



Portcullis (Cayman) Ltd

Economic Substance Return

For the purpose of this sample, mandatory fields are marked with an * Whereas fields marked with (*) are only mandatory in certain cases. When the form is available on the DITC Portal mandatory fields will automatically display as the form is completed.

The International Tax Co-Operation (Economic Substance) Law ("ES Law") requires every relevant entity ("Entity") that is carrying on a relevant activity to satisfy the economic substance test in relation to that relevant activity ("ES Test").

Each such Entity must prepare and submit to the Tax Information Authority ("Authority") an economic substance report ("ES Return" or "this form") for the purpose of the Authority's determination as to whether the ES Test has been satisfied in relation to that relevant activity.

The ES Return must be submitted within twelve months after the last day of the end of each financial year ("Period") commencing on or after 1 January 2019. If an Entity conducts more than one relevant activity during a financial year then it must prepare and submit a separate ES Return in relation to each such relevant activity.

Please refer to the ['Economic Substance For Geographically Mobile Activities Guidance'](#) issued by the Authority for information about the economic substance requirements.

Please refer to DITC Portal User Guide for further information on this form.

All monetary amounts should be provided to the nearest whole number. Zero ("0") will be acceptable for all fields requiring a numerical response.

1. Overview

Entity Name:

If change to Entity name is required, this will need to be done through the General Registry.

Is the Entity a Segregated Portfolio Company ("SPC") and conducts one or more relevant activities through a Segregated Portfolio? *

An SPC must specify the SP on whose behalf it is submitting the ES Return in the Segregated Portfolio name box. A separate ES Return must be submitted by the SPC for each SP that is required to file an ES Return. Likewise, an ES Return is required in respect of each relevant activity (i.e. one SP carrying on two relevant activities is required to submit two ES Returns). Alternatively, if an SP is tax resident outside the Islands then the SPC must complete and submit the Tax Resident Outside the Islands form in respect of that SP. Refer to point 19 on the [Practice Point Document](#) for more details.

Segregated Portfolio name (*)

Does the Entity (or Segregated Portfolio, as the case may be) have a foreign branch which is also carrying on a relevant activity and for which it wishes to submit the tax resident outside the Islands form? *

An Entity which has a foreign branch that is carrying on a relevant activity outside the Islands will not be required to satisfy the ES Test with respect to that foreign branch if the Entity satisfies the Authority that the foreign branch is tax resident outside the Islands. The financial performance of any such foreign branch should be excluded from this ES Return. The Entity must complete the remainder of this ES Return with respect to its relevant activity and should also complete a Tax Resident Outside the Islands Form with respect to the relevant activity carried on by its foreign branch outside the Islands.

Name of Foreign Branch (*)

Relevant Activity carried on by Foreign Branch (*)

Period End Date (i.e. end of financial year) specified on ESN

Period End Date (for purposes of this ES Return) *

The first Period will be the first financial year commencing after the operative date of the ES Laws. The Entity should refer to both the ES Law and The International Tax Co-Operation (Economic Substance)(Prescribed Dates) Regulations, 2018. Please refer to User Guide for examples.

Period Start Date (i.e. start of financial year) *

Reporting Period

Responsible Person

The Responsible Person may appoint secondary users on the DITC Portal.

IN: General Registry Number

If change to GR number is required, this will need to be done through General Registry.

TIN

Type Income: Relevant Activity

The relevant activity should reflect the selection made on the ESN (or first one stated if more than one) but can be amended here. If the Entity has more than one relevant activity then it must select one relevant activity for the purpose of this ES Return and complete a separate ES Return for each one of its relevant activities.

FI Number (CRS/FATCA)

Where the Entity indicated on its ESN that it has an FI number but the number was not available at the time of filing the ESN, it will be required to complete here.

ES Return

IRS GIIN (FATCA)

CIMA licence / registration type and number

Where the Entity indicated on its ESN that it has a GIIN but the number was not available at the time of filing the ESN, it will be required to complete here.

Where the Entity indicated on its ESN that it has a CIMA number but the number was not available at the time of filing the ESN, it will be required to complete here.

2. Relevant Income

Currency used to complete this ES Return. *

The Entity must use one currency for all financial data in the ES Return.

Annual Income: Total income for the Period. *

The OECD NTJ schema uses the term "Annual Income". This element should contain the total annual gross income of the Entity (i.e. not limited to relevant income).

Gross Income: Total relevant income for the Period. *
If you answered Gross Income as Zero "0", please proceed section 13.

The OECD NTJ schema uses the term "Gross Income". The ES Law defines relevant income as follows; "relevant income", in relation to an Entity, means all of that Entity's gross income from its relevant activities and recorded in its books and records under applicable accounting standards. For the avoidance of doubt, relevant income for the purposes of the ES Law is gross income and not accounting income/profit. Gross income is equal to gross receipts/gross revenue, whether in the form of cash or property, which the Entity derived from its pure equity holding company business.

3. Type of Income

Total relevant income received from related parties for the Period *

Related Parties should be interpreted as "Constituent Entities" as defined in the ES Law. Please note that the balance (i.e. Total Relevant Income less Relevant Income from Related Parties) will be assumed to be relevant income received from unrelated parties. "UNKNOWN" may lead to further enquiries.

Total passive income that is also relevant income received for the Period *

Passive relevant income should be interpreted as income in respect of which, broadly speaking, the recipient does not participate in the business activity giving rise to the income, e.g. dividends, interest, rental income, royalties, etc. Please note that the balance will be assumed to be active relevant income (i.e. Total Relevant Income less Passive Relevant Income). "UNKNOWN" may lead to further enquiries.

4. Entity Details:

Status

Date ceased to be active

Is the Entity a constituent entity of an MNE Group for the purposes of the Country-by-Country reporting (CbCR) framework *

Name Group: Name of MNE Group, if different from Entity name

5. Immediate Parent Details:

How many Immediate Parents does the Entity have? *

Immediate Parent is defined in the Schedule to the ES Law. All fields relating to an Immediate Parent must be completed for each one.
This information is required under the ES Law. If "UNKNOWN" is selected please provide explanation in "Other" section below.
"NONE" for Entity does not have an Immediate Parent.
for additional immediate Parent details please complete a separate form

Name of entity *

May be a corporate or a non-corporate entity, for example a partnership.
--

TIN or Similar *

This data element provides the tax identification number (TIN) used by the tax administration of the jurisdiction of tax residence of the immediate parent. If the immediate parent does not have a TIN the value "NOTIN" should be entered.
--

TIN issued by (*)

This attribute describes the jurisdiction (Country) that issued the TIN. It should be always provided, unless NOTIN is entered in the TIN element.
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Jurisdiction of tax residence *

Identification Number other than TIN *

This data element can be provided (and repeated) if there are other identification numbers (INs) available, such as a company registration number or an Entity Identification Number (EIN). If that Entity does not have any other INs, the value "NONE" should be entered.

Type of Identification Number (*)

Jurisdiction that issued other Identification Number (*)

Legal Address Type *

Address Free

Address Free allows the input of address information in free text. It should only be used in exceptional circumstances when it is impossible to provide the address in the fixed format.
--

Other (Please specify)

6. Ultimate Parent Details:

Does the Entity have an Ultimate Parent? *

Ultimate Parent is defined in the Schedule to the ES Law.

Name of entity *

This information is required under the ES Law. If "UNKNOWN" is selected please provide explanation in "Other" section below.
--

May be a corporate or a non-corporate entity, for example a partnership.
--

TIN or Similar *

This data element provides the tax identification number (TIN) used by the tax administration of the jurisdiction of tax residence of the ultimate parent. If the ultimate parent does not have a TIN the value "NOTIN" should be entered.
--

TIN issued by (*)

This attribute describes the jurisdiction that issued the TIN. It should be always provided, unless

Jurisdiction of tax residence *

ES Return

Identification Number other than TIN *

This data element can be provided (and repeated) if there are other identification numbers (INs) available, such as a company registration number or an Entity Identification Number (EIN). If the Entity does not have any other INs, the value "NONE" should be entered.

Type of Identification Number (*)

Jurisdiction that issued other identification number (*)

Legal Address Type *

Address Free

Address Free allows the input of address information in free text. It should only be used in exceptional circumstances when it is impossible to provide the address in the fixed format.

Other (Please specify)

7. Ultimate Beneficial Owner (UBO) Details: -

Ultimate Beneficial Owner is defined in the Schedule to the ES Law.
The provision of this information is optional unless the Entity answers "NO" in the Declaration Section below, in which case the provision of UBO information is mandatory
If "UNKNOWN" is selected please provide explanation in "Other" section below.
for additional Ultimate Beneficial Owner details please complete a separate form

How many Ultimate Beneficial Owners (UBO) does the Entity have? *

Last Name of UBO *

First Name of UBO *

TIN or Similar *

This data element provides the tax identification number (TIN) used by the tax administration of the jurisdiction of tax residence of the UBO. If the UBO does not have a TIN, the value "NOTIN" should be entered.
This attribute describes the jurisdiction (Country) that issued the TIN. It should be always provided, unless NOTIN is entered in the TIN element.

TIN issued by (*)

Jurisdiction of tax residence *

UBO Type: Type of ultimate beneficial ownership interest the UBO has with the Entity *

Legal Address Type *

Address Free

Address Free allows the input of address information in free text. It should only be used in exceptional circumstances when it is impossible to provide the address in the fixed format.

Other (Please specify)

8. Core Income Generating Activities (“CIGA”):

Confirm which, if any, of the following CIGA were carried on in the Islands during the Period and details the related activities *

The selection here should include any CIGA outsourced to a service provider in the Islands during the Period. Please refer to pg. 18 to 23 of the ES Guidance V.3 link to input the CIGA Activities.
https://www.ditc.ky/wp-content/uploads/Economic_Substance_-_Guidance_-_v3.0190713.pdf

If “None”, explain how the Entity generates relevant income.

Add separate box for each CIGA.

Provide a description of “Other” CIGA (*)

Provide overview of the activities that are of central importance to the Entity in terms of generating income, why they are required to be carried on outside the Islands and the location where they were carried on. If the Entity wishes to provide further detail, please add to the “Other” section below.

Were any of the activities that are of central importance to the Entity in terms of generating relevant income carried on outside the Islands during the Period? *

Provide overview of the activities that are of central importance to the Entity in terms of generating income, why they are required to be carried on outside the Islands and the location where they were carried on. If the Entity wishes to provide further detail, please add to the “Other” section below.

If yes, please provide details (*)

9. Outsourcing:

Were any of the CIGA outsourced to a service provider in the Islands during the Period? *

The Entity provides information in this section on condition that the Authority may verify any or all such information with any service provider mentioned in this section via the contact provided by the service provider to the Authority. It is the Entity's responsibility to ensure that the service provider (and the contact provided to the Authority) will be available to verify the Entity's outsourcing claim to the Authority. The Authority may treat any outsourcing claim in this section as invalid unless the service provider verifies and substantiates the outsourcing claim within 30 days of the Authority's request; i.e. in that situation the Entity must satisfy the ES test without reliance on the unverified outsourcing.

How many service providers performed CIGA? (*)

The Entity provides information in this section on condition that the Authority may verify any or all such information with any service provider mentioned in this section via the contact provided by the service provider to the Authority. It is the Entity's responsibility to ensure that the service provider (and the contact provided to the Authority) will be available to verify the Entity's outsourcing claim to the Authority. The Authority may treat any outsourcing claim in this section as invalid unless the service provider verifies and substantiates the outsourcing claim within 30 days of the Authority's request; i.e. in that situation the Entity must satisfy the ES test without reliance on the unverified outsourcing.

Name(s) of service provider (*)

In order to be available for selection the service provider must file the Form for Outsource Service Providers with the Authority. The Entity can select more than one service provider. Where more than one is selected, the subsequent questions must be answered per service provider.

CIGA outsourced to the service provider during the Period (*)

The service provider selected will receive an automatic email to confirm the details provided here. As outlined in the ES Law, the service provider will have 30 days to confirm the information provided. Where verification is not received from the service provider, the outsourcing claim made will not be considered when assessing whether the Entity has satisfied the ES Test.

Outsourcing: Expenditure incurred on outsourcing of CIGA, to the service provider during the Period (*)

Outsourcing: Total number of hours incurred by employees with appropriate qualifications, during the period, to carry on the CIGA (*)

Does the Entity monitor and control in the Islands the carrying out of the CIGA by the service provider? (*)

Outsourcing: Expenditure incurred, during the Period, on outsourcing of activities that are of central importance to the Entity in terms of generating relevant income and that occurred outside the Island (*)

10. Physical Presence, Assets and Employees:

Did the Entity have business premises/offices in the Islands during the Period? *

The Entity must select "no physical address" if it did not own, rent, or have use of any premises in the Islands during the Period. For the avoidance of doubt, the address of an outsource service provider would not be considered a physical address of the Entity. The Authority recommends that an Entity with no physical address add a note in the Other section below explaining the nature of its physical presence and why that is considered to be adequate in relation to the Entity's activities.

Legal Address Type *

Generally, if 'Yes' to Physical Address - select "business" If 'No' to Physical Address - select "Registered Office".

Address Free

Address Free allows input of address information in free text. It should only be used in exceptional circumstances when it is impossible to provide the address in the fixed format.

Specify the location of the tangible assets used for the relevant activity and held by the Entity, if any, at the end of the Period *

State the Net Book Value of such tangible assets used for the relevant activity and held by the Entity, if any, at the end of the Period (*)

Did the Entity hold any IP assets, as defined by the ES Law, during the Period? *

In line with the ES Guidance, the Authority regards the term IP asset for the purposes of this question to only include any such right from which identifiable income accrues to the business (i.e. such income being separately identifiable from any income generated from any tangible asset in which the right subsists).

State the IP Asset Type (*)

Provide a description of Other (*)

Employees (Total): Confirm the number of full-time equivalent, qualified (FTE) employees, if any, who worked in the Islands for the Entity during the Period *

The employee count will be based on the number of FTEs i.e. the number of persons who worked full time within the Entity, or on its behalf during the reporting period. For example, the work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of an FTE. For this purpose, a standard working week will be considered as 37.5 hours and it is assumed that there are 47 working weeks in the year. In cases where directors are performing functions or part thereof which would have been performed by employees such directors should be counted as a fraction of an FTE commensurate with the time commitment of the function undertaken.

Employees (CIGA): Confirm the number of full-time equivalent, qualified (FTE) employees, if any, who worked in the Islands on the Entity's CIGA for the relevant activity during the Period *

Employees (Outsource)

This information is using the information provided in number of hours incurred by the service provider in Outsourcing section above. If you require an edit to this field please update above.

Confirm that the FTE employees have the appropriate qualifications to carry on the relevant activity *

Qualifications could include academic qualifications, vocational qualifications, relevant industry technical qualifications and also qualification by relevant experience.

If not, provide further details (*)

11. Expenditure

Expenses: Total operating expenditure for the Period *

Operating Expenditure will generally be the entity's operating expenditure from the financial statements, excluding capital.

Direct: Operating expenditure incurred in relation to CIGA, during the Period *

Direct operating expenses relates to all operating expenses incurred, by the Entity with respect to the relevant activity except expenditure incurred on outsourcing of CIGA.

Breakout of operating expenditure to show:

Salary and Wages *

This should reflect the salary / wages paid to FTE employees of the Entity during the period e.g. salaries/wages paid to full time employees, persons who have not worked the full year, those who have worked part-time, regardless of duration, and the work of seasonal workers. For the avoidance of doubt, directors fees or fees paid to outsource service providers should not be included here.

Rent *

Directors Fees *

12. Directed and Managed in the Islands

Please confirm if the following statements are true in relation to the relevant activity carried on during the period

These confirmations are required by section 4(3) of the ES Law. When answering this section for a corporate director, these questions apply to the individuals actually performing the duties.

The board of directors, as a whole, have the appropriate knowledge and expertise to discharge its duties as a board of directors? *

For the Period, were the meetings of the board of directors held, in the Islands, at adequate frequencies given the level of decision making required? *

For the board of directors meetings in the question above, confirm that there was a quorum of directors present in the Islands *

For the board of directors meetings described above, confirm that the minutes of the meetings record the making of strategic decisions of the Entity *

Confirm that the minutes of all meetings of the board of directors and appropriate records of the Entity are kept in the Island *

How many board meetings were held in the Islands during the Period? *

How many board meetings were held outside of the Islands during the Period? *

13. Other

Please provide any other information that the Entity considers material in determining that it has adequate substance in the Islands for the Period.

This "Other" Section is optional.

14. Financial Statements / Books of Account

A copy of the Entity's financial statements or books of account for the relevant entity's financial year. *
(Please provide a copy to us via email.)

The entity should provide appropriate documents (i.e. financial statements or books of account) that give a true and fair view of the state of the Entity's affairs and to explain its transactions. For the avoidance of doubt, the Authority does not expect underlying documents such as contracts and invoices. Furthermore for an Entity where only consolidated accounts are prepared, the documentation used to prepare the consolidated accounts and showing the Entity's affairs, would be sufficient.

15. Declarations

Based on the details provided in this ES Return, the Entity confirms that it has satisfied the ES Test for the Period in accordance with the ES Law. *

These declarations are made by the Entity. The Entity should ensure that the person who submits this ES Return has appropriate authority or permission to do so.

Where the Entity answers "NO" to this declaration, the UBO information outlined above will become a mandatory field.

By submitting this ES Return, the Entity:

- (a) Confirms that all information in this ES Return is accurate; and
- (b) Acknowledges that there are sanctions for knowingly or wilfully supplying false or misleading information under section 13(2) of the ES Law.
- (c) Acknowledges that the Authority will verify the details of any outsourcing with the service provider(s) specified.

Signed by
Authorised Signatory/ ES Contact Person
For and on behalf of

Date

Schedule 1

“immediate parent”, in relation to an entity, means a person that owns directly twenty-five percent or more of the ownership interest or voting rights in the entity;”

“ultimate beneficial owner” has the same meaning given to “beneficial owner” in section 244 of the Law (2020 Revision), which reference s247(3) to (5) of the Companies Law (2020 Revision) namely: -

(3) An individual (“X”) is a beneficial owner of a company (“company Y”) if the individual meets one or more of the following conditions in relation to the company—

(a) X must hold, directly or indirectly, more than 25% of the shares in company Y;

(b) X must hold, directly or indirectly, more than 25% of the voting rights in company Y;

(c) X must hold the right, directly or indirectly, to appoint or remove a majority of the board of directors of company Y.

(4) If no individual meets the conditions in subsection(3), X is a beneficial owner of company Y if X has the absolute and unconditional legal right to exercise, or actually exercises, significant influence or control over company Y through the ownership structure or interests described in subsection(3), other than solely in the capacity of a director, professional advisor or professional manager.

(5) If no individual meets the conditions in subsections(3) and(4) but the trustees of a trust (or the members of a partnership or other entity that, under the law by which it is governed is not a legal person) meet one of those conditions in relation to company Y in their capacity as such, X is a beneficial owner of company Y if X has the absolute and unconditional legal right to exercise, or actually exercises, significant influence or control over the activities of that trust (or partnership or other entity), other than solely in the capacity of a director, professional advisor or professional manager.

“ultimate parent” means a Constituent Entity of a Group that meets the following criteria —

(a) it owns directly or indirectly a sufficient interest in one or more other Constituent Entities of the Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on public securities exchange in its jurisdiction of tax residence; and

(b) there is no other Constituent Entity of the Group that owns directly or indirectly an interest described in paragraph (a) in the first mentioned Constituent Entity.