

Economic Substance Filing Process in the Bahamas

April 2020

The Commercial Entities (Substance Requirements) Act, 2018 (CESRA or the "Act") entered into force in the Bahamas on 1 January 2019. CESRA seeks to ensure that commercial entities that are both resident in the Bahamas for tax purposes, and engaged in any of nine specified relevant activities, have adequate substance in the jurisdiction. Our previous [memo](#) (sent in June 2019) provides a synopsis of the scope and application of CESRA.

Trident has been advised that there are pending amendments to the Act and will provide a further update once these amendments are passed.

The purpose of this memo is to provide guidance to commercial entities on the procedure and deadlines for making a substance filing in order to ensure compliance with CESRA.

Is Substance Filing Mandatory?

Substance filing is mandatory for all commercial entities. Both included commercial entities and non-included commercial entities are required to file a substance report to the Ministry of Finance (MOF).

Included entities consist of commercial entities that are engaged in one or more relevant activities. Non-included entities will have reduced substance requirements.

Who Is Responsible for Substance Filing?

Making a substance filing is the responsibility of the commercial entity and its directors who must consider:

- Whether the entity is resident in the Bahamas for tax purposes
- Whether the entity is engaged in one of the relevant activities
- If so, whether the entity demonstrates adequate substance in the jurisdiction

What Information Is Required for Substance Filing?

The substance filing is made by completion of one or more of four (4) available forms (Forms A-D). The information on each form varies depending on the nature of the commercial entity's business operation.

A summary of the information required for each form is below.

Form A (Outsourcing Service Providers)

To be completed if the entity is an outsourcing service provider

- Name of entity
- Registration number
- Type of business

- Address of entity
- Contact details of the entity
- Description and nature of outsourcing services
- Number of full-time employees
- Qualifications of full-time employees
- Number of clients to which the entity provides a service

Form B (Included Entities)

To be completed by included entities

- Amount and type of gross income
- Number of full-time employees
- Summary and description of core income-generating activities
- Amount and type of expenses and assets
- Summary and description of management and control activities
- Any other additional information

Form C (Pure Equity Holding Companies)

To be completed by holding entities

- Name of entity
- Registration number
- Type of entity
- Address of entity

Form D (Non-Included Entities)

To be completed by non-included entities

- Name of entity
- Contact details
- Address
- Description of the nature of the business
- Jurisdiction of tax residence
- Details of controlling persons

How Is the Substance Filing Submitted?

Commercial entities should file their substance forms via the electronic portal launched by the MOF in December 2019, accessible at substancefilingbeta.revenue.gov.bs.

Though the portal is currently a beta release version, it is operational.

Commercial entities wishing to make a substance filing must first register and obtain an “entity identification number” (EIN) using the portal. The registration process takes about forty-eight (48) hours after which the EIN will be issued.

Clients are strongly encouraged to take advantage of the availability of the portal to register and obtain EINs for their entities, so that they are well positioned to make their substance filing by the statutory deadline (see below).

Please note that Trident will obtain EINs or submit a substance filing only for entities for which it provides director services.

Step-by-Step Instructions for Filing

- Log on to the website
- Enter the EIN number
- Select the “Substance Filing” option
- Answer all of the questions that appear on the screen. The answers to these questions will determine the appropriate forms that should be filled out.
- Input the relevant information in the form(s) and click “Submit”

Once submitted, a notification will be sent to the MOF for assessment of the entity's filing.

A notification will be sent to the entity to confirm receipt of the submission. Where inadequate information is provided, the entity's submission will not be approved and the entity will be notified accordingly.

An overview of the substance reporting process can be accessed at www.taxreporting.finance.gov.bs/wp-content/uploads/2019/12/Substance-Reporting-Overview.pdf.

When Is the Deadline for Filing?

The deadline for the submission of a commercial entity's substance filing is nine (9) months after the

end of the entity's fiscal year. CESRA defines a fiscal year as "the annual accounting period for which the included entity prepares its financial statements".

For example, if an entity starts its accounting year on 1 January 2019, its fiscal year will end on 31 December 2019. Therefore, the entity's substance filing deadline would be 30 September 2020. Please note however that as a result of the global pandemic, the government of the Bahamas has issued an extension of three (3) months for the fiscal year 2019. As such, the deadline for this year is 31 December 2020.

If a commercial entity does not currently prepare financial statements and has not previously identified its annual accounting period, it is recommended that the board of directors of the entity specify the start and end date of its fiscal year by passing an appropriate resolution.

For further information on the economic substance regime in the Bahamas, please visit the government's website: www.taxreporting.finance.gov.bs

This update is intended for informational purposes only and does not constitute legal or tax advice.

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