

WTS Mauritius Tax Edge

Finance (Miscellaneous Provisions) Bill 2020

Dear Business Partner

Editorial

The 2020-2021 Budget Speech was presented by the Hon. Minister of Finance, Economic Planning and Development last month amidst unique circumstances surrounding the spread of the COVID-19 across the world, with socio-economic challenges unparalleled since almost a century. While economic observers were forecasting a whole array of bold measures aimed at supporting local enterprises and entrepreneurship, protecting employment, defending our currency, re-igniting the economy, and alleviating the plight of the downtrodden, the Budget adopted a less predictable pathway.

Despite significant, unprecedented and selfless contribution from the Bank of Mauritius, the Budget sought to introduce revenue-raising / employment-cost inflating measures such as the Solidarity Levy, Gross Income Levy, and the Contribution Sociale Generalisée. It is without any surprise that these measures have stirred passionate debates among stakeholders. The Global Business Industry also felt being parked on the sidewalk at a time when all odds seem to be against its survival, from the greylist of the FATF to the potential blacklist of the EU looming on Mauritius, not to mention the thrust of certain nations and organisations against our tax treaty network. While significant measures to bolster the industry were awaited, the main relevant budgetary measure sought to curtail the application of the partial exemption on interest income. We nevertheless also noted the noble intention of introducing venture capital companies, insurance wrappers and a digital currency.

Against this background, the Finance (Miscellaneous Provisions) Bill 2020 will be introduced into the National Assembly for parliamentary debates on Tuesday 7 July 2020. In this edition of our newsletter, we have pleasure in bringing to you our synopsis of the main changes proposed to the tax and corporate legislations. It is indeed interesting to note that, among the above-mentioned controversial budgetary measures, the Gross Income Levy and the restriction on the applicability of the partial exemption on interest income did not make it to the Finance Bill. While the framework for the application of the Contribution Sociale Generalisée does feature in the Finance Bill, the applicable rates and benefits are yet to be prescribed. As for the Solidarity Levy, it is presented in a re-packaged style which is now non-discriminatory, but still a sore to the pockets of many of those impacted.

We hope that you will find this release useful. If you have any concern relating to your specific circumstances, please do not hesitate to contact us. We shall be pleased to assess implications and provide tailor-made advice on the way forward. Let's speak!



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1. INCOME TAX ACT

A. Personal Income Tax

1.1 SOLIDARITY LEVY APPLICABLE TO INDIVIDUALS

The provisions relating to the application of Solidarity Levy with respect to income derived by a resident individual has been amended as follows:

- (i) The threshold for the applicability of the Solidarity Levy has been reduced from MUR 3.5 million to MUR 3 million; and
- (ii) The rate applicable to the Solidarity Levy has been increased from 5% to 25%.

However, the maximum Solidarity Levy payable by a resident individual is limited to 10% of the sum of that individual's:

- (a) net income (excluding any lump-sum pension, death gratuity or compensation for death or injury payable under the law, a superannuation fund or under an approved pension scheme);
- (b) dividend received from a Mauritius-resident company and a co-operative society; and
- (c) share of dividend from a resident société or succession.

Every employer is henceforth required to withhold, under the PAYE system, tax on the Solidarity Levy payable by an employee at the time emoluments is made available to such employee. Where such employee's emoluments exceeds MUR 230,769 in a month, the employer will be required to withhold, in addition to the 15% income tax, an additional tax on the amount exceeding MUR 230,769 at the rate of 25%, provided that the additional tax withheld does not exceed 10% of total emoluments.

WTS Comments:

The total income tax burden of an individual, in respect of his chargeable income (e.g. salaries) in excess of MUR 3 million will, as a rule, not exceed 25%. However, the marginal tax rate of income earned in the bracket MUR 3 million to approx. MUR 5.5 million may reach up to 40%, as opposed to a flat maximum of 20% under the previous legislation. If you are impacted by this change in legislation, we would be pleased to discuss and advise on your specific circumstances.

1.2 INCOME EXEMPTION THRESHOLD FOR RESIDENT INDIVIDUALS

The income exemption threshold of individuals resident in Mauritius shall be increased as follows:

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|-------|---------------------------------------|---------------------------------|
| (i) | Category A (no dependent): | From MUR 310,000 to MUR 325,000 |
| (ii) | Category B (one dependent): | From MUR 420,000 to MUR 435,000 |
| (iii) | Category C (two dependents): | From MUR 500,000 to MUR 515,000 |
| (iv) | Category D (three dependents): | From MUR 550,000 to MUR 600,000 |
| (v) | Category E (four or more dependents): | From MUR 600,000 to MUR 680,000 |

B. Corporate Income Tax

1.3 INCOME TAX EXEMPTIONS

The following 8-year tax exemptions have been introduced:

- (i) Income derived from inland aquaculture in Mauritius by a company which has started its operations on or after 4 June 2020;
- (ii) Income derived by a company which has started its operations on or after 4 June 2020 and approved by the Higher Education Commission as a branch campus of an institution which ranks in the first 500 tertiary institutions worldwide; and
- (iii) Income derived from the manufacturing of nutraceutical products by a company which has started its operations on or after 4 June 2020.

1.4 TAXATION OF INCOME FROM LIFE INSURANCE BUSINESS

A company deriving income from life insurance business shall henceforth be subject to tax on the higher of:

- (i) the normal tax payable under Regulation 17 of the Income Tax Regulations 1996; or
- (ii) 10% of profits attributable to shareholders, as adjusted for capital gains or losses appearing in the company's income statement, as the case may be.

1.5 SOLIDARITY LEVY APPLICABLE TO TELEPHONY SERVICE PROVIDERS

The Solidarity Levy applicable to Telephony Service Providers at the rate of 5% of accounting profit and 1.5% of turnover, has been made permanent and leviable on an annual basis effective from the year of assessment commencing on 1 July 2020.

1.6 PAYMENT OF INCOME TAX FOR COMPANIES IN THE TOURISM INDUSTRY

Any company engaged in the tourism activities industry and having its balance sheet date during the period September 2019 to June 2020, or having APS tax payments due during the calendar 2020, will be granted the following extension for payment of annual income tax or tax payable under the APS system:

- (i) Half of the tax may be paid on or before 29 December 2020; and
- (ii) The remainder may be paid on or before 28 June 2021.

1.7 CAPITAL EXPENDITURE ON ELECTRONIC, HIGH PRECISION OR AUTOMATED MACHINERY OR EQUIPMENT

Where capital expenditure has been incurred by a person on electronic, high precision or automated machinery or equipment on or after 1 July 2020, a 100% annual allowance shall be granted to such person in the income year in which the expenditure is made, provided the person does not also claim annual allowance under the normal annual allowance rules.

1.8 CAPITAL EXPENDITURE ON PLANT AND MACHINERY

During the period from 1 July 2020 to 30 June 2023, where a manufacturing company incurs capital expenditure on new plant and machinery (excluding motor cars), it will be eligible, in the year of acquisition and the next two income years, to a tax credit equivalent to 15% of the cost of such new plant and machinery.

Further, where a company which has been adversely affected by COVID-19 incurred, during the period 1 March 2020 to 30 June 2020, capital expenditure on the acquisition of new plant and machinery (excluding motor cars), it shall, in addition to annual allowance under normal rules, be entitled to a 100% deduction of such capital expenditure by way of investment allowance in the relevant income year.

1.9 EXPENDITURE ON MEDICAL RESEARCH AND DEVELOPMENT

Where a person engaged in medical research and development incurs expenditure on medical research and development carried out in Mauritius, he shall be allowed a double deduction in respect of such expenditure from his gross income.

1.10 EXPENDITURE INCURRED ON PATENTS AND FRANCHISES

Where a company incurs expenditure for the acquisition of patents and franchises and incurs costs to comply with international quality standards and norms, it will be eligible for a 200% deduction against its gross income in respect of such expenditure. Where such double deduction is claimed, the company will, however, not be entitled to claim annual allowance under the normal rules.

C. Tax Administration

1.11 FILING OF RETURNS UNDER THE ADVANCE PAYMENT SYSTEM (“APS”) AND THE CURRENT PAYMENT SYSTEM (“CPS”)

It is now compulsory to file APS and CPS Statements in electronic format through either the MNS Portal or the Mauritius Revenue Authority's (“MRA”) website.

1.12 FILING OF TAX RETURNS BY INDIVIDUALS, TRUSTS, RESIDENT SOCIETES AND SUCCESSIONS

The conditions triggering the requirement for an individual to file a tax return (including an amended tax return) with the MRA has been enlarged to include cases where an individual has leviable income for the purposes of the application of the Solidarity Levy.

Individuals are also henceforth compulsorily required to file tax returns electronically. Accordingly, the deadline for submission of individual tax returns has been uniformly extended to 15 October, in line with the deadline which is applicable to electronic filings under the current legislation.

Similarly, Trusts, Sociétés and Successions are also now required to file tax returns electronically.

1.13 REFUND OF EXCESS INCOME TAX PAID

The time limit for effecting refund of excess taxes paid to the MRA has been reduced to 60 days. However, wherever the MRA requests a person to submit any document or information in respect of such refund, the time limit for effecting the refund shall be triggered from the date of receipt of the documents / information requested.

2. VALUE ADDED TAX ACT

2.1 VAT ON DIGITAL OR ELECTRONIC SERVICES

Where a foreign supplier (*i.e. a person who has no permanent establishment in Mauritius and has his place of abode outside Mauritius*) supplies, in the course of his business, digital or electronic services (*i.e. over the internet or an electronic network which is reliant on the internet or services dependent on information technology*) to a person in Mauritius, VAT shall be applicable on such supplies in accordance with existing VAT rules.

2.2 TIME OF SUPPLY

In accordance with Section 5 of the VAT Act, supply is deemed to take place at the time an invoice in respect of that supply is issued by the supplier or alternatively, at the time payment for that supply is received by the supplier, whichever is the earlier.

However, for the period from 1 October 2020 to 30 September 2022, where services are provided to a Ministry, Government department, local authority or the Rodrigues Regional Assembly under a construction works contract (*i.e. civil construction, including construction or repair of buildings, roads or other structure, and mechanical or electrical works*), supply will be deemed to take place at the time payment for that supply is received by the supplier.

2.3 ARM'S LENGTH TRANSACTION

Where a supply is not made in the course of an arm's length transaction, the value of the supply shall be taken to be the open market value of the supply or such other amount as the MRA may determine.

2.4 REVERSE CHARGE

It has been clarified that the provisions relating to reverse charge in connection with the supply of services received from abroad will apply only if the taxable supply is made by a person who does not belong in Mauritius and is not VAT registered. Accordingly, where a foreign supplier registers for VAT in Mauritius for the supply of services performed or utilised in Mauritius, the provisions relating to reverse charge will no more be applicable to the recipient of the services.

It is now also clarified that the provisions relating to reverse charge only applies if the recipient of the supply is a VAT registered person.

2.5 ELECTRONIC VAT REGISTRATION AND PAYMENT OF VAT

A person may now apply for VAT registration online through the CBRIS system.

In addition, where a registered person's output tax exceeds its input tax, the difference of tax payable should henceforth be remitted to the MRA electronically.

2.6 APPORTIONMENT OF SUPPLIES FOR INPUT TAX CLAIMS

Where a VAT registered person is engaged in a project spanning over several years and the MRA is of the opinion that the apportionment of input tax between taxable supplies and exempt supplies on a pro-

rated basis is not appropriate, it may require the registered person to apply an alternative basis of apportionment for input tax.

3. MAURITIUS REVENUE AUTHORITY ACT

3.1 ABSENCE AT SITTING OF THE ASSESSMENT REVIEW COMMITTEE

Where an aggrieved person or his representative is absent at two consecutive sittings of the Assessment Review Committee to which he has been convened, the case shall be struck out unless the Chairperson of the Assessment Review Committee is satisfied that the absences were due to illness or any other reasonable cause.

3.2 MODE OF SERVICE OF DOCUMENTS

The MRA may send any correspondence, notice of assessment, notice of determination or any other document required to be served on any person either electronically, by post, through personal delivery or by leaving it at his usual or last known place of business or residence.

3.3 E-TAX ACCOUNT OR TAX REPRESENTATIVE E-TAX ACCOUNT

Every person who is required to submit a return to the MRA will be allocated an e-tax account. A tax representative shall, in addition to his e-tax account, also be allocated a tax representative e-tax account.

The e-tax account or the tax representative e-tax account shall be used to file a return, statement of income or other document to the MRA and make payment of any tax to the MRA.

Where the MRA sends a communication to a person on his e-tax account, the person will be notified by phone message, either an SMS or through an APP, or by e-mail.

4. FINANCIAL SERVICES ACT

4.1 MONEYLENDER'S LICENCE

The Finance Bill introduces a new license under the Financial Services Act ("FSA"), namely the moneylender's licence. Under these provisions, a company, other than a bank or a non-bank deposit taking institution, whose business is that of moneylending, whether or not it owns property or funds derived from other sources, and whether or not it acts as a principal or an agent, will be required to obtain a moneylender's licence from the Financial Services Commission ("FSC"). The carrying out of a moneylender's business without a licence will carry a fine not exceeding MUR 1 million and to imprisonment for a term not exceeding 5 years.

The FSC is expected to issue appropriate guidelines and instructions, as well as prudential requirements, for the supervision of moneylenders.

The requirement for the moneylenders licence shall however not apply, amongst others, to:

- (i) persons carrying out banking or insurance business or any other business not having the primary objective of lending money;
- (ii) Any body corporate or person expressly empowered by any other enactment to lend money;

- (iii) Any licenced broker or pawnbroker;
- (iv) Any specialised financial institution licenced by the Bank of Mauritius to engage in lending activities;
- (v) Any trustee in the exercise of its functions under the Trust Act; and
- (vi) Any person lending money through a peer-to-peer lending platform and licensed by the FSC.

4.2 EXTENSION AND EXEMPTION FROM FILING AUDITED FINANCIAL STATEMENTS

The FSC may now extend the deadline for the filing of audited financial statements during an emergency period such as a public emergency, a curfew order or a period where Mauritius is affected by a natural disaster.

Similarly, the FSC may, by rules, exempt any licensee from the requirement to file audited financial statements where it is of the opinion that it would not be practicable for that licensee to do so.

4.3 DUTIES OF AUDITORS

The auditor of a licensee is now required to report in writing to the FSC if, during the course of his audit, he becomes aware of any matter which gives him reasonable grounds to believe that:

- (i) there has been a material adverse change in the risks inherent to the business of the licensee which may jeopardise its ability to continue as a going concern;
- (ii) the licensee may be in contravention of the FSA, any regulations made under the FSA, any FSC Rules or directions;
- (iii) a financial crime has been, is being or is likely to be committed;
- (iv) serious irregularities have occurred; or
- (v) there has been non-compliance with the laws of Mauritius.

5. COMPANIES ACT

5.1 REQUIREMENT FOR INDEPENDENT DIRECTORS

The Board of directors of a public company is now required to include at least two independent directors. An independent director is defined as a non-executive director who:

- (i) Is not an employee;
- (ii) Does not have material business relationship with the company either directly or as a partner, shareholder, director or senior employee of an organisation that has such relationship with the company;
- (iii) Does not receive remuneration from the company except remuneration or any other benefit given to him as a director;
- (iv) Is not a nominated director representing a substantial shareholder;

- (v) Does not have close family ties with any of the advisers, directors or senior employees of the company;
- (vi) Does not have cross directorship or significant link with other directors through involvement in other companies or other organisations; or
- (vii) Has not served on the Board for more than 9 continuous years from the date of his first election.

5.2 BREACH OF DUTY OF DIRECTORS TO ACT IN GOOD FAITH AND IN BEST INTERESTS OF A COMPANY

A director who fails to comply with the requirements relating to duties of directors as set out under Section 143 of the Companies Act shall commit an offence and, on conviction, shall be liable to a fine not exceeding MUR 100,000 and to imprisonment for a term not exceeding 12 months.

6. NATIONAL PENSIONS ACT

6.1 CONTRIBUTION SOCIALE GENERALISEE (“CSG”)

Effective September 2020, every employee, employer and self-employed shall be required to pay the CSG on a monthly basis to the MRA at such rates as may be prescribed and in such manner as may be prescribed.

The employer of an employee shall be required to withhold the CSG payable by such employee from the latter's remuneration and remit same to the MRA. Every employer shall be required to submit a monthly or an annual return in respect of CSG paid, as may be prescribed.

Where the MRA is of the view that an employer, an employee of a self-employed has not paid the appropriate amount of CSG, it may claim such amount through a written notice of assessment. The amount so claimed under the notice of assessment would be payable within 28 days from the date of the notice. Any employer, employee or self-employed dissatisfied with such notice may object to the assessment through the submission of a form either by post or electronically.

A penalty of 10% of any amount of CSG remaining unpaid and interest of 1% per month or part of month would be applicable for non-payment or late-payment of the CSG. No such penalty or interest would, however, be recoverable by an employer from an employee.

Any benefit payable against the CSG paid will also be prescribed subsequently.

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This newsletter has been prepared solely for general informational purposes and is not intended to be relied upon as legal, accounting, consulting, tax or other professional advice.

Laws and regulations are continually changing, and must be interpreted in the context of specific facts and circumstances. In particular, the Finance Bill is not yet enacted and may be subject to amendments pursuant to parliamentary debates in the National Assembly.

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