Legal 500
Country Comparative Guides 2024

Mauritius
Tax

Contributor

Prism Chambers

Johanne Hague

Managing Director | jhague@prismchambers.com

Medina Torabally

Senior Associate / Barrister | mtorabally@prismchambers.com

Béatrice Phanjoo

Associate / Barrister | bphanjoo@prismchambers.com

This country-specific Q&A provides an overview of tax laws and regulations applicable in Mauritius.

For a full list of jurisdictional Q&As visit **legal500.com/guides**

Mauritius: Tax

1. How often is tax law amended and what is the process?

Generally, amendments are brought to the tax laws every year by way of the Finance (Miscellaneous Provisions) Act (FA). The FA gives effect to the measures announced in the yearly budget speech delivered by the Minister of Finance, Economic Planning and Development. Further, secondary tax legislation may also be amended by way of regulations throughout the year.

The Finance (Miscellaneous Provisions) Bill (Bill) is drafted by the Ministry of Finance, Economic Planning and Development and contains the proposed amendments to the tax legislation. It is presented to the National Assembly where three readings of the Bill take place. At the committee stage, various amendments may be made to the Bill. A majority of the members of Parliament present must vote in favour of the Bill, following which it must receive presidential assent to become law.

The FA comes into force once it has been published in the Government Gazette. The amendments take effect either on the same date or on any other commencement date prescribed in the FA.

2. What are the principal administrative obligations of a taxpayer, i.e. regarding the filing of tax returns and the maintenance of records?

<u>Individuals</u>

Resident individuals and entities are subject to Mauritian income tax on their worldwide income from all sources. However, income derived from outside Mauritius is taxable only if it is remitted to Mauritius.

A non-resident individual or entity will only be subject to income tax on an income, other than exempt income, derived from Mauritius.

Mauritius has a self-assessment tax system. The tax year in Mauritius runs from 1 July to 30 June. Income tax returns are filed on the basis of the income earned during the preceding income year ended 30 June.

The due date for the submission of returns and the payment of tax is the 30 September each year. Where the return is submitted electronically and payment of tax is done by internet banking, the last date for filing the return is 15 October.

Most employees pay their income tax through their respective employer company's payroll system. Employers withhold any income tax payable by an individual under the Pay As You Earn (PAYE) system. Any final adjustment can be made at the end of the income year when the taxpayer files his annual return of income.

Self-employed persons who derive income from any trade, business or profession or from the rental of property are required to file their return and pay income tax under the Current Payment System (CPS) in some circumstances.

<u>Companies</u>

Companies are subject to corporate tax on their worldwide income at a rate of 15%. This is subject to any applicable exemption on certain types of income or activity or any credit that can be claimed in respect of foreign tax suffered on income.

Companies are assessed for a year beginning 1 July and ending 30 June on their income from the preceding year. Where a company closes its accounts at a date other than 30 June, it may elect to adopt as a basis year the accounting year ending in the 12-month period preceding the year of assessment.

An annual return must be submitted by every company within 6 months of the end of the company's accounting year. Any tax due should be paid when the return is filed and within the six-month deadline.

Companies which have gross income exceeding MUR 10 million or that have taxable income are required to submit returns through the Advance Payment System (APS) and pay any tax for the quarter immediately following the end of the accounting year.

Records by companies and individuals deriving income should be kept in English or French language for a period of at least 5 years.

<u>Penalty</u>

Failure to submit a return may result in a penalty representing 2,000 rupees per month or part of the month, provided that the total penalty payable shall not exceed 20,000 rupees. The penalty shall not exceed 5,000 rupees for a small enterprise which has an annual turnover not exceeding 10 million rupees.

Penalty for late payment of tax is 5% of the amount of tax. The penalty shall not exceed 2% for a small enterprise which has an annual turnover not exceeding 10 million rupees.

Interest of 0.5% per month or part of the month during which tax remains unpaid will accrue.

3. Who are the key tax authorities? How do they engage with taxpayers and how are tax issues resolved?

The tax authority in Mauritius is the Mauritius Revenue Authority (MRA).

In general, tax controversy starts as from audits carried out by the MRA. The MRA usually requests information and documents pertaining to the taxpayer by way of letters. They may also carry out site visits or convene meetings with taxpayers and/or their tax advisors. Audits may or may not be followed by official tax assessments by the MRA.

The amount of time it takes to resolve an issue will depend on the complexity of the matter and whether a tax assessment has been raised. Disputes may be resolved through discussions or through the formal process as described under question 4 below.

With regard to more complex queries, the tax ruling procedure described below may be the most appropriate option.

Tax ruling

Where no tax assessment has been raised and a taxpayer wishes to obtain clarification on a matter, it may obtain a tax ruling from MRA.

The MRA is required to give a ruling on the question raised within 30 days of the receipt of the application.

MRA is generally bound by its own ruling, unless there is any discrepancy between the facts relating to the transaction and the details contained in the application.

The MRA also issues guidelines and statements of practice to help taxpayers understand and fulfil their obligations.

4. Are tax disputes heard by a court, tribunal or body independent of the tax authority? How long do such proceedings generally take?

Appeal to the Assessment Review Committee (ARC)

A taxpayer may object to a tax assessment raised by the MRA and the objections will be dealt with by an independent unit- the Objections and Appeals Dispute Resolution unit (OADR) at the MRA itself. The OADR must determine the objections lodged within 4 months from the date the objections were lodged.

If the OADR maintains the MRA's assessment, at first instance, a person who is aggrieved by a decision of the MRA may, within 28 days, lodge representations with the ARC, for a review of the determination of the OADR. The Mauritius Revenue Authority Act 2004 (MRAA) provides that the ARC shall aim to fix the case for hearing within 3 months from the date the representations were lodged and give its decision on the representations no later than 4 weeks from the end of the hearing.

However, hearings before the ARC depend on the complexity of the issue and normally take several years before a final ruling is delivered.

On 16 August 2024, the Revenue Appeal Tribunal Bill was published with the object establishing the Revenue Appeal Tribunal (RAT) to take over the functions and powers of the ARC under the MRAA. The RAT will benefit from certain additional powers such as make such order requiring the attendance of a person or the production of any record, document or exhibit as it thinks necessary or expedient for the disposal of an appeal and administer evidence on oath.

There is currently no indication when the Revenue Appeal Tribunal Bill will be passed as legislation.

Fast track system for objection to a tax assessment

An Alternative Tax Dispute Resolution (ATDR) panel was set up to deal with applications for review made by any person who has objected to an assessment. It is a fast-track system to resolve tax disputes with a view to promote resolution. The ADTR panel must make a decision within 6 months of being referred the case for review. The MRA may then amend or maintain the assessment in conformity with the decision of the ATDR panel.

The application may be lodged while the case is ongoing before the OADR. The law provides that the objection procedures will be suspended while the ATDR panel is considering the application. If no agreement is reached before the ATDR panel, the objection procedure will continue.

Further appeal

A person who is dissatisfied with a decision by the ARC on a point of law may lodge a written representation with the ARC requiring it to state a “case” for the opinion of the Supreme Court of Mauritius within 21 days of that decision. The ARC has 28 days to state and sign a “case” which is communicated to the appellant and to the other party. Upon receipt of the case stated, the appellant has 14 days to cause the “appeal” to be lodged, by way of notice.

The respondent in these appeals has 2 months, after the date of service of the notice, to serve on the appellant and file a notice of his intention to resist the appeal. The appeal case shall be fixed for trial within a year of receipt of the notice to resist appeal from the respondent. Judgment from the Supreme Court may take at least 2 years.

As a final resort, where a taxpayer or the MRA is dissatisfied with a judgment of the Supreme Court on a point of law, an appeal may be lodged to the Judicial Committee of the Privy Council, in the UK.

Under the Revenue Appeal Tribunal Bill, any appeals from the RAT would not be by way of case stated but as general appeals.

Alternatively, the taxpayer and the MRA also have the possibility to mediate before the ARC where the ARC considers that the issues raised in the written representations can be resolved through mediation.

5. What are the typical deadlines for the payment of taxes? Do special rules apply to disputed amounts of tax?

In respect of employees, tax is withheld through the PAYE system every month and if tax is underpaid under the PAYE system, the unpaid balance becomes payable on or before 30 September following the end of the income year.

Under the CPS system, self-employed individuals are required to pay tax on a quarterly basis as follows:

- In respect of CPS quarter 1 July to 30 September: Two days, excluding Saturdays and public holidays, before the end of December.
- In respect of CPS quarter 1 October to 31 December: 31 March.
- In respect of CPS quarter 1 January to 31 March: Two days, excluding Saturdays and public holidays, before the end of June.

In respect of companies, any tax due should be paid when the return is filed (i.e. before 30 September) and within the six-month deadline.

Where the company is required to file a return under the APS system, the tax has to be paid within 3 months from the end of the quarter.

Where tax has not been paid before the deadline, the MRA may raise an assessment and the taxpayer who is dissatisfied by such an assessment may object to the assessment.

The objection has to be made within 28 days and the tax as well as 10% of the tax assessed has to be paid by the taxpayer as a prerequisite to engage in such procedure.

An objection is dealt with independently by the OADR department. The officer who has raised the assessment is in no way involved in the handling of the objection.

When an objection is finalised, a notice of determination of objection is issued to the taxpayer by the MRA. Any tax payable specified in the notice of determination together with penalty/interest should be paid within 28 days of the date of determination.

If the taxpayer is aggrieved by the determination, he may, within 28 days of the date of the notice of determination lodge written representations with the Clerk of the ARC, subject to the payment of an additional 5% of the tax assessed by the taxpayer.

Where representations have been made at the ARC, the payment of tax determined on objection is suspended. However, interest on any outstanding tax keeps on accruing until payment is made. Conversely, interest at the prevailing repo rate also accrues on the 15% paid by the taxpayer and this amount is refunded to the taxpayer should the ARC set aside the notice of determination of the MRA.

6. Are tax authorities subject to a duty of confidentiality in respect of taxpayer data?

There are confidentiality provisions under the Income Tax Act 1995 (ITA) and the MRAA.

Every officer of the MRA is required to take an oath of fidelity and secrecy and maintain the confidentiality of any matter coming to his knowledge in the performance of his duties.

In principle, no officer can communicate any matter relating to the ITA to any person.

There are punitive penalties for any cases of breach of the duty of confidentiality, including imprisonment for a term not exceeding 2 years.

Further, all double tax treaties ratified by Mauritius contain confidentiality provisions.

The MRA is also entitled to enter into a Memorandum of Understanding (MOU) with other regulatory bodies in Mauritius for cooperation and to facilitate the exchange of information. Confidentiality provisions are also found in these MOUs which ensure that parties do not disclose any confidential information obtained under the MOU to third parties without the consent of the other.

7. Is this jurisdiction a signatory (or does it propose to become a signatory) to the Common Reporting Standard? Does it maintain (or intend to maintain) a public register of beneficial ownership?

Mauritius is a signatory to the Common Reporting Standard (CRS). In June 2015, Mauritius signed the Convention on Mutual Administrative Assistance in Tax Matters developed by the OECD and started to exchange information under the CRS as from 2018. Under the CRS, the MRA receives from the relevant Financial Institutions (FIs) based in Mauritius, the information required to be disclosed and transmits that information to the relevant tax authorities.

It is the responsibility of each FI to decide whether it should get registered with the MRA in respect of the CRS and to provide the correct information in the required format to the MRA for exchange with foreign tax authorities.

The MRA monitors compliance by FIs with domestic legal requirements and, as necessary, will enforce the provisions of the ITA.

Companies are required to keep an up-to-date record of the identity of all beneficial owners and ultimate beneficial owners. Companies are also required to authorise at least 1 officer, ordinarily resident in Mauritius, to provide basic information on the company (including beneficial ownership details) upon request by competent authorities, such as the MRA. Although the Registrar of Companies in Mauritius does not request details of beneficial owners at the stage of incorporation of a company, it may request such details at any time after incorporation. However, any beneficial ownership detail disclosed to the Registrar will not be publicly available.

8. What are the tests for determining residence of business entities (including transparent entities)?

Companies

A company is tax resident in Mauritius if it is incorporated in Mauritius or if it has its central management and control (CMC) in Mauritius. However, a company will be deemed to be non-resident, in any case, where its CMC is located outside Mauritius.

There is no statutory definition of CMC under Mauritius law and international tax principles are therefore relied upon. It is generally accepted that the location of the CMC relates to where the highest-level decisions (i.e. the key management and commercial decisions) that are necessary for the conduct of the business as a whole are in substance made.

Trusts

A trust is treated as a company for tax purposes. A trust is treated as being tax resident in Mauritius if it is administered in Mauritius and a majority of the trustees are resident in Mauritius. In addition, where the settlor of a trust was resident in Mauritius at the time the instrument creating the trust was executed, that trust is also considered as tax resident in Mauritius.

Foundations

A foundation is treated as a company for tax purposes. A foundation is tax resident in Mauritius if it is registered in Mauritius or has its CMC in Mauritius.

Prior to the FA 2021, trusts and foundations were able to annually file a declaration of non-residence if the trust/foundation's settlors/founders and beneficiaries were all non-tax residents in an income year. This declaration had the effect of making the trust or foundation exempt from Mauritius tax in that relevant income year. However, by virtue of an amendment brought by the FA2021, new trusts and foundations can no longer apply for this exemption. That said, there is a grandfathering period for existing trusts and foundations until the year of assessment 2024/2025.

Transparent Entities

Sociétés or partnerships are treated as resident entities if their seats (or *sièges*) are located in Mauritius or if they have at least one associate, *associé* or *gérant* resident in Mauritius.

9. Do tax authorities in this jurisdiction target cross border transactions within an international group? If so, how?

The MRA applies close scrutiny on whether transactions between related entities are carried out in accordance with the "arm's-length" principle or provisions applicable to controlled foreign corporations.

Where the MRA considers the transaction to not be at arm's length, it may reassess the liability to counteract the tax benefit. There are currently no transfer pricing regulations nor detailed guidance on how an arm's length pricing should be determined. The MRA would generally look at OECD guidelines on transfer pricing, although these are not binding.

The MRA will typically challenge transactions where it considers that excessive deductions have been claimed or little to no taxable income has been earned on related party transactions.

Our tax controversy experience would suggest that the MRA has the tendency to take a rather simplistic approach to certain arrangements such as interest-free loans.

10. Is there a controlled foreign corporation (CFC) regime or equivalent?

Controlled Foreign Corporation/Company rules

There is CFC legislation in Mauritius. Where a Mauritius tax-resident company carries on business through a CFC and the MRA considers that the non-distributed income of the CFC arises from non-genuine arrangements which have been put in place for the essential purpose of obtaining a tax benefit, that income will be deemed to form part of the chargeable income of the resident Company.

The CFC rule will not apply to a CFC where in an income year –

- accounting profits are not more than EUR 750 000, and non-trading income is not more than EUR 75 000;
- accounting profits amount to less than 10 per cent of its operating costs for the tax period (the operating costs must not include the cost of goods sold outside the country where the entity is resident for tax purposes and payments to associated enterprises); or
- tax rate in the country of residence of the CFC is more than 50 per cent of the tax rate in Mauritius.

11. Is there a transfer pricing regime? Is there a "thin capitalization" regime? Is there a "safe harbour" or is it possible to obtain an advance pricing agreement?

Transfer pricing

Mauritius does not have transfer pricing regulations. However, the ITA provides that the MRA can reassess the tax liability of a party where a transaction has created rights or obligations that would not normally be created between persons dealing at arm's length (section 75 of the ITA) as explained in question 8 above. The current wording of section 75 does not limit its application to related party transactions.

It is generally recommended that transfer pricing studies be carried out by related entities to support their pricing structure.

Mauritius does not have thin capitalisation rules. However, the ITA provides that if a company has issued debentures to its shareholders any interest paid on debentures and claimed as a deductible expense may be disallowed and treated as a dividend. In addition, deductions of interest may be disallowed by the MRA where the interest is payable to a non-resident who is not chargeable to tax on the amount of the interest, or where the interest is not likely to be paid in cash within a reasonable time.

12. Is there a general anti-avoidance rule (GAAR) and, if so, how is it enforced by tax authorities (e.g. in negotiations, litigation)?

The ITA caters for a GAAR under its section 90, which seeks to prevent transactions whose sole or dominant purpose is to obtain a tax benefit, having regard to several factors, including the manner in which the transaction was entered into or carried out and the form and substance of the transaction. A tax benefit is defined as the avoidance or postponement of the liability to pay income tax or the reduction in the amount thereof.

For the purposes of finding the application of section 90 of the ITA, the MRA shall consider the following:

i. the manner in which the transaction was entered into or carried out;
ii. the form and substance of the transaction;
iii. the result in relation to the operation of the ITA that, but for this section, would have been achieved by the transaction;
iv. any change in the financial position of the relevant person that has resulted, will result, or may reasonably be expected to result, from the transaction;
v. any change in the financial position of any person who has, or has had, any connection, whether of a business, family, or other nature, with the relevant person, being a change that has resulted or may reasonably be expected to result from the transaction;
vi. whether the transaction has created rights or obligations which would not normally be created between persons dealing with each other at arm's length under a transaction of the kind in question; and
vii. the participation in the transaction of a resident corporation or its carrying on business outside Mauritius, in concluding that the person did so for the sole or dominant purpose of enabling the relevant person (or other persons) to obtain a tax benefit.

The ITA further provides for specific anti-avoidance rules which may apply to taxpayers in relation to the:

- application of arm's length test;
- interest on debentures issued by reference to shares;
- excessive remuneration or share of profits;
- excessive remuneration of shareholders or directors;
- benefits to shareholder;
- excessive management expenses;
- leases for other than adequate rent; and,
- rights over income retained.

Where the MRA finds that a taxpayer has undertaken certain arrangements for the sole or dominant purpose of avoiding tax, the MRA may assess the amount of tax that would have been due in the absence of any avoidance arrangement.

Case law indicates that, the relevant test to establish whether the anti-avoidance provision has been triggered is to determine whether a reasonable person would conclude that the taxpayer entered into the impugned transaction for the dominant purpose of enabling himself or herself to obtain a tax benefit. There are very few judgments at Supreme Court level on a general anti-avoidance rule in the ITA.

In recent years, the GAAR provision has been raised by the tax authorities and is increasingly being litigated at the level of the ARC and in Mauritian courts.

13. Is there a digital services tax? If so, is there an intention to withdraw or amend it once a multilateral solution is in place?

There is currently no digital services tax in Mauritius.

The Government, however, intends to extend regulations to cover internationally agreed policies to address the tax challenges arising from the digitalisation of the economy.

14. Have any of the OECD BEPS recommendations, including the OECD's recent two-pillar solution to address the tax challenges arising from digitalisation of the economy, been implemented or are any planned to be implemented?

Mauritius is a member of the Inclusive Framework since November 2017 and has committed to implement the BEPS minimum standard. The tax legislation in Mauritius was overhauled in 2018 to achieve compliance with recommendations on BEPS Action 5 (Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance). The revamped fiscal legislation is now aligned with the recommendations of the Forum on Harmful Tax Practices (FHTP).

Certain regimes, such as the deemed foreign tax credit and the freeport regimes, were considered to have potentially harmful tax features and were thus abolished.

Substance requirements have also been introduced for entities which intend to benefit from the partial tax exemption as further described below.

Mauritius has also ratified the Multilateral Instrument (Action 6: Prevention of Treaty Abuse) and enacted legislation to allow for country-by-country reporting (Action 13: Country-by-Country Reporting).

Lastly, Mauritius has implemented Action 14 (More

Effective Dispute Resolution) by inserting an article into its tax treaties that seeks to strengthen the Mutual Agreement Procedure through the operation of the Multilateral Instrument.

The Government recently introduced the domestic minimum top-up tax, conforming with the OECD Pillar Two developed by the OECD/G20 Inclusive Framework on BEPS. The provision is not yet in force. The section introduced in the FA 2022 is brief. It is, hence, anticipated that regulations are to be passed to clarify the manner in which the domestic minimum top-up tax will be applied. From the introduced provision, only Multinational Enterprises with at least Euro 750M in revenue will be caught.

We expect the powers of the Minister of Finance, Economic Planning and Development to be extended to allow the Minister to implement internationally agreed policies in view of tax challenges in the digitalisation of the economy.

15. How has the OECD BEPS program impacted tax policies?

The Government actively ensures compliance with BEPS recommendations as can be seen in amendments brought on a regular basis to the tax regime through the FAs.

Mauritius is compliant with EU recommendations and is not on the EU list of non-co-operative jurisdictions.

With the overhaul of the tax legislation in 2018, there has been more targeted focus on specific sectors such as technology, pharmaceutical or manufacturing where reduced tax rates are offered to companies, provided they meet substance requirements.

16. Does the tax system broadly follow the OECD Model i.e. does it have taxation of: a) business profits, b) employment income and pensions, c) VAT (or other indirect tax), d) savings income and royalties, e) income from land, f) capital gains, g) stamp and/or capital duties? If so, what are the current rates and how are they applied?

Mauritius broadly follows the recognised OECD model of taxation.

The overall tax burden derives from the application of the same flat tax rate – 15 per cent – on two broad-based taxes: corporate income tax and value added tax, while the personal tax system has recently undergone an overhaul to become a more progressive one.

a. The headline rate for business (company) profits is 15%. This is subject to any applicable exemptions or foreign tax credit. Companies involved in the import and export of goods and certain other targeted sectors are subject to a reduced rate of tax of 3%. For tax transparent structures, any resident partners who are individuals are taxed at the rate of 15%.
b. Annual net income derived by an individual is subject to a progressive tax system, introduced by the FA 2023, as follows:

Annual Net Income (Rs)	Tax Rate (%)
0 – 390,000	0
390,001 – 430,000	2
430,001 – 470,000	4
470,001 – 530,000	6
530,001 – 590,000	8
590,001 – 890,000	10
890,001 – 1,190,000	12
1,190,001 – 1,490,000	14
1,490,001 – 1,890,000	16
1,890,001 – 2,390,000	18
Above 2,390,001	20

The leviable income includes chargeable income of an individual and any dividend received from a resident company or a co-operative society.

c. Value Added Tax (VAT) is charged at the standard rate of 15% on taxable supplies of all goods and services in Mauritius. Certain goods and services are exempt or zero-rated. Further guidance on taxable persons under the VAT Act 1998 and the applicable threshold is provided below under question 19.
d. Royalties paid to residents are subject to withholding tax at the rate of 10%. Withholding tax is regarded as an advance payment of taxes and would thus be offset against the income tax liability of the resident payee. Royalties paid to non-residents are subject to withholding tax at the rate of 15%. The withholding tax on royalty paid to non-residents is regarded as the final tax payable in respect of the royalty. There is no withholding tax on royalty paid by a company to a non-resident out of its foreign source income.
e. A 2% Corporate Climate Responsibility (CCR) levy has been recently introduced on companies with a turnover exceeding MUR 50 million, starting from July 2024.
f. There is no capital gains tax in Mauritius.
g. Stamp duty is levied and paid to the Registrar General on documents related to property transactions at the

time of registration, transcription, inscription, or erasure of inscription. Stamp duty varies from MUR 25 to MUR 1,000.

h. Transactions may trigger registration duty or land transfer tax if they result in the transfer of immovable properties in Mauritius. Land transfer tax is levied on the transfer of land and is payable by the transferor at the rate of 5%. Registration duty is payable by the transferee at the rate of 5%. There are other taxes and duty rates which are applicable in certain circumstances.
i. Interest payable on a savings or fixed deposit account held by an individual, a *société* or a succession with any bank is exempt from tax.

Rent payable to residents is subject to a withholding tax of 7.5% and, rent payable to non-residents is subject to a withholding tax of 10%. Withholding tax on the rent payable to non-residents is regarded as the final tax payable in respect of that rent.

17. Is business tax levied on, broadly, the revenue profits of a business computed in accordance with accounting principles?

The chargeable income of a company is generally based on its accounting profits, subject to adjustments provided for in the ITA.

18. Are common business vehicles such as companies, partnerships and trusts recognised as taxable entities or are they tax transparent?

There are different types of vehicles which can be used to carry on business.

Companies limited by shares are the most common structures. Depending on whether their beneficial owners are Mauritian citizens, and the entity intends to carry out business in or outside Mauritius, companies may be required to apply for a Global Business Licence from the Financial Services Commission (FSC).

Companies owned by Mauritian citizens or carrying out their business mainly in Mauritius are not required to be regulated by the FSC. They are commonly referred to as “domestic companies”.

Businesses may also be structured as companies limited by guarantee, unlimited companies and companies limited by shares and guarantee. It is also possible to incorporate protected cell companies.

Partnerships and *sociétés* are most commonly used as tax-transparent entities. Transparent entities are commonly adopted in private equity structures or for the purposes of investing in or dealing with land due to the great degree of flexibility afforded to such structures as opposed to companies. They are also used by professional firms such as accountancy firms and law firms.

Entities are taxable in Mauritius if they satisfy the residency test set out in question 8 above.

19. Is liability to business taxation based on tax residence or registration? If so, what are the tests?

Liability to pay tax is based on the concept of residency. The residency test for each entity is set out above in question 8. A non-resident entity will also be required to pay tax in Mauritius if it carries out business in Mauritius (e.g. through a branch), as this will result in the income of such entity as being deemed Mauritian source income.

Liability to pay VAT is based on the concept of registration.

Compulsory registration for VAT is applicable to two types of taxable persons:

i. A person whose annual turnover exceeds MUR 6 million or
ii. A person who is engaged in a prescribed activity/profession irrespective of the amount of annual turnover.

The MRA can compulsorily register any person deemed to be a taxable person who should have been registered for VAT but failed to do so.

If an entity is exclusively making zero-rated supplies, it is not required to register for VAT.

20. Are there any favourable taxation regimes for particular areas (e.g. enterprise zones) or sectors (e.g. financial services)?

Virtual assets and virtual tokens

The definition of ‘securities’ was recently enlarged to include virtual assets and virtual tokens. As a result, any profits generated from the trading of the said virtual assets and tokens are exempt from income tax, as from 1 July 2024.

Partial exemption regime

A partial exemption regime (PER) amounting to 80% of the chargeable income is available to certain streams of income (dividends, certain types of interest, and aircraft, rail and ship leasing income etc.) and holders of certain licences (collective investment scheme, closed end fund, CIS Manager, Investment Adviser, Investment Dealer etc.), subject to fulfilment of certain substance requirements (which broadly relate to conditions such as employment and expenditure in Mauritius and the carrying out of core income-generating activities in Mauritius).

The FA 2023 has increased the exemption rate on interest income derived by Collective Investment Schemes (CIS) and Closed Ended Funds (CEFs) from 80% to 95%.

Both domestic companies and global business companies are eligible for the partial exemption.

Exemption for companies holding a Payment Intermediary Services licence or Robotic and Artificial Intelligence Enabled Advisory Services licence

Companies holding a Payment Intermediary Services licence or a Robotic and Artificial Intelligence Enabled Advisory Services licence issued by the FSC are able to benefit from an 80% exemption on their income, subject to satisfying certain substance conditions.

Exemption for companies engaged in export of goods

Companies engaged in the export of goods are subject to tax at 3% on chargeable income attributable to exports.

Exemption for freeport operators engaged in manufacturing activities

The income of a freeport operator or private freeport developer engaged in manufacturing activities in a freeport zone will be taxable at 3% provided they satisfy the substance requirements relating to minimum employment and expenditure.

Reduced tax rate for manufacturing companies

Chargeable income derived by manufacturing companies engaged in medical, biotechnology or pharmaceutical sector and holding an Investment Certificate (aside from income derived from intellectual property assets) is subject to a reduced tax rate of 3% subject to certain conditions.

Different tax rates are applicable to banks.

Tax holidays for certain activities

Tax holidays of up to ten years are available for those carrying out certain activities, subject to certain substance criteria. These include tax holidays for food processing activities by a company holding a registration certificate, income derived from activities of a company holding a global headquarters administration licence and holders of global treasury activities, global legal advisory services, overseas family office and asset management licence holders.

21. Are there any special tax regimes for intellectual property, such as patent box?

Under a new research and development tax incentive scheme, a company investing or spending on innovation, improvement, or development of a process, product, or service will be eligible for accelerated depreciation of 50 per cent in respect of capital expenditure incurred on R&D, and a double deduction in respect of qualifying expenditure on R&D directly related to the entity's trade or business, provided the R&D is carried out in Mauritius.

There is also a tax holiday for companies involved in innovation-driven activities in respect of intellectual property assets which are developed in Mauritius. The exemption is for a period of 8 years starting from the income year in which the company commenced its innovation-driven activities, provided the company satisfies the substance requirements.

22. Is fiscal consolidation permitted? Are groups of companies recognised for tax purposes and, if so, are there any jurisdictional limitations on what can constitute a tax group? Is there a group contribution system or can losses otherwise be relieved across group companies?

There is no tax consolidation in Mauritius for groups, except for permanent establishments being consolidated at head office level.

There are no group taxation provisions in Mauritius tax legislation other than the transfer of losses by tax incentive companies, sugar factory operators, subsidiaries located in the Island of Rodrigues, and manufacturing companies upon their take-over.

23. Are there any withholding taxes?

Interest

Interest payments by a person (other than a bank or a non-bank deposit-taking institution) made to a non-resident are generally subject to withholding tax at the rate of 15%.

However, interest payments by a corporation holding a Global Business Licence to a non-resident not carrying on any business in Mauritius out of its foreign source income is not subject to withholding tax.

Services

There is a withholding tax of 5% on payments made for services by certain service providers resident in Mauritius.

The withholding tax of 3% has been reviewed to 5% on payments to certain providers of services, as specified in the Fifth Schedule to the ITA, including accountants, legal consultants and tax advisers.

A withholding tax of 3% has been introduced on payments made to consultants (other than accountants, tax advisors and legal consultants under Fifth Schedule to the ITA), to providers of security and cleaning services, and on payments by insurance companies to motor surveyors and mechanics subject to certain conditions.

Payments made by any person (other than an individual) to a non-resident for services rendered in Mauritius are subject to withholding tax at the rate of 10%. Withholding tax is not applicable on payments to an exempt person or where there is an exemption in a Double Taxation Agreement.

Withholding taxes on royalty income and rents have been addressed in question 16 above.

24. Are there any environmental taxes payable by businesses?

An Environmental Protection Fee (EPF) is levied on the importation of products such as mobile phones. The EPF is also levied on the turnover of hotels and tourist residences and on activities such as stone-crushing and the manufacture or processing of aggregates, concrete blocks and precast units.

Further, a company has to set up a Corporate Social Responsibility (CSR) Fund equivalent to 2% of its chargeable income from the preceding year. Although CSR forms part of the "income tax" definition, CSR projects are aimed at producing environmental outcomes.

A 2% Corporate Climate Responsibility (CCR) levy has been recently introduced on companies with a turnover exceeding MUR 50 million, effective as from July 2024.

25. Is dividend income received from resident and/or non-resident companies taxable?

Dividends (in cash or in shares) from Mauritius resident companies are exempt from income tax in the hands of individuals or companies.

Foreign dividends received by resident entities are taxed at 15% but are subject to the partial exemption regime which entails the fulfilment of substance requirements. Alternatively, the resident entity may claim credit for foreign withholding taxes suffered or, provided it holds at least 5% of the share capital of the foreign company, underlying foreign tax suffered on such income. Foreign dividends received by individuals are taxed at 15% subject to credit for foreign withholding tax suffered. Partial exemption is not available to individuals.

26. What are the advantages and disadvantages offered by your jurisdiction to an international group seeking to relocate activities?

Mauritius ranks high in terms of ease of doing business. In addition to its political stability and its bilingual (in English and French) and highly skilled workforce, it is situated in a convenient time zone.

Mauritius has a vast network of double taxation agreements (DTTs). DTTs facilitate cross-border trade and investment by demarcating taxing rights of countries and, therefore, preventing double taxation.

It has a vast network of Investment Promotion and Protection Agreements with several countries which ensure free repatriation of capital and guarantee against expropriation.

The country has an independent judiciary, with the UK's Judicial Committee of the Privy Council being its highest court of appeal.

It offers a modern legal and regulatory framework (based on other reputable and successful International Financial Centres).

Mauritius is recognised by the OECD and the EU as a fully compliant tax jurisdiction. Being included in OECD and EU whitelists is strong evidence that Mauritius is a jurisdiction that promotes fairness on tax matters.

As explained in question 20, Mauritius offers attractive tax holidays for holders of certain licences, such as a global headquarters licence, provided that certain substance requirements are met.

Mauritius has introduced a range of incentives that will effectively cut investment costs and render it easier for investors and expatriates to live and work in the country. These incentives include reduced minimum investment limits, extension of residency permit terms from 3 to 10 years, allowance for permit holders to buy property and enabling spouses of residence permit holders to work and invest in Mauritius.

Contributors

Johanne Hague
Managing Director

jhague@prismchambers.com

Medina Torabally
Senior Associate / Barrister

mtorabally@prismchambers.com

Béatrice Phanjoo
Associate / Barrister

bphanjoo@prismchambers.com