

How to Explain Your Offshore Structure to a Tax Advisor or Auditor

Ensuring Transparency Without Compromising Strategic Integrity

In the evolving landscape of cross-border compliance, taxation, and regulatory oversight, the correct and accurate presentation of an offshore corporate or fiduciary structure to a tax advisor or statutory auditor is not merely a formality—it is a legal necessity. Any misrepresentation, omission, or ambiguity can expose a beneficial owner or corporate controller to severe regulatory consequences, including adverse tax assessments, administrative penalties, and reputational harm.

The following guidance is designed to support clients of FPS Financial Group in responsibly disclosing offshore structures to their licensed tax professionals or financial auditors, in accordance with prevailing international legal standards, including but not limited to CRS, FATCA, DAC6, and BEPS frameworks.

1. Clarify the Legal Purpose and Commercial Substance

Every offshore entity must be underpinned by a legitimate legal and economic purpose. The foundational basis of the entity must be capable of withstanding scrutiny under a “business purpose” or “economic substance” test, where applicable.

When briefing your advisor or auditor, clearly disclose:

- The legal rationale for incorporation (e.g., intercompany asset holding, succession planning, royalty collection, strategic tax deferral, or global investment vehicle).
- The jurisdiction where central management and control is exercised, in alignment with the OECD’s substance requirements.
- The actual commercial operations (if any), including contracts executed, staff employed, and services provided by the entity.

This disclosure is essential to avoid challenges under general anti-avoidance rules (GAAR) and controlled foreign company (CFC) legislation in onshore jurisdictions.

2. Provide a Complete Corporate Structure Diagram

A visual and written depiction of the entity’s position within the wider corporate or trust structure is vital. This should include:

- Names and jurisdictions of all parent entities, subsidiaries, and intermediate holding structures.
- The identity of all Ultimate Beneficial Owners (UBOs), and the nature and extent of their interests.
- Details of nominee arrangements, if applicable, including identity of nominee directors or shareholders and their contractual obligations under fiduciary mandates.

Auditors are required under ISA 250 and tax advisors under professional ethics codes to perform reasonable inquiries into such structures.

3. Ensure Readiness of Foundational Documentation

The following corporate documentation should be readily available for review and authentication:

- Certificate of Incorporation and Memorandum & Articles of Association (or equivalent formation charter).
- Register of Directors, Register of Shareholders, and if applicable, Register of Beneficial Owners.
- Resolutions of the Board approving key transactions.
- License documents (if the entity engages in regulated activity).
- Contracts, loan agreements, or intercompany service agreements that validate business operations.

If nominee or fiduciary services are provided via FPS or its affiliates, these instruments should be clearly referenced and supported by relevant declarations of trust, management agreements, or fiduciary undertakings.

4. Disclose Tax Residency and Filing Position

Your advisor must be fully informed of the tax residency status of the offshore entity. Where the entity claims non-resident tax status, the advisor must assess:

- Whether the jurisdiction of incorporation imposes a corporate income tax.
- Whether the entity is required to file tax returns, economic substance declarations, or local financial accounts.
- If the entity is classified as fiscally transparent (as with LPs or LLCs in certain jurisdictions), whether pass-through treatment applies and in which jurisdictions the partners/members are liable for taxation.

Omission of such information may lead to assessments under transfer pricing rules, PE (permanent establishment) doctrines, or treaty override provisions.

5. Clarify Banking and Payment Infrastructure

If the entity maintains bank or EMI accounts, the following disclosures are required:

- Jurisdiction and name of the financial institution.
- Name(s) of signatories and authorized representatives.
- Correspondence between beneficial ownership and account control (e.g., whether nominees are signatories).
- The nature of funds received and disbursed: i.e., operational revenue vs. shareholder capital or dividends.

FPS's partner banking and EMI providers (e.g., SEPA and SWIFT-capable institutions) undergo rigorous KYC and compliance vetting. Auditors and advisors should be made aware that all account openings were conducted in accordance with AML Directives and FATF Recommendations.

6. Address Regulatory and Compliance Measures

To mitigate regulatory risk, be prepared to explain:

- The due diligence and onboarding procedures conducted upon formation.
- The jurisdictional compliance framework adhered to (e.g., Economic Substance requirements in BVI, Cayman, Bahamas).
- The ongoing responsibilities undertaken by FPS and/or its affiliated corporate service providers.

If the entity operates in or through an EU jurisdiction, clarify whether the structure triggers any reportable cross-border arrangements under EU Directive 2018/822 (DAC6).

7. Use Legal Language that Aligns with Regulatory Norms

When discussing your offshore arrangement, it is imperative to avoid terminology that might imply tax evasion, secrecy, or illegitimacy. Instead, use established legal and fiduciary nomenclature:

"International Holding Company"
"Cross-border Investment Vehicle"
"Private Trust Structure for Estate Planning"
"Non-Resident Trading Entity"
"Strategic IP Management Platform"

This aligns your structure with established commercial practices and removes suspicion of abusive tax conduct.

Conclusion: Regulatory Foresight is Legal Prudence

The responsible explanation of your offshore structure to your tax or audit professional is a compliance-driven fiduciary duty. It is also a strategic defense against regulatory scrutiny, reputational damage, and retroactive tax exposure.

At FPS Financial Group, we ensure that all offshore entities and structures we assist in establishing are legally compliant, documented to international standards, and supported by ongoing corporate governance frameworks.

FPS Services Include:

- Corporate structure diagrams and beneficial ownership declarations
- White-labeled auditor briefing packs
- Economic substance reporting
- Statutory register maintenance and compliance summaries

Operate transparently. Protect confidently. Remain fully compliant.

FPS Financial Group: Your global legal structuring ally.

