

Bahrain publishes economic substance guidance for non-regulated commercial activities

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Executive summary

The Bahrain Ministry of Industry, Commerce and Tourism (MOICT) has published guidance and frequently asked questions (FAQs) on the economic substance requirements for non-regulated commercial activities.

The guidance applies to entities engaged in distribution and service center, headquarters, holding companies, unregulated leasing, shipping and intellectual property (IP) activities in Bahrain. The guidance sets out the reporting requirements for entities engaged in such activities, as well as the various tests that will be used to determine whether an entity has the level of substance required under Bahrain's economic substance rules.

The rules apply to financial periods starting on or after 1 January 2019, and reports must be submitted within three months from the end of the year. For entities reporting based on a calendar year, the first reporting requirement will be 31 March 2020. Entities engaged in affected activities should review the rules and ensure they are able to comply with their reporting requirements.

Detailed discussion

Background

On 27 December 2018, Bahrain enacted Resolution No. 106 for 2018, which established economic substance requirements for certain regulated financial activities effective from 1 January 2019, as well as certain non-regulated activities from 1 July 2019.

The MOICT has now published guidance and FAQs for non-regulated commercial activities. The Central Bank of Bahrain has issued similar guidance for regulated financial activities.

MOICT guidance

Economic substance

To meet the economic substance requirements in Bahrain, the guidance indicates that a two-part test should be satisfied:

- ▶ The entity must conduct its core income generating activities in Bahrain.
- ▶ The entity's direction and management are in Bahrain.

The guidance contains explanations and examples on how the two-part test should be applied.

Reporting requirements

Entities engaged in distribution and service centers, headquarters, holding companies, unregulated leasing, shipping and IP activities in Bahrain are required to file an annual report with the MOICT. The form of the report is prescribed in the guidance. Reporting entities are required to demonstrate that they meet the economic substance requirements.

The rules apply to financial periods starting on or after 1 January 2019, and reports must be submitted within three months from the end of the year. For entities reporting based on a calendar year, the first reporting requirement will be 31 March 2020.

Penalties

An entity that fails to file an annual return or meet the economic substance requirements may be subject to penalties. Potential penalties include warning notices, suspension of Commercial Registration (CR), terminating the entity's CR, financial penalties up to BD100,000, and criminal prosecution. An entity that fails to submit its return will also be unable to renew its CR.

A person who fails to provide information without cause within the specified time or who willfully alters, destroys, or hides any information from the MOICT may be subject to criminal penalties.

Implications

Entities that do not meet the reporting requirements may be subject to penalties for non-compliance. Entities that do not meet the economic substance requirements can be subject to penalties and fines, spontaneous exchange of information, and may be removed from the Companies register.

Entities engaged in distribution and service centers, headquarters, holding companies, unregulated leasing, shipping and IP activities in Bahrain should review the MOICT guidance to determine their reporting requirements, and to evaluate whether they have the level of substance required under Bahrain's economic substance rules.

Endnote

1. For previous coverage, see EY Global Tax Alert, [Bahrain clarifies economic substance requirements](#), dated 30 September 2019.

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