

BVI ECONOMIC SUBSTANCE FILINGS ON VOLUNTARY LIQUIDATION AND RESTORATION

January 2022



INTRODUCTION

Annually, BVI companies and limited partnerships (together the “**Entities**”) are required to file economic substance declarations with the BVI International Tax Authority (the “**ITA**”) to confirm if they are carrying on a relevant activity for economic substance purposes. For most Entities incorporated before 1 January 2019, their financial period for economic substance purposes ends on 29 June each year (the “**Standard FP**”), with the filing deadline for such Entities being 29 December. Some pre-2019 Entities have opted for bespoke 12 month financial periods.

For Entities incorporated after 1 January 2019, many have financial periods which commence on their date of incorporation for 12 months, or such financial period as the Entity may have elected (including opting for the Standard FP). Consideration should be given to the economic substance filing requirements when an Entity is: (a) liquidated and dissolved before the end of a financial period; and (b) restored to the register of companies/limited partnerships (as applicable). This guide focuses on Entities incorporated under the BVI Business Companies Act, 2004 and the Limited Partnership Act, 2017.

LIQUIDATION OF AN ENTITY

Each year an Entity is required, amongst other things, to (a) confirm if it carries on a relevant activity for economic substance purposes; (b) confirm its tax residency; and (c) make the appropriate filing with the ITA. These requirements continue to apply to an Entity in voluntary liquidation.

KEY POINTS

FILING

Irrespective of whether a BVI entity carries on a relevant activity or not, it must make a filing with the ITA via the BOSS system each year.

FINANCIAL PERIOD

Standard financial period for BVI entities incorporated prior to 1 January 2019 runs from 30 June to 29 June. Financial periods can be changed to align with a more convenient year end.

If an Entity is voluntarily liquidated and dissolved during a financial period, unless otherwise advised by the ITA, the Entity is required to:

- ensure it makes all economic substance filings for the financial periods in which it is active, via its registered agent in the BVI;
- following dissolution of the Entity, the final economic substance filing should be made within six months from the end of the financial period within which the Entity is dissolved, not from the date of dissolution. By way of example, if an Entity has the Standard FP but is dissolved on 29 March, being three months before the end of its Standard FP, it is still required to make its economic substance filing within six months from the end of the Standard FP (i.e. between 30 June and 29 December), not from the date of dissolution.

The voluntary liquidator should ensure the registered agent of the Entity is ready to make a filing post-dissolution of the Entity and on a practical level, ensure all invoices of the registered agent are settled for this post-dissolution filing. Written confirmation should be sought by the voluntary liquidator from the registered agent that they will make and have made the necessary filing.

RESTORED ENTITIES

Once an Entity is dissolved, there is no further obligation to make filings with the ITA for economic substance purposes (other than the final economic substance filing noted above). Where a dissolved Entity is subsequently restored to the register of companies or limited partnerships (as applicable), the Entity is deemed to have never been struck off the register. After being restored, the Entity is required to bring all of its economic substance filings up-to-date for the period it was dissolved. In our experience, generally the Entity should file a nil filing declaration for the period it was dissolved i.e. the registered agent should make a filing that the Entity was not conducting a relevant activity during the period of dissolution.

CONTACT US

Should you need any assistance with completing an economic substance review or demonstrating substance in the BVI, via the appointment of BVI resident directors, company secretary or accountant, please do not hesitate to contact us.



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KEY POINTS

RELEVANT ACTIVITIES

Nine relevant activities. A BVI entity can be carrying on more than one relevant activity.

TAX RESIDENCY

Proof of tax residency in an EU taxation non-blacklisted jurisdiction will need to be provided by the BVI entity if claiming tax residency outside of the BVI.

FILING

Filings on the BOSS System are made by the BVI entity's registered agent and must be made within six months from the end of a financial period to avoid fines being levied.

SUBSTANCE

If a BVI entity is carrying on a relevant activity, then it may need to demonstrate substance in the BVI. LBC is able to provide substance solutions as required.