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Cayman Islands – Cayman local substance (BEPS) requirements, draft legislation published

On Thursday December 6th, 2018 the Cayman Islands Government published draft legislation entitled “The International Tax Co-operation (Economic Substance) Bill, 2018”. The Bill, once enacted, will require certain entities incorporated or registered in the Islands which carry on particular categories of business activity to meet an economic substance test in relation to those activities and to submit an annual report to the Tax Information Authority in Cayman.

The draft legislation is scheduled to be considered by lawmakers in the Islands later this month and is expected to be approved and brought into force effective on January 1st, 2019. It is intended by the authorities in Cayman to further meet the Islands’ 2017 commitment as an Inclusive Framework member under the OECD’s global Base Erosion and Profit Shifting (BEPS) initiative. It also reflects Cayman’s commitment to meet new European Union requirements modelled on BEPS. The legislation is broadly similar to that being introduced by other offshore financial centres.

The range of business activities to which the draft legislation will apply is broadly drafted, however It is worth noting that investment funds are specifically excluded as are those entities through which an investment fund invests or operates, either directly or indirectly.

It is expected that further guidance will be issued by or on behalf of the Tax Information Authority in Cayman providing additional insight into how the draft legislation is intended to operate in practice.

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