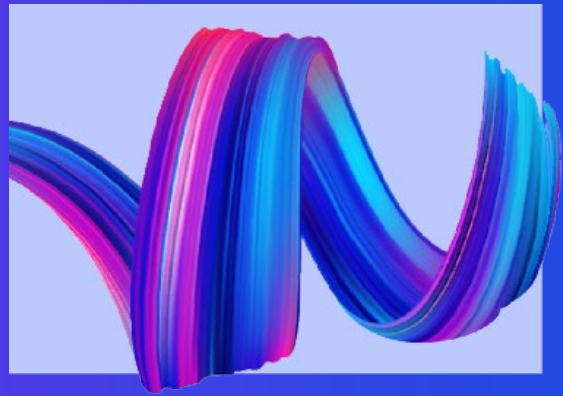
- penalties for non-compliance could be as high as £100,000 for a particular year and, ultimately, the entity could be struck off; and
- certain information may be exchanged by the Assessor with the tax authorities of the jurisdiction in which a parent company or ultimate beneficial owner is based.

Other comments

It is important to note that other jurisdictions including Bermuda, Cayman Islands, BVI and the Channel Islands have introduced similar rules in respect of substance requirements; the rules will need to be considered for each jurisdiction separately.



How can KPMG assist you?



Members of the tax leadership team across KPMG in the Crown Dependencies worked closely with the relevant authorities in the development of the law and guidance. As such, KPMG are in an ideal position to assist with your requirements.

KPMG in the Crown Dependencies has extensive experience of dealing with complex economic substance matters, including advice, enquiries and preparation of tax returns with supporting information, and can assist with the following services, and more.



Impact analysis

Identifying whether an entity is within scope of the ESR and, if so, whether it is compliant. If an entity is not compliant, advice in respect of how this may be rectified.



KPMG Substance Tool

KPMG have developed a Tool to assist clients in monitoring and recording entities' status under the applicable substance legislation whilst also providing a central location in which to store all substance related supporting evidence.



Training sessions

Tailored training sessions for your staff.



Implementation review

Assistance with the implementation of the law and review /assistance in completing tax returns.

Our services can be customised



Scalable services

We take a pragmatic and tailored approach to providing a comprehensive range of services that meet your requirements.



Meeting your evolving needs

KPMG has developed a set of methodologies to assist with delivering and testing all requirements of the substance legislation.



Multi-jurisdictional

We use our KPMG network to source the correct team who are experts with the required experience to service your specific needs. We are experts in economic substance matters across the 2.2 jurisdictions and have a broad perspective of substance matters covering multiple jurisdictions.



Enquiry Support

We have experience in dealing with economic substance related enquiries raised by the Isle of Man Income Tax Division and are well placed to assist with such matters.

Contact us



Robert Rotherham
Tax Partner
Crown Dependencies
rrotherham@kpmg.co.im



Clare Kelly
Tax Senior Manager
Crown Dependencies
clarekelly@kpmg.co.im



Georgia Kenyon
Tax Senior Manager
Crown Dependencies
gkenyon@kpmg.co.im



David Hathaway
Tax Manager
Crown Dependencies
dhathaway@kpmg.co.im



kpmg.com/cds

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