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n el artículo *IRS Watch: Keeping an Eye on Developments at the IRS, Including Updated Guidance on Economic Substance Doctrine and Penalty, Taxpayer Advocate Service Changes to Case Acceptance Criteria, and Appeals Updates (Non-Docketed Case Processing Times, Guidelines for Docketed Cases, and Policy on Third-Party Contacts),* escrito por Keenan, John; Cooper, Matt & Abney, Teresa, publicado en  *Journal of Tax Practice & Procedure*; Riverwoods Tomo 24, N.º 2, (Summer 2022): 15-16,40, se lee: “*In an unexpected policy shift, Internal Revenue Service (IRS) revenue agents no longer have to obtain executive approval to raise the economic substance doctrine and to assert the economic substance penalty during examinations. ―Under the economic substance doctrine, taxpayers cannot claim tax benefits for a transaction that lacks economic substance. Although the doctrine originated as a judicial doctrine, Congress codified it in 2010. Under Code Sec. 7701(o), a transaction has economic substance only if: (1) the transaction changes in a meaningful way (apart from Federal income tax) the taxpayer's economic position and (2) the taxpayer has a substantial purpose (aside from Federal income tax effects) for entering such a transaction. There is also a 20 or 40 percent strict liability accuracy-related penalty for transactions lacking economic substance.1 ―Shortly after the codification the economic substance doctrine, the IRS Large Business & International (LB&I) Division mandated that its examiners obtain executive approval before raising the economic substance doctrine and asserting the economic substance penalty.2 LB&I also provided a detailed, four-step process that examiners had to follow to obtain the necessary approval.3 The IRS Small Business/Self-Employed (SB/SE) Division also incorporated the mandatory executive approval in order to assert the economic substance penalty, and the procedures for both LB&I and SB/SE were incorporated into various parts of the Internal Revenue Manual. Taxpayers and practitioners welcomed these internal procedures because it would limit the misapplication of a complicated doctrine and the related strict liability penalty that does not have a reasonable cause exception. ―On April 22, 2022, the IRS issued a memorandum to LB&I and SB/SE examination employees stating that they no longer needed executive approval to raise the economic substance doctrine or to assert the economic substance penalty.4*” Tal como lo reseñamos con anterioridad, también en materia de impuestos algunos países han incorporado el principio de esencia, sustancia o realidad económica. Para evitar conflictos entre diversas interpretaciones, la autoridad expidió unas guías, ayudando a las autoridades y a los contribuyentes a obrar sin lugar a cuestionamientos. Al eliminar una autorización prevista en el ordenamiento se ha facilitado el trámite de ciertos tratamientos tributarios, aunque podrían surgir algunas discusiones. Ciertamente los impuestos deben recaer sobre hechos económicos. Hay personas que no tienen ingresos suficientes para pagar los tributos, aunque si tengan cierto patrimonio. Este caso debería reestudiarse.

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