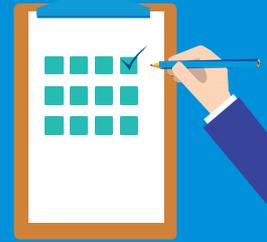


# Substance Requirements

## Isle of Man



### Background

On 11 December 2018 Tynwald approved the Income Tax (Substance Requirements) Order 2018. This legislation introduced substance requirements for certain Isle of Man (“IOM”) companies and came as a response to concerns raised by the EU about the lack of legal substance requirements for companies in the IOM.

The legislation, together with final guidance issued in November 2019, provide details as to which companies are affected, how the substance requirements will be applied and the penalties for failure to comply. All IOM tax resident companies will need to determine whether they are within the scope of the rules and, where a company is in scope, further analysis will be needed to determine whether it has sufficient economic substance in the IOM. The regime can be summarised in terms of a three stage process.

### Stage 1: Identify Isle of Man resident companies with income from “relevant sectors”

An IOM company with income from one or more of the following sectors will be required to consider whether it has “adequate substance” in the IOM. The “relevant sectors” are:



The legislation and guidance provides further detail in relation to each of the above sectors.

### Stage 2: Consider whether company in relevant sector has “adequate substance”

A relevant sector company will need to consider whether it has “adequate substance” in the IOM. A relevant sector company (except for a pure equity holding company) will be considered to have adequate substance in the Isle of Man if the company:

- is directed and managed in the Island;
- has an adequate number of qualified employees, physical presence and expenditure proportionate to the level of activity carried on in the Island; and
- conducts core income-generating activity in the Island.

Further definitions are provided in the legislation in relation to each of these requirements. However, in particular, it is highlighted that certain companies with income from holding intellectual property are considered to be high risk for the purposes of this legislation; as such, the starting point is that there is a rebuttable presumption that the company does not have sufficient core income-generating activity in the IOM to meet the adequate substance requirements.

### Stage 3: Enforcement of the substance requirements

In order to demonstrate meaningful enforcement of the substance requirements, there is a formal hierarchy of sanctions for non-compliant companies, with increasing severity of sanctions imposed for persistent non-compliance. The legislation provides that:

- penalties for non-compliance could be as high as £100,000 for a particular year and, ultimately, the company could be struck off; and
- certain information may be exchanged by the IOM tax authorities with the tax authorities of other jurisdictions.

### Other comments

It is important to note that other jurisdictions including Bermuda, Cayman Islands, BVI and the Channel Islands have introduced similar rules in respect of substance requirements; the rules will need to be considered for each jurisdiction separately.



# How can KPMG Isle of Man assist you?



Members of the tax leadership team across the Crown Dependencies have been working closely with the relevant authorities in the development of the law and guidance. As such, KPMG are in an ideal position to assist with your requirements.



### Impact analysis

Identify the extent to which the law may impact your business.



### Diagnostic reviews

Gap analysis and advice on the requirements for your business to ensure compliance with the law.



### Training sessions

Tailored training sessions for your staff.



### Implementation review

Assistance with the implementation of the law and review/assistance in completing tax returns.

## Our services can be customised



### Scalable services

We take a pragmatic and tailored approach to providing a comprehensive range of services that meet your requirements.



### Meeting your evolving needs

KPMG has developed a set of methodologies to assist with delivering and testing all requirements of the substance legislation.



### Multi-jurisdictional

We use our KPMG network to source the correct team who are experts with the required experience to service your specific needs.

## KPMG Contacts



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