

UPDATE

Economic substance: a step closer towards Guernsey meeting the EU's 'substance' requirements

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The States of Guernsey has approved legislation which permits the implementation of economic 'substance' requirements into Guernsey's income tax law

The States of Guernsey has approved the Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018 (the **Amendment Ordinance**) which is effective 1 December 2018.

The Amendment Ordinance amends the Income Tax (Guernsey) Law, 1975 and gives the Policy and Resources Committee the ability to make regulations which require Guernsey tax resident companies undertaking specified activities to demonstrate that they each have a substantive presence in Guernsey.

The purpose of the Amendment Ordinance is to address concerns of the EU Code of Conduct Group for Business Taxation that certain Guernsey tax resident companies may be used to artificially attract profits that are not commensurate with economic activities and substantial economic presence in Guernsey.

Draft regulations, namely the Income Tax (Substance Requirements) (Implementation) Regulations, 2018 (the **Regulations**) have been published ahead of formal approval of the Amendment Ordinance in order to provide as much information as possible before 2019, as the Regulations are expected to come into force on 1 January 2019.

The key aspects of the proposed economic substance requirements (the **Key Aspects**) have also been issued by Guernsey, Jersey and the Isle of Man, jointly, together with a useful flowchart, both of which are available on the Guernsey States' website [here](#). The Key Aspects are intended to be read in conjunction with the proposed local legislation and are to be supplemented by comprehensive guidance notes which will clarify how the substance test can be met.

We will publish a detailed legal guide on the requirements of economic substance once the guidance notes have been issued with the requisite clarification.

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