

Active non-financial entity

Entity that is not a passive non-financial entity, and a substantial portion of its income is 'active income' (manufacture, services, etc.).

Any non-financial entity that meets any of the following criteria is an active non-financial entity:

- less than 50% of the non-financial entity's gross income for the preceding calendar year is passive income;
- less than 50% of the assets held by the non-financial entity during the preceding calendar year are assets that produce or are held for the production of passive income;
 - passive income would generally be considered to include:
 - dividends, interest, income equivalent to interest,
 - rents and royalties, other than rents and royalties derived in the active conduct of a business,
 - annuities,
 - the excess of gains over losses from the sale or exchange of Financial Assets that gives rise to passive income described above,
 - the excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any Financial Assets,
 - the excess of foreign currency gains over foreign currency losses,
 - net income from swaps; or
 - amounts received under Cash Value Insurance Contracts;
- the stock of the non-financial entity is regularly traded on an established securities market or the non-financial entity is a related entity of an entity the stock of which is regularly traded on an established securities market;
- the non-financial is a governmental entity, an international organisation, a central bank, or an entity wholly owned by one or more of the foregoing;
- substantially all of the activities of the non-financial entity consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a financial institution, except that an entity does not qualify for this status if the entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
- the non-financial entity is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a financial institution, provided that it does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the non-financial entity;
- the non-financial institution was not a financial institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a financial institution;
- the non-financial entity primarily engages in financing and hedging transactions with, or for, related entities that are not financial institutions, and does not provide financing or hedging services to any entity that is not a related entity, provided that the group of any

such related entities is primarily engaged in a business other than that of a financial institution.

Any non-financial entity that meets all of the following requirements is an active non-financial entity:

- it is established and operated in its country or jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its country or jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
- it is exempt from income tax in its country or jurisdiction of residence;
- it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
- the applicable laws of the non-financial entity's country or jurisdiction of residence or the non-financial entity's formation documents do not permit any income or assets of the non-financial entity to be distributed to, or applied for the benefit of, a private person or non-charitable entity other than pursuant to the conduct of the non-financial entity's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the non-financial entity has purchased;
- the applicable laws of the non-financial entity's country or jurisdiction of residence or the non-financial entity's formation documents require that, upon the non-financial entity's liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organisation, or escheat to the government of the non-financial entity's country or jurisdiction of residence or any political subdivision thereof.