

BELIZE ECONOMIC SUBSTANCE

Based on the global standards on fair taxation and anti-money laundering promoted by the Financial Action Task Force (FATF), Caribbean Financial Action Task Force (CFATF), Organization of Economic Cooperation Development (OECD), and the European Union (EU), Belize has adopted the Economic Substance Act, 2019 (“ESA”) to ensure improved provisions for substantial economic presence to be fulfilled by certain commercial entities (‘entity’) that are registered and conduct business in Belize.

Which entities will be affected?

The Act applies to commercial entities which are incorporated, licensed or continued under: -

- (a) International Business Companies Act (Chapter. 270)
- (b) International Financial Services Commission Act (Chapter. 272)

which conduct relevant activities or are tax resident in Belize.

What activities are considered as relevant?

The Economic Substance Act states the definition of “included entity”.

An “included entity” means-

- (a) An entity that carries out any of the following relevant activities:

- I. banking business;
- II. insurance business;
- III. fund management business;
- IV. financing and leasing business
- V. headquarters business;
- VI. distribution and service centre business;
- VII. shipping business;
- VIII. as a holding company, engaged, or where one or more of its subsidiaries is engaged in one of the relevant activities.
- IX. all Regulated Entities under the IFSC Act.

Test for Relevant Activity:

An entity which carries on more than one relevant activity must comply with the economic substance requirements and must satisfy the economic substance test which is:

- A. Is the entity of a type which falls within the economic substance legislation?
- B. Is it carrying on a relevant activity?
- C. If it is carrying on a relevant activity, is it resident for tax purposes in a jurisdiction outside Belize.

Only if the answers to (A) and (B) are affirmative and the answer to (C) is negative will the economic substance requirements apply to the entity.

Legal entities that fall within the scope of Belize Law must notify their registered agent in Belize of any relevant activities they carry on as well as certain other prescribed information.

Economic Substance Test

Subject to below, in order to meet the Economic Substance Test, a legal entity carrying on a relevant activity must:

- conduct core income generating activities (“CIGA”) in Belize;
- be directed and managed in Belize; and
- taking into account the nature and scale of the relevant activity, have:

- an adequate number of suitably qualified full time employees;
- an adequate amount of expenditure incurred in Belize; and
- appropriate physical offices for CIGA.

It is possible to outsource some or all of Belize CIGA provided the legal entity is able to demonstrate that it is able to monitor and control the outsourced activities and that those activities are undertaken in Belize.

The legal entity may demonstrate Management and Control in Belize if it satisfies the following criteria

- An adequate number of meetings of the board of directors are conducted in Belize given the level of decision making required.
- There is a quorum of the board of directors physically present within Belize during the meeting of the board of directors.
- Strategic decisions of the included entity made at the meetings of the board of directors must be recorded in the minutes of the meetings.
- All included entity records and minutes are to be kept in Belize.
- The board of directors, as a whole, has the necessary knowledge and expertise to discharge its duties.

REDUCED SUBSTANCE REQUIREMENTS FOR PURE EQUITY HOLDING COMPANIES

An included entity which engages in business as a pure equity holding company is subject to reduced substance requirements, as follows -

- (a) It shall comply with all applicable laws and regulations of Belize; and
- (b) It shall have adequate human resources and premises in Belize for holding equity participation in other entities and where it manages those equity participations in other entities, have adequate human resources and premises in Belize for carrying out the management.

Where a holding company engages in any relevant activity, that entity shall be required to satisfy substantial economic presence requirements in accordance with ESA in respect of the relevant activity conducted.

What is a non-included entity?

The substance requirements of the Act do not apply to any entity that does not conduct relevant activities, listed above, in Belize.

The substance requirements of the Act do not apply to a commercial entity that is controlled and managed outside of Belize and is tax resident in a jurisdiction other than Belize; however, such an entity must provide the Authority with sufficient proof that is tax resident in the jurisdiction that it asserts.

How an entity claims to be tax resident in another jurisdiction?

The substance requirements of the Act shall only apply to included entities that are tax resident in Belize. There is the presumption of residency for all entities registered in Belize.

Where an entity states that they are tax resident in a jurisdiction outside Belize, the Authority will have regard to where such entity is centrally managed and controlled. The entity will need to be able to provide the Authority with a letter or certificate -

- (a) From or issued by the tax authority of its jurisdiction of residence, stating that the commercial entity is considered to be resident for tax purposes in that jurisdiction;
- (b) Showing a clear and specific period of validity; and
- (c) Showing an assessment of tax on the entity, a confirmation of self-assessment of tax, a tax demand, evidence of payment of tax, or any other equivalent document issued by the tax authority for the jurisdiction in question.
- (d) There will be a prohibition for tax residency if the jurisdiction is listed in the EU Annex 1 jurisdictions.

Tin Number

As of today, all Belize companies, included or not included entities, should obtain a Tax Identification Number (TIN). The process to obtain this number is very simple and we are ready to assist you accordingly. Our quotation to assist you with this matter amounts to US\$150.00 which includes both fees and expenses.

How can we help?

In order to assist you in complying with this law, the forms attached to this communication must be duly completed and returned to our offices for review and approval.

If and when applicable, we will ask you to provide further information or evidence showing the legal entity is non-resident for tax purposes in Belize.

For complex situations where legal advice is necessary to confirm if a legal entity must establish and demonstrate Economic Substance in Belize, Quijano & Associates can assist you by obtaining a bespoke legal opinion from a law firm in Belize.

[Descargue ESA DECLARATION BELIZE FORM A](#)

[Descargue ESA DECLARATION BELIZE FORM B](#)

[Descargue ESA DECLARATION BELIZE FORM C](#)

[Descargue ESA DECLARATION BELIZE FORM D](#)

What is the time period for compliance with ESA?

We require the attached forms to be returned to us by **April 30th, 2020**.

Compliance and Filing Fees

Our annual fees to guide our clients accordingly with the classification of their companies and ensuring the updated information is duly filed with the authorities of Belize shall amount to US\$150.00 which shall be included in our annual maintenance invoices as of 2021. For 2020 period, our fees shall be charged separately.

Further Information/Whom to Contact

For further information or clarification, please do not hesitate to contact us at quijano@quijano.com

[Si usted desea consultar esta información en español, favor hacer clic en el siguiente enlace: BELICE ESA ESPAÑOL](#)