

Private Interest Foundations and CRS: in the same sentence?

For years, private interest foundations have been seen as a practical, flexible, and secure tool for estate planning. In Panama, they have been used for various purposes, ranging from asset protection to succession planning and even charitable goals. But the world has changed: the way transparency, information exchange, and the role of estate structures are perceived is no longer the same. And that's where Common Reporting Standard (CRS) comes in.

CRS is not a new topic. However, many still view it as something distant, as if it were only for banks or those engaged in aggressive tax planning. However, no. CRS also applies to foundations, and failing to understand its impact on them is, frankly, a mistake.

First, you need to understand how CRS works: it's an international standard for the automatic exchange of financial information. The OECD developed it and has already garnered commitments from more than 100 jurisdictions to implement it. In simple terms, if a person holds financial assets outside their country of tax residence, that information is reported to the authorities of their country. Automatically.

In many cases, private interest foundations can be considered financial institutions under CRS. Especially if they manage or invest financial assets or if they delegate that function to a third party (like a bank or an investment firm). Suppose the foundation qualifies as a financial institution. In that case, it must perform due diligence, classify the related persons, and, if applicable, report them.

People considered "reportable" in this context are typically the founder, council members, beneficiaries, and anyone who has control over or can benefit from the assets. If any of them is a tax resident in a CRS-participating jurisdiction, they are reported. And that can have tax consequences in their country of origin, sometimes significant, sometimes very serious.

Another detail that is not discussed enough is that Panamanian law allows some degree of anonymity or confidentiality within foundations. But that doesn't mean they are off the radar. The fact that bylaws or letters of wishes are not public does not exclude them from CRS. And suppose there is an audit or a review by a financial institution. In that case, that information can be requested and must be provided.

Moreover, over time, banks and custodians have begun to apply much stricter criteria when accepting or maintaining relationships with foundations. If the CRS classification of the foundation is unclear, or if proper due diligence has not been done, there may be account blocks, closure requests, or even erroneous reports.

And this is where we, as lawyers, must step in. Ultimately, the responsibility to structure things properly is not solely the clients. It's also ours. It's not enough to draft a well-written



charter or regulation. You must understand how those decisions translate into international compliance and tax exposure.

I'm not saying foundations are no longer useful. Not at all. They remain a very powerful tool. However, they must now be used more consciously with more knowledge. And above all, anticipating how they can be viewed from the outside. The fact that Panama does not report to all jurisdictions does not mean those jurisdictions are not watching what happens with Panamanian structures.

There are several ways to adjust or strengthen a foundation to align it with CRS, including reviewing its bylaws, clearly defining decision-making authority, limiting certain powers, or reevaluating the role of the protector. But all that requires time, analysis, and an honest conversation with the client.

What was once a simple, private structure can now have international implications. And not knowing it does not protect us. CRS is already part of the global landscape. Understanding how it intersects with our local structures, such as private interest foundations, is not optional. It is a necessity if we want to continue providing responsible, serious, and up-to-date advice.



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