

BVI Economic Substance

Presented by
Jasmine Amaria

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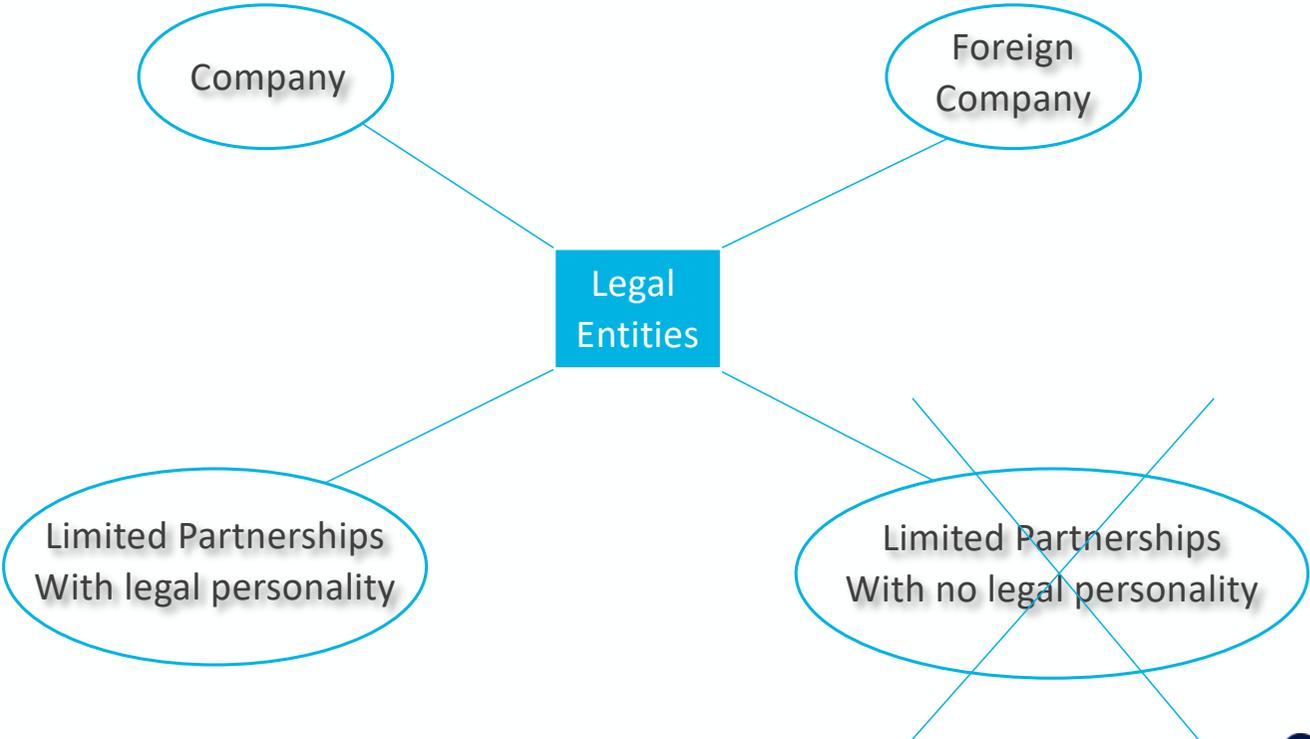
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What is Economic Substance?

- Economic Substance (Companies and Limited Partnerships) Act, 2018
- In force on 1 January 2019
- Supplemented by the Economic Substance Code issued by the BVI International Tax Authority
- Economic Substance Regulations are designed to ensure BVI companies are carrying on real economic activity in the BVI in respect of their profits and income.

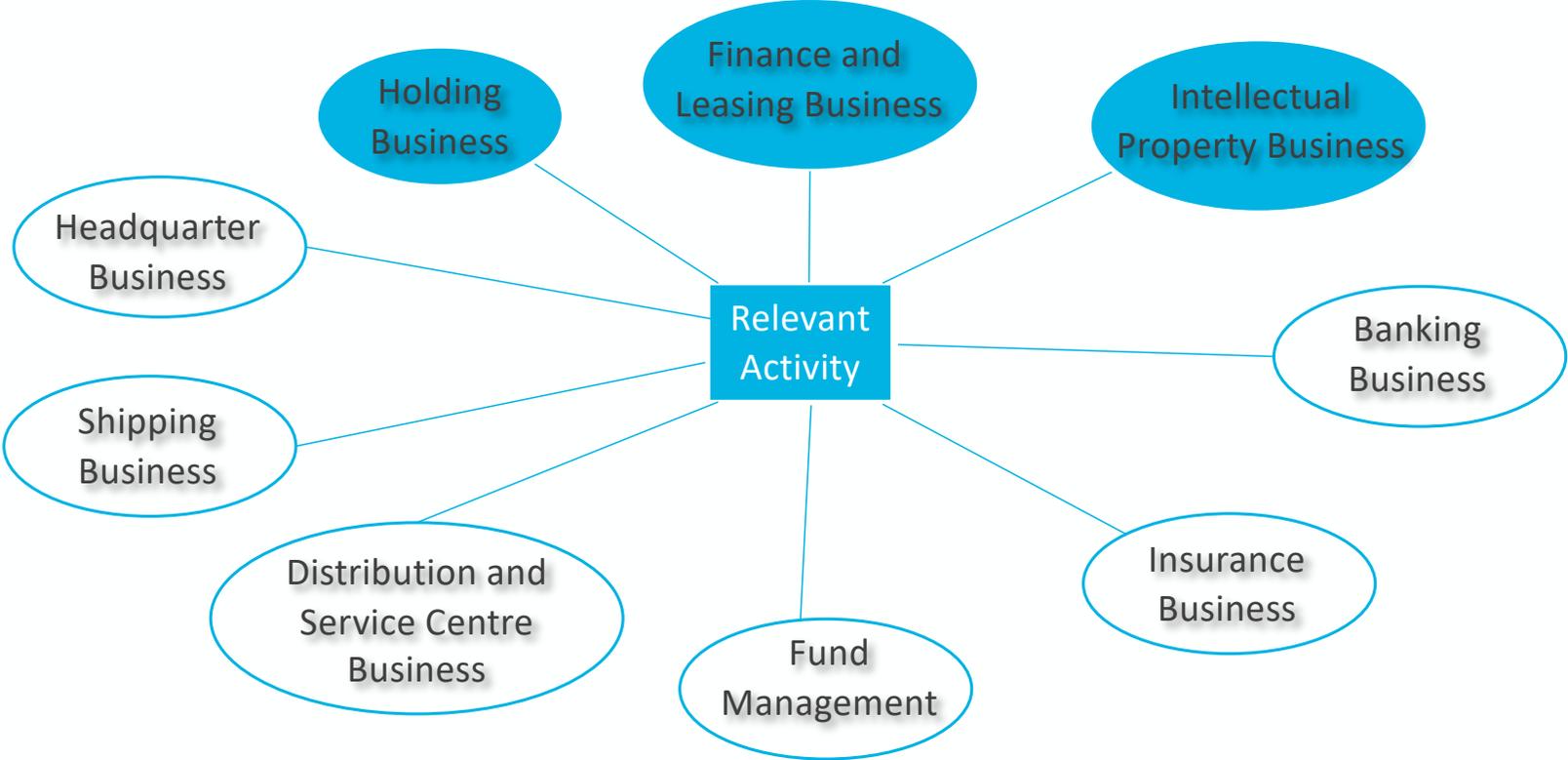
Entities Within Scope



Financial Period

- Economic Substance is assessed by reference to Financial Periods
- Company incorporated before 1 January 2019: financial period commenced on 30 June 2019 to 29 June 2020
- Company incorporated after 1 January 2019: Financial period commenced on date of incorporation to date of incorporation the following year.

Relevant Activities



Tax Residency - Exemption

- Can you be tax resident in the BVI?
- Non-Cooperative Jurisdiction
- Evidence to prove tax residency in another jurisdiction:
 - Certificate or letter from tax authority
 - An assessment to tax on the entity, tax demand or evidence of tax payment

Income

- Does the BVI company have to earn income to be caught by the Economic Substance requirements?
 - Holding business
 - IP business
 - Other business
- If an activity is required to receive income for it to be caught as a “relevant activity”, how is income defined (gross, net, revenue)?
 - Holding business
 - IP business
 - Other business

Holding Business

- The business of being a **pure equity holding entity**.
- “**Pure equity holding entity**” means a legal entity that only holds equity participations in other entities and only earns dividends and capital gains.
- What is an “equity participation”?
- Bank Account / Brokerage Account?
- Commercial/residential property held through the BVI entity?

Finance and Leasing Business

- The definition of “**finance and leasing business**” refers to the business of providing “credit facilities” of any kind **for consideration**.
- If a BVI company has other business activities, would one loan that generates interest be considered a “business” with respect to this activity?
 - What is a “credit facility”?
 - What is “consideration”?
 - What is an “incidental” credit facility?
- Debt instruments

Intellectual Property Business

- Intellectual Property Rights in intangible assets: copyright, patents, trademarks, brand and technical know-how
- NOT an IP Business if the IP Assets are merely adjunct to the Company's business
- Must be separate, identifiable income
- Income for IP purposes:
 - royalties linked to IP Asset
 - capital gains or other income on the sale of an IP Asset
 - franchise agreement linked to the IP Asset
 - licensing the IP Asset

Struck-off Entities

- How do we treat struck-off companies?
- Struck off and dissolved
- Struck off before 1 January 2016 but not yet dissolved
- Struck off on or after 1 January 2016 but not yet dissolved

Economic Substance Requirements

- No Relevant Activity
- Relevant Activity & Tax Exemption
- All Relevant Activities: “**Adequate**” employees and premises
- All Relevant Activities (other than Holding Business)
 - **directed and managed** in the BVI
 - incur adequate expenditure in the BVI
 - carry on its **core income generating activity** in the BVI
- What is “adequate and appropriate”?

Filing

- Filing must be submitted within six months of the end of the Financial Period
- The Declaration must contain
 - Number of employees
 - Details of premises
 - Turnover
 - Expenditure
 - Names of those responsible for directing and managing

Speakers



Jasmine Amaria

Partner, BVI & Cayman Law (London)

D +44 (0)20 7614 5628

E jasmine.amaria@careyolsen.com

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