

提示简报

Cayman Economic Substance Updates

开曼经济实质更新

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The Department for International Tax Cooperation (“DITC”) has advised that the DITC Portal (which will be used for a range of regulatory notification and reporting purposes) opened in early November; initially for FATCA and CRS purposes, with functionality for Economic Substance and Country-by-Country reporting to follow.

A further advisory will be issued in due course once the DITC Portal is open for Economic Substance filings and further guidance materials are available.

Economic Substance Reporting Deadlines

Generally Economic Substance Returns are due to be filed within 12 months of an entity’s financial year end. Economic Substance reporting deadlines have been extended for the first Economic Substance reporting period (for entities with a financial year ending 31 December 2019 only) as follows:

- For relevant entities carrying on intellectual property business: until **31 January 2021**.
- For all other Economic Substance Returns (including for entities that are tax resident in another jurisdiction): until **28 February 2021**.

If an entity’s financial year for 2019 is other than a calendar year, for example, from 1 April 2019 – 31 March 2020, there is no extension such that the reporting deadline will be within 12 months of the financial year end (by 31 March 2021).

Economic Substance Notifications (“ESNs”)

ESNs in respect of the 2019 year should have already been submitted earlier this year by all Cayman Islands companies, limited liability companies and foreign

国际税务合作部（简称“DITC”）已发布通知，其在线门户 DITC Portal（将用于一系列监管通知和申报目的）已于 11 月初启用，最初用于 FATCA 和 CRS 之目的，随后会新增经济实质申报和国别申报功能。

一旦 DITC Portal 开通了经济实质申报功能并提供了更多的指导材料，DITC 就会及时发布进一步通知。

经济实质申报截止日期

通常情况下，经济实质申报表应在实体的财政年度结束后 12 个月内提交。针对第一个经济实质申报期（仅适用于财年于 2019 年 12 月 31 日结束的实体），申报的截止日期已延长如下：

- 对于从事知识产权业务的相关实体：延至 **2021 年 1 月 31 日**。
- 对于所有其他经济实质申报表（包括在另一个司法管辖区纳税的实体）：延至 **2021 年 2 月 28 日**。

如果某个实体的 2019 年财年不是日历年，例如从 2019 年 4 月 1 日至 2020 年 3 月 31 日，则没有延期，因此申报截止日期是在财年结束后的 12 个月内（截止 2021 年 3 月 31 日）。

经济实质通知（简称“通知”）

对于 2019 年的“通知”，所有开曼群岛公司、有限责任公司和根据《公司法》注册的外国公司都应该已在今年早些时

incorporated companies registered under the Companies Law. On the basis that (i) some entities were required to submit an ESN in advance of their financial year end; and (ii) due to changes in law and practice since the time of filing that might result in inaccurate ESNs or Economic Substance Returns, it may be necessary for the 2019 ESN submitted by an entity to be amended. Accordingly, it will be possible to submit an amended ESN in respect of the 2019 reporting period until 31 December 2020.

We note that an updated ESN may be required in the following circumstances:

- Entities that conducted fund management business during 2019 as “excluded persons” pursuant to the Securities Investment Business Law and that re-registered as “registered persons” became subject to Economic Substance requirements from 15 January 2020. Accordingly, such entities with a financial year ending 31 December 2019 should have answered “no” that they did not conduct the relevant activity of fund management business in 2019. Those that answered “yes” should submit a corrected ESN.
- Entities that completed their ESN based on their activities as at the last date of their financial year. Revised Guidance indicates that if more than one relevant activity has been conducted during a financial year **all** relevant activities conducted during that year should be disclosed on the ESN. Similarly, if an entity completed its ESN on the basis that it was undertaking **no** relevant activities at the end of its financial year, if it in fact undertook one or more relevant activities for any period during its 2019 financial year, the ESN must be amended to disclose such, and the entity will be required to submit an Economic Substance Return in respect of each relevant activity it conducted during 2019.
- The relevant activity of holding company business can only be selected if the entity is conducting holding company business exclusively for part or all of a financial year. Holding company business under the Economic Substance Law cannot be conducted at the same time as any of the other relevant activities.
- The ESNs submitted earlier this year should have been in respect of the 2019 reporting period. If the ESN was submitted for 2020 instead of 2019, the ESN should be corrected. It is expected that it should be possible to submit ESNs for the 2020 financial year soon.

For any queries please contact one of the lawyers listed below.

This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to

候提交了。在以下情况下：(i) 一些实体需要在其财年结束之前提交“通知”；以及(ii) 由于自申报之日起法律和惯例发生了变化，可能导致“通知”或经济实质申报表不准确，那么实体可能有必要对其提交的2019年“通知”进行修正。因此，可以在2020年12月31日之前提交经过修正的2019年申报期的“通知”。

我们注意到在以下情况下可能需要修正“通知”：

- 根据《证券投资商法》在2019年期间作为“豁免人士”开展基金管理业务及重新注册为“注册人”、自2020年1月15日起必须遵守经济实质要求的实体。因此，其财年于2019年12月31日结束的此等实体应回答“否”，表示其未在2019年从事基金管理业务的相关活动。回答“是”的实体应提交一份更正过的“通知”。
- 根据财年最后一天从事的活动而完成其“通知”的实体。《修订指导说明》指出，如果在财年期间进行了一项以上的相关活动，则应在“通知”上披露该财年期间从事的**所有**相关活动。同样，如果实体是在其财年结束时**未**从事任何相关活动的基础上完成了“通知”，但实际上它在2019财年的任意时期从事了一项或多项相关活动，则必须修正其“通知”，披露此类信息。该实体提交的经济实质申报表要包括其在2019年从事的每项相关活动。
- 只有当实体在财年的部分时间或全部时间内仅经营控股公司业务的情况下，才可选择控股公司业务的相关活动。《经济实质法》规定的控股公司业务不得与任何其他相关活动同时进行。
- 今年早些时候提交的“通知”应与2019年申报期相关。如果提交的“通知”是关于2020年的而不是2019年的，则应予以更正。预计不久就可提交2020财年的“通知”。

如有任何疑问，请与下列律师联系。

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merely provide a brief overview and give general information.
The Chinese translation of this article has been adapted from the
English original, please refer to the original in case of ambiguity.

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