

Guide to Economic Substance in the BVI

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Overview

In the context of business companies, “economic substance” means that companies must have adequate presence and/or carry on economic activities in the jurisdiction in which they are tax resident. Numerous jurisdictions worldwide have now introduced broadly similar economic substance requirements in response to European Union and OECD initiatives to prevent harmful tax practices and profit shifting.

In the case of the BVI, the BVI government passed the Economic Substance (Companies and Limited Partnerships) Act, 2018 (ESA) on 28 December 2018 and it entered into force on 1 January 2019.

Like other substance laws, the ESA aims to capture entities (whether formed in the BVI, or foreign entities registered in the BVI) that carry on one or more specific types of business (called “relevant activities”). Any entity carrying on a relevant activity that is potentially within the scope of the legislation has three options:

- Ensure that the substance of the relevant activity is carried on within the BVI
- Discontinue the activity, or modify it so it no longer falls within the scope of a relevant activity
- Demonstrate tax residence in a jurisdiction outside the BVI

An entity that does not take steps either to take its relevant activity outside the scope of the legislation, or to bring it into compliance with the legislation, can expect to be the subject of enforcement proceedings by the BVI International Tax Authority (ITA), which is responsible for administering and enforcing the ESA.

The ITA’s Economic Substance Rules (“ESA Rules”) set out the manner in which the ITA will implement the ESA. Regulations regarding the filing and submission periods (and likely any applicable fees) are to yet to be drafted.

Scope of the ESA

The ESA potentially affects new and existing BVI companies (companies incorporated or re-registered under the BVI Business Companies Act, 2004 [the BCA]) and limited partnerships, as well as foreign companies and foreign limited partnerships that are registered in the BVI (together, “legal entities”). The ESA does not apply to nonresident companies, non-resident limited partnerships or limited partnerships that do not have legal personality.

Exempt Entities

The following companies and limited partnerships (“legal entities”) are exempt from the economic substance requirements under the ESA:

- Limited partnerships that do not have legal personality
- Legal entities that are not carrying on one of the nine relevant activities
- Legal entities that can demonstrate that they are tax resident in another jurisdiction

However, all legal entities (even those that are exempt from the substance requirements) must comply with the self-assessment reporting requirements required under the Beneficial Ownership Secure Search System Act, 2017 (the “BOSS Act”). These requirements are outlined later in this guide.

Financial Period

General

The financial period for a company or limited partnership incorporated or formed on or after 1 January 2019 (“new legal entity”) begins on the date of its incorporation or formation and ends 12 months thereafter, unless it elects for a shorter initial financial period. For new legal entities, the economic substance requirements will apply for only that part of the financial period during which the relevant activity is being conducted.

The financial period for a company or limited partnership incorporated or formed prior to 1 January 2019 (“existing legal entity”) will commence on a date on or after 30 June 2019, except where the entity notifies the ITA that its financial period commences on an earlier date. Whatever the date of commencement, an existing legal entity must comply with the economic substance requirements from that date.

Amending the Entity’s Financial Period

If the legal entity needs to shorten or lengthen its financial period, it may do so by notifying the ITA.

Entities formed or incorporated on or after 1 January 2019 must notify the ITA of their election to shorten their first financial period within three (3) months of their date of incorporation. An entity cannot elect to terminate its first financial period prior to the date of the notice to the ITA.

Entities incorporated or formed prior to 1 January 2019 must notify the ITA of their election to start their first financial period on an earlier commencement date by or before 31 December 2019. An entity cannot elect to terminate its first financial period prior to the date of the notice to the ITA.

An entity can apply to the ITA at any time to alter its successive financial periods, so long as the effect of the alteration is not to extend its financial period beyond 12 months.

Tax Residency

The ESA does not define the term “resident for tax purposes”. However, it defines non-resident companies and non-resident limited partnerships as those that are resident for tax purposes in a jurisdiction that is outside the British Virgin Islands and not on Annex I to the EU list of non-cooperative jurisdictions for tax purposes. If an entity’s only income is derived from relevant activities that are subject to tax in a foreign jurisdiction, that entity will be regarded as being resident for tax purposes in that foreign jurisdiction (Rule 5, ESA Rules).

Proof of Foreign Tax Residency

The ITA will accept the following documents as evidence of tax residency in a foreign jurisdiction:

- A letter or certificate issued by the competent authority for the foreign jurisdiction stating that the legal entity is considered to be resident there for tax purposes
- An assessment of tax on the legal entity
- A legal entity’s confirmation of self-assessment tax return
- A tax demand
- Evidence of payment of tax
- Any other document issued by the competent authority for the foreign jurisdiction

A legal entity may apply to the ITA to be treated as provisionally tax resident in a foreign jurisdiction pending submission of the required evidence. The ITA may grant this request if the following conditions are met:

- The entity has established its tax residence in the foreign jurisdiction for the previous financial period to the ITA’s satisfaction and has certified that its tax residence has not changed since then
- The entity supplies the most recent available evidence of tax residence in that jurisdiction and has certified that its tax residence has not changed since then
- The entity evidences either that it has been too recently formed; or that it has too recently assumed tax residence in the foreign jurisdiction for there to be documentary evidence of its tax residence, and produces other evidence to show that it met the criteria for tax residence in that jurisdiction during the relevant financial period

Evidence in support of the above conditions must be supplied within the filing period.

If the ITA accedes to the request, it must specify a period within which the necessary evidence is to be submitted. The provisional extension period is not likely to exceed two (2) financial periods (including the financial period for which the provisional treatment has been requested).

This option may be particularly useful for legal entities that are unable to obtain the required evidence for their financial period by the stipulated deadline for submitting their return.

Relevant Activities

The substance requirements are imposed on those legal entities that are engaged in one or more of nine activities that the ESA defines as relevant activities. These relevant activities are:

- Banking business
- Insurance business
- Fund management business
- Finance and leasing business
- Headquarters business
- Shipping business
- Holding business (pure equity holding entities)
- Intellectual property (IP) business
- Distribution and service centre business

A legal entity will be treated as carrying on a relevant activity during any financial period in which it received income from that relevant activity (Rule 1, ESA Rules). A legal entity that claims to be resident in the BVI for tax purposes and is engaged in any of the above relevant activities must carry out certain core income-generating activities (CIGA) in the BVI. The definitions of these relevant activities and their CIGA are outlined below.

It is possible that a legal entity will only start engaging in a relevant activity part way through its financial period. In such case, the economic substance requirements will only apply for the portion of the financial period during which the entity has engaged in the relevant activity.

The CIGA that are listed below are not exhaustive. What constitutes the CIGA of a particular activity is factsensitive and can be peculiar to a particular business.

Banking Business

Definition

“Banking business” means accepting deposits of money that may be withdrawn or repaid on demand or after either a fixed period or notice, by cheque or otherwise, and the employment of such deposits, either in whole or in part:

- In making or giving loans, advances, overdrafts, guarantees or similar facilities, or
- In the making of investments for the account and at the risk of the person accepting such deposits.

Core Income Generating Activities

- Raising funds, managing risk including credit, currency and interest risk
- Taking hedging positions
- Providing loans, credit or other financial services to customers
- Managing regulatory capital
- Preparing regulatory reports and returns

Insurance Business

Definition

“Insurance business” means the business of taking on liability under a contract of insurance to indemnify or compensate a person in respect of loss or damage, including the liability to pay damages or compensation contingent upon the occurrence of a specified event. It includes life insurance business and reinsurance business.

Core Income Generating Activities

- predicting and calculating risk
- Insuring or re-insuring against risk
- Providing insurance business services to clients

Fund Management Business

Definition

“Fund management business” means conducting an activity that requires the legal entity to hold an investment business license pursuant to section 4 of the Securities and Investment Business Act, 2010 in relation to managing mutual funds, segregated portfolios, pension schemes, insurance products or other types of investments.

Core Income Generating Activities

- Making decisions on the holding and selling of investments
- Calculating risks and reserves
- Taking decisions on currency or interest fluctuations and hedging positions
- Preparing relevant regulatory or other reports for government authorities and investors

Finance and Leasing Business

Definition

“Finance and leasing business” means providing credit facilities of any kind for consideration, where consideration includes interest or the provision of credit by way of instalments for which a separate charge is made and disclosed to the customer in connection with any of the following:

- The supply of goods by hire purchase
- Leasing other than any lease granting an exclusive right to occupy land
- Conditional sale or credit sale

Core Income Generating Activities

- Agreeing on funding terms
- Identifying and acquiring assets to be leased (in the case of leasing)
- Setting the terms and duration of any financing or leasing
- Monitoring and revising any agreements
- Managing any risks

Headquarters Business

Definition

“Headquarters business” means providing any of the following services to an entity in the same group:

- The provision of senior management
- The assumption or control of material risk for activities carried out by any of those entities in the same group
- The provision of substantive advice in connection with the assumption or control of material risk for activities carried out by any of those entities in the same group, but does not include banking business, financing and

Core Income Generating Activities

- Taking relevant management decisions
- Incurring expenditures on behalf of affiliates
- Co-ordinating group activities

Shipping Business

Definition

“Shipping business” means any of the following activities involving the operation of a ship anywhere in the world

other than solely within the British Virgin Islands:

- Transporting by sea, persons, animals, goods or mail
- Renting or chartering ships for the business of transporting by sea, persons, animals, goods or mail
- Sales of travel tickets or equivalent, and ancillary services connected with the operation of a ship
- 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
- Managing the crew of a ship

Core Income Generating Activities

- Managing the crew (including hiring, paying and overseeing crew members)
- Hauling and maintaining ships
- Overseeing and tracking deliveries
- Determining what goods to order and when to deliver them
- Organising and overseeing voyages

Holding Business

Definition

“Holding business” means being a pure equity holding entity. (See additional notes below.)

Core Income Generating Activities

- Earning dividends and capital gains

Intellectual Property (IP) Business

Definition

“Intellectual property business” means holding intellectual property rights to intangible assets, including but not limited to copyrights, patents, trademarks, brands, and technical know-how, from which identifiable income accrues to the business (such income being separately identifiable from any income generated from any intangible asset in which the right subsists).

Core Income Generating Activities

- Where the business concerns intellectual property assets, such as patents, and research and development

- Where the business concerns non-trade intangible assets, such as brand, trademark and customer data, marketing, branding and distribution

Distribution and Service Centre Business

Definition

“Distribution and service center business” means either or both of the following:

- Purchasing from foreign affiliates
 - component parts or materials for goods
 - Goods ready for sale
 - Reselling such component parts, materials or goods
- Providing services to foreign affiliates in connection with the business, but does not include any activity included in any other relevant activity except holding business

Core Income Generating Activities

- Transporting and storing goods
- Managing stocks
- Taking orders
- Providing consulting or other administrative services

Satisfying the Economic Substance Test

A legal entity that is resident in the BVI for tax purposes and carries on one or more relevant activities during its financial period must satisfy the following economic substance conditions (with some exceptions for pure equity holding entities):

- The relevant activity is managed and directed in the BVI
- There is an adequate number of suitably qualified employees present in the BVI
- There is adequate expenditure incurred in the BVI
- There are physical offices or premises in the BVI
- Where the relevant activity is intellectual property business and requires specialist equipment, that equipment is located in the BVI
- The legal entity itself conducts CIGA or, where income-generating activity is carried out by a third-party entity on behalf of the legal entity, no CIGA is carried on outside the BVI and the legal entity can monitor and control the third-party entity’s income-generating activities

Simply put, an entity will have economic substance in the BVI if all the following criteria are met:

- It is directed and managed in the BVI

- It has adequate expenditure and employees, and appropriate premises in the BVI
- CIGA are carried on in the BVI

Each of these requirements is discussed below. It must be stressed that entities that are in scope of the legislation and which have commenced liquidation are expected to comply with their economic substance requirements until the liquidation is complete. marketing, branding and distribution

Direction and Management in the BVI

If an entity is engaged in a relevant activity and is tax resident in the BVI, the entity must ensure that the relevant activity (not the legal entity itself) is directed and managed in the BVI during its financial period. However, if the legal entity's only business is carrying on one or more relevant activities, then the legal entity itself must be directed and managed from the BVI.

For a legal entity to be directed and managed from the BVI, it must conduct an adequate number of board meetings in the BVI (i.e., the quorum of directors must be physically present in the territory for the board meeting) and the board should have adequate expertise to direct the relevant activity. The management decisions of the board taken in relation to the relevant activity should be minuted and copies of the minutes must be maintained in the BVI.

Adequate Expenditure

Only expenditure in the BVI will be taken into account when determining whether an entity has adequate economic substance in the BVI. Reliance to a large extent on expenditure incurred outside of the BVI in order to enable its relevant activity and CIGA, will be a red flag to the ITA that there is inadequate expenditure in the BVI, as the ITA will consider the expenditure in the BVI relative to total expenditure on the entity's relevant activity

Adequate Employees

An entity must have adequate employees in the BVI. The word "adequate" does not have a special definition in the ESA and should be understood by its ordinary English meaning.

Whether an entity has adequate employees in the BVI will be determined by the size of the business and the type of relevant activity in which the entity is engaged. The ITA has indicated that it does not require an entity to engage more employees than it really needs if it is genuinely carrying on CIGA for the relevant activity in the BVI and is able to do so with the employees that it actually has.

The number of employees engaged in a relevant activity will be computed considering the amount of time each employee has worked during the financial period (full time vs part time); whether the employee is based in the BVI during the entire financial period or not; and whether the employee has spent all or only part of his/her time working in connection with the relevant activity.

Appropriate Premises

An entity engaged in a relevant activity is expected to have appropriate premises in the BVI for carrying on the relevant activity. As with the term "adequate", there is no special definition of the term "appropriate"; however, the ITA will consider the size of the business and the type of relevant activity when determining whether the premises are appropriate.

If the entity's business is office-based, the premises should comprise an office space from which the employees can properly operate. Account will be taken of flexible working practices and non-office based activities when determining the appropriateness of the premises. The premises need not be owned by the entity.

Outsourcing

An entity that is engaged in a relevant activity is permitted to outsource some of its CIGA to a third party (e.g., an accounting firm or a corporate/fiduciary services provider) and have such activities count towards its economic substance obligations. In order for the outsourced activities to be attributed to the entity, all the following criteria must be met:

- The third party must carry on the activity in the BVI and keep records to evidence the work carried on for the legal entity
- The outsourced activities must be monitored and controlled by the legal entity
- Financial Services Commission (FSC) licensed entities must comply with FSC requirements on outsourcing

Pure Equity Holding Entities

A pure equity holding entity is defined as a legal entity that only holds equity participations and only earns dividends and capital gains. The definition is to be narrowly construed. If a legal entity that holds equity participations (e.g., shares in another legal entity) also owns any other form of asset, the legal entity will be out of scope of the ESA. In addition, legal entities that hold assets that are not equity participations (e.g., real estate, bank accounts) are not pure equity holding entities. If such entities do not carry on any other relevant activity, they will not be subject to economic substance requirements.

A pure equity holding entity that does not carry on any relevant activity other than holding equity participations in other entities will be subject to less onerous economic substance requirements, namely it will have to comply with its relevant enabling legislation (either the Business Companies Act, 2004 or the Limited Partnerships Act, 2017).

There are special considerations for entities engaged in IP Business and these are discussed in the Annex.

Self-Reporting Regime

The ESA introduces an annual self-reporting regime, which will require each legal entity to report certain additional information related to its jurisdiction of tax residency and, if engaged in one or more relevant activities, its expenditure, employees and premises in the BVI. This is in addition to the beneficial ownership information that legal entities were previously required to provide under the BOSS Act.

The BOSS Act

The BOSS Act created the updated beneficial ownership data collection regime that was implemented in the BVI

in 2018. That legislation was further amended to accommodate the new economic substance filing requirements when the ESA was passed. Previously, the BOSS Act applied only to active companies and expressly excluded foreign companies and limited partnerships. Now, the term “corporate and legal entity” as used in the BOSS Act includes BVI business companies, foreign companies, and both limited partnerships and foreign limited partnerships with legal personality.

Reporting Requirements

In addition to the name, residential address, date of birth and nationality of their beneficial owners, corporate and legal entities must now also identify their parent company (if any)

If the corporate and legal entity is tax resident in the BVI and is engaged in a relevant activity, it will also be required to provide certain information on its parent entity, such as its name, incorporation number and its jurisdiction of incorporation.

The corporate and legal entity will also be required to submit a self-assessment that includes the following information:

- Its 12-month financial period
- If the entity is resident elsewhere for tax purposes, it must state where and provide evidence to support this claim
- Whether the entity engaged in any of the nine relevant activities during its financial period and if so, identify in which of the nine relevant activities it has been engaged
- If it has engaged in any relevant activity, it must indicate:
 - The total turnover generated by the relevant activity
 - The amount of expenditure incurred in relation to the relevant activity overall and in the BVI
 - The total number of employees engaged in the relevant activity overall and in the BVI
 - The addresses of any premises within the BVI used in connection with the relevant activity
 - The names of the persons responsible for the direction and management of the relevant activity and whether they are resident in the BVI

There are additional reporting requirements for entities engaged in intellectual property business and those that choose to outsource some of their CIGA. The requirements for intellectual property businesses are outlined in the Annex of this document. Those entities that have outsourced CIGA must provide the name of the third party to which the CIGA has been outsourced, together with details of the resources used by that third party to carry out the CIGA on behalf the entity. It will also be necessary to indicate what portion of the entity's total CIGA is carried out by the third party, the geographical location of the activities carried out by the third party on its behalf and how the entity monitors and controls the outsourced CIGA.

outlined

in the Annex of this document. Those entities that have outsourced CIGA must provide the name of the third party

to which the CIGA has been outsourced, together with details of the resources used by that third party to carry out

the CIGA on behalf the entity. It will also be necessary to indicate what portion of the entity's total CIGA is carried

out by the third party, the geographical location of the activities carried out by the third party on its behalf and how

the entity monitors and controls the outsourced CIGA.

Submission of Self-Assessment Information

Each corporate and legal entity must provide its self-assessment information to its registered agent to facilitate

upload to the BOSS system before the end of the entity's filing deadline, i.e., six months after the last day of its financial period. This should be done by the entity's director(s) or, in the case of a limited partnership, the general

partner. The registered agent will be responsible for ensuring the self-assessment is uploaded to the BOSS system.

Requirement to Provide Information

In addition to the information that is submitted in the self-assessment, a company may be required to provide additional information to the ITA. The ITA may serve a company or any person related to the company with a notice requiring the person to provide documents or information that it may reasonably require in order to carry out its function as the competent authority for implementing the ESA. The notice will stipulate the time period for providing the requested documents and information. Failure to comply with the notice is an offence under the ESA. It is therefore very important that directors and owners of entities maintain evidence of decision-making in relation to the entity's classification as either in scope or out of scope, as well as documents and evidence in support of such decisions.

Reporting Timelines

All legal entities must complete and submit their economic substance report within six (6) months of the end of their financial period (or 18 months from the start of their financial period). Thus, the latest dates by which a return can be submitted for legal entities formed prior to 1 January 2019 is 29 December 2020 (eighteen [18] months from 30 June 2019). The deadline for submitting a return for entities formed after 1 January 2019 will depend on the date of incorporation of the entity; in any event, the deadline will be 18 months from the formation date.

Exchange of Information

Notification

Where an entity claims to be tax resident outside of the BVI, the ITA will send a notification of this claim to the tax authorities of the specified foreign jurisdiction. In addition, if the beneficial owner of the entity is resident in an EU member state, the ITA will notify the competent authority of that EU member state that the entity is claiming tax residency outside of the BVI, and the ITA will provide the competent authority with the name of the jurisdiction in which tax residency is being claimed.

Disclosure of Information

The ITA is required to and will disclose economic substance information stored in the Registered Agent's database in respect of any entity to the relevant overseas competent authority in the following circumstances:

- If there has been a breach of the economic substance requirements
- The entity carries on intellectual property business and falls within the presumption that it does not conduct CIGA in the BVI

Penalties for Non-Compliance

There are several penalties for failure to comply with the obligations set out under the ESA.

It is an offence to provide false information to the ITA or to fail to provide information in response to an ITA request. A person who is found guilty of these offences may be liable to a term of imprisonment of up to five (5) years and a fine of up to \$75,000.

If the ITA finds that an entity is non-compliant with the applicable substance requirements, it can impose an initial penalty ranging between \$5,000 and \$20,000 (\$50,000 if the entity is a high-risk IP entity). The ITA will also notify the entity of the actions the entity must take to become compliant. If the entity fails to adhere to the ITA's recommendations, a second notice of non-compliance may be issued and a non-compliant entity can be fined between \$10,000 and \$200,000 (\$400,000 for high risk IP entities).

If the ITA considers it appropriate to do so, or if the ITA believes that the entity cannot realistically meet

the economic substance requirements, it may also recommend to the FSC that the entity be struck off the register of companies or register of limited partnerships (as applicable).

How We Can Help

We offer a range of services to assist clients comply with their substance requirements. We recommend that our services be considered after a determination has been made that the activities of the client's company or limited partnership are within the scope of the substance requirements and its management have determined the actions that need to be taken, with supporting legal or tax advice where appropriate.

For more information or to request assistance with classifying your entity and complying with the substance requirements, please contact your usual Trident representative or email us at info@inmacs.com.

Annex – Special Note on IP Business

What is IP Business?

IP business means holding intellectual property assets, i.e., any IP right in intangible assets. Intangible assets include copyright, patents, trademarks, brands, and technical know-how from which identifiable income accrues to the business. It should be possible to separate the income from the intangible asset from other income derived from the tangible asset (if any) in which the IP right subsists.

What is a “High-Risk IP Legal Entity”?

A high-risk IP legal entity is one that carries on IP business and has acquired the IP asset either from an affiliate or as consideration for funding research and development by a person situated in a jurisdiction other than the BVI, and that licences the asset to one or more affiliates or generates income from the asset as a result of activities performed by foreign affiliates.

What is Income from IP Assets?

Income from IP assets includes: royalties, capital gains and other income from the sale of the assets, income from a franchise agreement and income from licensing the IP asset

What are BVI CIGA for Legal Entities Engaged in IP Business?

BVI CIGA in respect of IP business constitutes: research and development, marketing, branding and distribution.

Presumption

There is a presumption that a legal entity engaged in IP business does not conduct BVI CIGA if:

- The activities being carried on from within the BVI do not include research and development, marketing, branding and distribution
- The entity is a high-risk IP legal entity that does not carry on research and development, marketing, branding or distribution from within the BVI

The presumption can be rebutted if the activities of the IP legal entity, which are carried on in the BVI, include:

- Making strategic decisions and managing (as well as bearing) the principal risks relating to the development and exploitation of the IP asset-generating income
- Making strategic decisions and managing (as well as bearing) the principal risks relating to the acquisition and subsequent exploitation of the IP asset by third parties

- Carrying on the underlying trading activities through which the IP assets are exploited, and which lead to revenue generation from third parties

If the entity wishes to rebut the presumption, it must, in addition to the prescribed information outlined further below, provide:

- A detailed business plan explaining the commercial rationale of holding the IP asset in the BVI
- Concrete evidence that decision-making is taking place within the BVI (e.g., detailed minutes of meetings that have taken place in the BVI)

Substance Requirements

An IP legal entity that is tax resident in the BVI will be required to comply with the following substance requirements:

- The IP business activity must be directed and managed in the BVI
- There are adequate employees in relation to the IP business that are present in the BVI
- There is adequate expenditure incurred in the BVI
- There are physical offices or premises as may be appropriate for the BVI CIGA
- The IP legal entity conducts CIGA in the BVI, namely, research and development, marketing, branding and distribution
- Where another entity carries out income-generating activity on behalf of the BVI entity, none of that income generating activity can be carried on outside of the BVI

Information to Be Provided to the Legal Entity's Registered Agent

All IP legal entities must identify any person who is its beneficial owner or registrable legal entity, or, if it is a listed company, provide details of its stock exchange registration. It must also, from the outset, indicate that it carries on IP business.

An IP legal entity that carries on IP business and is resident for tax purposes in the BVI, must inform its registered agent, in respect of its financial period:

- Whether or not it is a high-risk IP legal entity
- Whether or not it wishes to contest the rebuttable presumption and if it does, the facts and matters relied on for that purpose
- Residential address of its beneficial owner
- Total turnover generated by IP business
- Amount of expenditure incurred in IP business within the BVI
- Total number of employees engaged in its IP business
- Number of employees engaged in its IP business in the BVI

- The address of any premises within the BVI, which is used in connection with its IP business and the address of each such premises
- The nature of any equipment located within the BVI, which is used in connection with its IP business
- The names of persons responsible for the direction and management of the IP business, together with their relationship to the IP legal entity and whether or not they are resident in the BVI

Where the IP legal entity is non-resident for tax purposes in the BVI, it merely has to inform its registered agent of the jurisdiction in which it is tax resident together with evidence to support that tax residence.

Penalties

Where a high-risk IP legal entity is determined by the ITA to be non-compliant with the substance requirements, it can be liable for an initial fine of \$50,000.

Disclosure

The ITA will disclose information on an IP legal entity to the relevant overseas competent authority, in whichever

jurisdiction(s) that the IP is tax resident, where at least one of the following conditions applies:

- The IP legal entity is determined to be in breach of its economic substance requirements
- The IP legal entity has stated that it does not wish to rebut the presumption that it does not carry on IP business in the BVI
- The IP legal entity is a high-risk IP legal entity

Our People & Our Strength

Our Team

75	07	05	120	14
Chartered Accountants	Company Secretaries	Advocates & Solicitors	Trainee & Others	Others

Our Offices

New Delhi: 4696 Brij Bhawan 21A Ansari Road Darya Ganj, New Delhi-110002. INDIA Tel : +91-11-2328-8101	Gurgaon: 101, Global Business Square Building No. 32, Sector 44, Institutional Area Gurgaon, 122003,India Tel : +91-124-4786-200	Nehru Place: 503, Chiranjiv Tower, 43, Nehru Place New Delhi 110019. India +91-11-2622-3712, 2622-6933 Tel : +91-124-4786-200	Nehru Place: 505, Chiranjiv Tower, 43, Nehru Place New Delhi 110019. India +91-11-2643-0349, 2641-9527 Tel : +91-124-4786-200
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Karol Bagh: 17A/55, Triveni Plaza, Gurudwara Road, Karol Bagh, New Delhi Tel : +91-11-4504-4453	Chandigarh: SCO-705, 1st Floor, NAC Manimajra Chandigarh-160101. India Tel : +91-172-5077-789, 5077-790	Mumbai: 01-103, WeWork Vijay Diamond, No. A3&B2, B Cross Road Marol Industrial Area, MIDC,Andheri (East) Mumbai, Maharashtra 400093 Tel: +91-22-4974-6258	Vasant Vihar: F-9/9, 1 Floor, Poorvi Marg, Vasant Vihar, New Delhi-110057 +91-11-4160-6744
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For more information or for any queries, write to us at solution@inmacs.com

© INMACS

CA Vaibhav Jain

Mobile No: +91-9711310004

E-mail: vaibhavjain@inmacs.com

CA Aastha Jain

Mobile No: +91-9999903556

E-mail: aasthajain@inmacs.com