

ECONOMIC SUBSTANCE: MINISTRY OF FINANCE ANNOUNCES NO PENALTIES FOR LATE REPORTING IF FILED BY JANUARY 31, 2021

The Ministry of Finance of the Government of The Bahamas has announced that it will not penalize entities for not reporting by the December 31, 2020 deadline under the Commercial Entities Substance Requirements Act, 2018 ("CESRA"), **if reports are received by January 31, 2021**. You are reminded that the annual reporting obligation, in one or more of the forms generated by the Online Tax Administration System (OTAS) portal, was originally due within 9 months of the fiscal year end of the entity and applies to all entities ("Entities") which are incorporated, registered or continued under:-

- The Companies Act, 1992 (including those registered as a foreign company but incorporated in another jurisdiction);
- The International Business Companies Act, 2000
- The Exempted Limited Partnerships Act
- The Partnership Limited Liability Act
- The Partnership Act

The reporting obligation applies even if the Entity is not conducting a relevant activity or is resident owned or tax resident in another jurisdiction. If the Entity is conducting a relevant activity and not otherwise excluded from the main obligation, in addition to reporting, it is required to comply with the material economic substance obligations of direction and management and conducting core income generating activities in The Bahamas. Please refer to our December 9 communication and our website for more information.

HOW DO I COMPLY?

Please contact fincorp@gtclaw.com if you need assistance in classifying the Entity or in submitting a report. All Entities must register for an EIN in order to comply with the reporting obligation if they do not already possess a TIN. If you don't require our assistance, please visit: <https://substancereporting.revenue.gov.bs> You will have to create a User ID in order to register for an EIN. If the entity already has a TIN, you may be required to send an email to the Department of Inland Revenue to link the TIN to the OTAS portal. The OTAS portal utilizes a decision tree process to classify the entity and the forms are automatically generated in the portal.

PENALTIES FOR NON-COMPLIANCE

The administrative penalty for non-compliance may be assessed on an entity which "fails to report" per section 10(3). Although not entirely clear, the applicable administrative penalty for failing to report is \$150,000 and a further penalty of \$1000 may be assessed for every day the offence continues. In addition, the entity may be struck off the register.