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SUBSTANCE IN ABUNDANCE

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Guernsey has much to offer when it comes to a clear and transparent tax system and high standard of regulation, according to Sara Bourne - Chairwoman of ICOSA: The Governance Institute's Guernsey branch and Deputy Managing Director at [Carey Group](#) - in the [Guernsey Press' Q2 2018 Business Review](#).

Globalisation has brought with it many benefits, but it has also brought opportunities for obfuscation, with some multinational companies using base erosion and profit shifting (BEPS) tax planning strategies to shift profits to locations where taxes are low or non-existent but the company does little or no real business. This is all set to change with the introduction of the Organisation for Economic Cooperation and Development's BEPS Action Plan, which sets forth 15 actions to ensure that the global tax architecture is equitable and fair based on three core principles: coherence, substance and transparency.

Five actions focus on aligning taxation with substance, the objective being to change the existing tax treaty rules relating to treaty access, transfer pricing and the permanent establishment threshold.

With the Action Plan aiming to end the use of shell companies used to book profits offshore or unduly claim tax treaty protection and neutralise all schemes that artificially shift profits to low tax jurisdictions, there is some concern about what this might mean for Guernsey.

On the surface, substance appears to be a simple concept - are you carrying out business activities, what are they and where are they being done? There has been a lack of clarity from the EU Code Group on the subject, however, and it is unclear how digital creation and intellectual property will impact on substance.

Questions also remain about economic substance, such as office space, tangible assets and employees.

Substance is an important issue for an international finance centre like Guernsey as it may determine where a fund, its investments and its investors are taxed. Tax reduces profits and profits are what drives investors.

Tax authorities will be challenging whether the relevant activities and board competencies of regional holding companies or entities justify the level of return being received in those entities. The straightforward solution to such increased scrutiny is for companies to establish a real presence in Guernsey by employing full-time staff on the island who deal with high-value transactions and are involved in strategic decisions.

[The International Stock Exchange](#) is promoting a number of advantages of listing on the exchange, including the ability to demonstrate substance. Guernsey has much to offer in terms of a clear and transparent tax system and a policy of cooperating fully with international standards as they develop. A trusted place to do business, with high standards of regulation, highly skilled governance, risk and compliance professionals and sizeable operations already in place for a large number of international businesses mean that Guernsey truly can offer substance in abundance.

This article first appeared in the [Guernsey Press' Q2 2018 Business Review](#), 17 July 2018.

Click [here](#) to read [Artificial Domicile Intelligence's](#) white paper on substance in British Crown Dependencies and Overseas Territories, sponsored by Guernsey Finance.

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