

## UAE updates Economic Substance Regulations

---

### EY Tax News Update: Global Edition

EY's Tax News Update: Global Edition is a free, personalized email subscription service that allows you to receive EY Global Tax Alerts, newsletters, events, and thought leadership published across all areas of tax. Access more information about the tool and registration [here](#).

Also available is our [EY Global Tax Alert Library](#) on ey.com.

---

### Executive summary

In April 2019, the United Arab Emirates (UAE) introduced the Economic Substance (ES) Regulations (ESR) through Cabinet of Ministers Resolution No. 31 of 2019. For background on the ESR and the UAE ES rules, see EY Global Tax Alerts, [UAE issues guidance on economic substance rules](#), dated 18 September 2019 and [UAE identifies Regulatory Authorities for Economic Substance Regulations](#), dated 27 November 2019.

The UAE recently enacted significant changes to the ESR under Cabinet of Ministers Resolution No. 57 of 2020, dated 10 August 2020, together with guidance issued by the Ministry of Finance (MoF) under Ministerial Decision No. 100 of 2020, dated 19 August 2020. The new laws have replaced and repealed the prior ESR and guidance.

This Alert summarizes the key changes to the ESR.

### Detailed discussion

Key changes to the ESR include the following:

- ▶ The definition of a "licensee" has been restricted to apply only to a legal entity (incorporated inside or outside the UAE), or an unincorporated partnership that is registered in the UAE and carries on a relevant activity.

- ▶ There have been updates and clarifications to the definitions of certain “relevant activities,” including high-risk intellectual property (IP) business, distribution business and service center business.
- ▶ There are new exemptions covering:
  - An investment fund
  - An entity that is not a UAE tax resident
  - An entity that is wholly owned by UAE residents and (a) is not part of a multinational enterprise (MNE) group, and (b) is only carrying out business in the UAE
  - A branch of a foreign parent where the relevant income is subject to tax in the jurisdiction of the foreign parent
- ▶ Entities that are at least 51% owned by the UAE Government are no longer specifically exempted.
- ▶ There is an updated penalty regime with a range of administrative penalties (of up to AED400,000), including the suspension or nonrenewal of trade licenses.
- ▶ The Federal Tax Authority has been appointed as the National Assessing Authority and will be responsible for determining whether a licensee has adequately complied with the ESR and the penalties imposed.
- ▶ The MoF will launch a portal to facilitate electronic filing of the notifications, reports and other relevant information. All notifications for Fiscal Year (FY) 19 will need to be resubmitted once the portal is available.

Given these changes, UAE businesses that fall under the definition of licensee should:

- ▶ Re-evaluate the applicability of ESR to their business and determine how the new rules impact their ESR compliance approach
- ▶ Resubmit FY19 notifications (when the portal is available), together with any changes required to the information already filed with the relevant regulatory authorities
- ▶ Assess the key functions performed to see how they align to the economic substance tests
- ▶ Identify gaps where the test requirements are not adequately met and plan a mitigation strategy to ensure compliance

The deadline for the submission of ES reports for FY19 remains 31 December 2020. The relevant businesses are required to undertake a detailed analysis of their functions and transactions to be able to determine whether and to what extent the conditions prescribed in the ESR are appropriately met. They should initiate the necessary analysis as soon as possible to ensure timely and accurate compliance.

---

For additional information with respect to this Alert, please contact the following:

#### **EY Consulting LLC, Dubai, UAE**

- |                  |  |
|------------------|--|
| ▶ Guy Taylor     | <a href="mailto:guy.taylor@ae.ey.com">guy.taylor@ae.ey.com</a>         |
| ▶ Adil Rao       | <a href="mailto:adil.rao@ae.ey.com">adil.rao@ae.ey.com</a>             |
| ▶ Rajan Parmar   | <a href="mailto:rajan.parmar@ae.ey.com">rajan.parmar@ae.ey.com</a>     |
| ▶ Chris Lord     | <a href="mailto:chris.lord@ae.ey.com">chris.lord@ae.ey.com</a>         |
| ▶ Brandon George | <a href="mailto:brandon.george@ae.ey.com">brandon.george@ae.ey.com</a> |

#### **Ernst & Young LLP (United States), Middle East Tax Desk, New York**

- |             |  |
|-------------|--|
| ▶ Asmaa Ali | <a href="mailto:asmaa.ali1@ey.com">asmaa.ali1@ey.com</a> |
|-------------|--|

**About EY**

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit [ey.com](http://ey.com).

© 2020 EYGM Limited.  
All Rights Reserved.

EYG no. 006208-20GbI

1508-1600216 NY  
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

**[ey.com](http://ey.com)**