

Cayman Islands Economic Substance Requirements – 'Relevant Activity' of 'Shipping Business'

For general background on The International Tax Co-operation (Economic Substance) Law, 2018 (as amended by relevant regulations, the "Economic Substance Law"), the related Guidance on Economic Substance for Geographically Mobile Activities (the "Guidance") and for the meaning of 'relevant entity', please click [here](#).

This update assumes that an entity has already been determined to be a 'relevant entity' under the Economic Substance Law and that the 'relevant entity' is now considering whether it is carrying on one of the nine categories of geographically mobile 'relevant activities' - in particular, under the 'shipping business' category.

What is 'shipping business'?

'Shipping business' in the Economic Substance Law 'means any of the following activities involving the operation of a ship anywhere in the world other than in the territorial waters of the Islands or between the Islands:

- (a) the business of transporting, by sea, passengers or animals, goods or mail for a charge;
- (b) the renting or chartering of ships for the purpose described in paragraph (a);
- (c) the sale of travel tickets and ancillary ticket related services connected with the operation of a ship;

- (d) the use, maintenance or rental of containers, including trailers and other vehicles or equipment for the transport of containers, used for the transport of anything by sea; or
- (e) the functioning as a private seafarer recruitment and placement service,

but does not include a holding company business or the owning, operating or chartering of a pleasure yacht.'

The term 'pleasure yacht' is defined by reference to the Merchant Shipping Law (2016 Revision), with the consequence that the ownership, operation or chartering of yachts, whether used privately or chartered, does not fall within the definition of 'shipping business'.

Economic Substance Test

If a 'relevant entity' carries on the 'relevant activity' of 'shipping business' it will be subject to the economic substance test set out in the Economic Substance Law (unless it has no relevant income in respect of that relevant activity, in which case only notification and reporting obligations will apply). The economic substance test can be satisfied in relation to that 'shipping business' if the 'relevant entity':

- (a) conducts 'Cayman Islands core income generating activities;
- (b) is directed and managed in an appropriate manner in the Cayman Islands; and
- (c) has adequate operating expenditure, physical presence and personnel in the Cayman Islands.

Cayman Islands Core Income Generating Activities (Cayman Islands CIGA)

The relevant 'Cayman Islands core income generating activities' in the context of 'shipping business' include:

- (a) managing crew (including hiring, paying and overseeing crew members);
- (b) overhauling and maintaining ships;
- (c) overseeing and tracking deliveries;
- (d) determining what goods to order and when to deliver them, organising and overseeing voyages.

Guidance on 'Shipping Business'

The Guidance contains sector-specific guidance in relation to 'shipping business' which acknowledges that:

- (a) the determination of economic substance in the context of shipping business will take account of the fact that significant Cayman Islands CIGA within shipping business may be performed in transit outside of the Cayman Islands;
- (b) the value creation attributable to the Cayman Islands CIGA that occurs from a fixed location may be more limited for shipping business than for other relevant activities; and
- (c) the Cayman Islands CIGA may be undertaken by the master of a ship.

What to do if a 'Relevant Entity' is carrying on the 'Relevant Activity' of 'Shipping Business'

It is worth noting that there are a range of consequences for breaches of the Economic Substance Law (including financial penalties and potential striking-off).

If you have any specific questions in relation to a 'relevant entity' conducting 'shipping business'

or this update, please speak to your usual Maples Group contact or:

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