



KPMG in the Channel Islands



Date 1 August 2016

Alert

Guernsey release Bulletin 2016/6: Definition of Investment Entity for CRS purposes

The States of Guernsey has recently released Bulletin 2016/16 confirming that for CRS purposes, the IGA definition of an Investment Entity cannot be used. Whilst we welcome the clarity the Tax Office has provided, the definition of an Investment Entity under the CRS is more onerous than under the IGAs, and in our view, will give rise to a number of implications, especially to entities administered in Guernsey. We explore some of the implications below and would encourage you to read the Bulletin that can be accessed [here](#).

The issues we have highlighted below include:

- 'Managed by' approach
- Annual Review
- Different classifications for the IGA and CRS regimes
- Pre-existing entity accounts
-

'Managed by' approach

An area this bulletin is expected to have a large impact on is where entities have been classified as an Investment Entity under the IGAs and relied solely upon the 'managed by' approach. Under the IGA definition, it was sufficient for an entity to be classified as an Investment Entity if it was managed by another Financial Institution.

Contact



[Tony Mancini](#)
Tax Partner
+44 (0)1481 741845



[Chris Willemse](#)
Senior Manager, Tax
+44 (0)1481 741834



[Chris Lowe](#)
Senior Manager, Tax
+44 (0)1534 632518

However, under the CRS definition, in addition to satisfying the 'managed by' test, an entity will also need to satisfy the gross income test to ensure more than 50% of the income of the entity is derived from investing, reinvesting, or trading in Financial Assets in a given period. An example of where the different definitions could result in a different classification is for an entity that holds real estate or solely cash deposits. A major implication is that it will now be a requirement to review each entity that relied solely on the 'managed by' approach under the IGAs to ensure that the gross income test is also met. This will most likely affect trust and company service providers that use a blanket approach to classify entities under management as an Investment Entity for IGA purposes.

Annual Review

If an entity is classed as an Investment Entity for CRS purposes using the 'managed by' approach as noted above, it will be necessary to ensure that the gross income test is satisfied on an annual basis. In order to comply with this, entities that rely on the 'managed by' approach will need to review their procedures to ensure they devise a process of adhering to these additional requirements on an annual basis.

Different classifications for the IGA and CRS regimes

A result of the bulletin is that the same entity may have a different classification under the IGA and CRS regulations e.g. an Investment Entity for IGA purposes and Passive NFE for CRS purposes. It may therefore require consideration as to whether the entity would want to adopt the CRS definition for IGA purposes for ease of management. Furthermore, it is understood that Jersey currently has no intention of changing its regulations that give effect to the CRS which, inter alia, permit entities to adopt the IGA definition of Investment Entity as long as doing so, does not frustrate the purpose of the CRS.

Pre-existing entity accounts

Under the CRS regulations, there is a requirement to classify pre-existing entity accounts by 31 December 2017. The above change may have implications on the reporting requirements for certain entities so it will be necessary to consider the impact this will have on your organisation.

If you believe you will be affected by this announcement and would like to discuss the impact of this with us, please contact us.

Tony Mancini

Tax Partner

KPMG in the Channel Islands

amancini@kpmg.com

[Back to top](#)

[Unsubscribe](#) | [Privacy](#) | [Legal](#)

© 2016 KPMG Channel Islands Limited, a Jersey company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

kpmg.com/channelislands



kpmg.com/app

