

BUDGET BRIEF FOR MAURITIUS 2018-2019

Key budgetary measures for 2018-2019

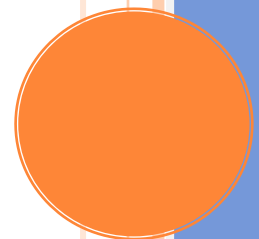
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On the 14th of June 2018, The Honourable Pravind Kumar Jugnauth, Prime Minister, Minister of Home Affairs, External Communications and National Development Unit and Minister of Finance and Economic Development presented the 2018/2019 Budget under the theme “*Pursuing Our Transformative Journey*”. The aim of this year’s Budget is to create new poles of economic growth to enable Mauritius to attain the status of an Inclusive High Income country based on innovation and sustainable value creation.

As expected, this year’s budget had provided a roadmap for our Global Business sector with considerable new measures to be implemented that will transform the face of the whole financial services industry. As a consequence thereof, Mauritius is being brought to abandon the taxation system that has served it so well for the past two decades and adopt new tax provisions to improve its competitiveness in the Global Business sector.

Global Business

Global Business (GB) is a mechanism which was set up in Mauritius for the purpose of its residents to conduct business outside the borders of Mauritius.

Transformation of Global Business

The Global Business Sector, previously known as the offshore sector was established in 1992 and has had a continuous growth. The revamping of the offshore sector into the global business was the government’s attempt to remain in the good books of the OECD so as not to be black-listed by it. The FSA which was enacted 2007 simplifies the regulatory regime of the Global Business sector by differentiating between Mauritian companies which are conducting business within the jurisdiction of Mauritius and those which conduct business outside of Mauritius.

Category 2 Global Business Companies (GBC2) are exempt from all types of taxation and tax treaty benefits. It is ideal for investors who need a simple, low cost, flexible, tax-free, and confidential corporate vehicle to trade, hold assets and investments, collect commission, purchase non-current assets and provide international consultancy services.

The Budget 2018-2019 has proposed to harmonise the Global Business mechanism.

In pursuance of this objective, the Category 2 Global Business Licence will no longer be issued by the Financial Services Commission. The FSC will continue to supervise these companies through a “grandfathering” provision. For companies which have a licence issued before the 16th October 2017, their licences shall cease on the 30th June 2021.

FINANCIAL SERVICES

The financial services sector represents an important pillar of the economy but that it has nonetheless been subject to major challenges of late, amongst others from the OECD and the European Union.

In that respect, it is continuing to evolve with the introduction of the following measures:-

- Introduction of a harmonised fiscal regime for domestic and Global Business Companies and a specific fiscal regime for banks.

- Deemed Foreign Tax Credit regime available to companies holding a Category 1 Global Business Licence will be abolished as from 31 December 2018.

- Partial exemption regime of 80% of specified income will be introduced. This exemption shall be granted to all companies in Mauritius, except banks and shall apply to:

- Foreign source dividends and profits attributable to a foreign permanent establishment
- Interest and royalties
- Income from provision of specified financial services
- Partial exemption claimed by companies will need to satisfy pre-defined substantial activities requirements.
- Enhanced substance will also be applicable to Captive Insurance Companies.

- The existing credit system for relief of double taxation will continue to apply where partial exemption is not available.

- Issuance of new Category 2 Global Business Licence will cease as from 31 December 2018. Grandfathering provisions will apply up to 30 June 2021 for Category 2 Global Business Companies licenced prior to 16 October 2017.

- All restrictions applicable for Global Business Companies dealing in Mauritius will be removed.

- Deemed Foreign Tax Credit regime available to banks will be abolished as from 1 July 2019.

- All resident companies and partnerships incorporated/registered under laws of Mauritius having majority shareholdings/parts held by non-resident and which conduct business mostly outside Mauritius will be required to seek a global business licence or an authorisation from the Financial Services Commission (FSC) through a management company.

- A new framework will be set up to govern and improve the oversight of Management Companies.

- The Insolvency Act will be amended to allow the FSC to petition to wind up one of its past licensees in situations where the licences have been terminated.

- Relevant legislation will be amended to cater for disclosure and availability of beneficial ownership information for Anti-Money Laundering & Combatting Financing of Terrorism (AML/CFT) purposes.

CONCLUSION

Following the Budget Speech Global Business which forms important part of the Mauritius Financial Services, will be considerably affected with the abolishing of Category 2 Global Business Licenced Companies. Clients from your jurisdictions or elsewhere using Mauritius for offshore financial services should seek legal advice as to impact of such changes.

Corporate Tax

- The Deemed Foreign Tax Credit (FTC) regime available to companies holding a Category 1 Global Business Licence will cease to apply as from 31 December 2018.

- A partial exemption regime will be introduced whereby 80% of specified income will be exempted from income tax. The exemption will be granted to all companies in Mauritius, except banks, and shall apply to the following income:

(i) foreign source dividends and profits attributable to a foreign permanent establishment;

(ii) interest and royalties; and

(iii) income from provision of specified financial services.

- Companies licensed by the FSC, claiming the above partial exemption, will have to satisfy pre-defined substantial activities requirement of the FSC.

- The existing credit system for relief of double taxation will continue to apply where partial exemption is not available.

- The Category 2 Global Business tax regime will be abolished. The current regime will continue to apply until 30 June 2021 for companies which have been issued a licence prior to 16 October 2017.

- Deemed FTC regime available to banks will be abolished as from 1 July 2019. A new regime specific for banks will be introduced with no distinction between Segment A and Segment B income.

The tax rates will be as follows:

(i) chargeable income up to MUR 1.5 billion will be taxed at 5%; and

(ii) chargeable income above MUR 1.5 billion will be taxed at 15%.

In addition, an incentive system will be introduced for banks having chargeable income exceeding MUR 1.5 billion.

Under this system, any chargeable income in excess of the chargeable income for a set base year will be taxed at a reduced tax rate of 5% if pre-defined conditions are satisfied.

- Special levy on banks maintained up to June 2019.

- Removal of tax exemption for Freeport operators and private Freeport developers on export of goods. The current tax regime will continue to apply until 30 June 2021 to companies which have been issued with a freeport certificate before 14 June 2018.

- Freeport operators and private freeport developers will continue to be exempted from the Corporate Social Responsibility (CSR) contribution.

- The corporate tax rate of 3% applied on profits derived by any company from export of goods will be extended to global trading activities effected by companies.
- For CSR, an amount up to 25% of the 75% to be remitted to the Mauritius Revenue Authority (MRA) can be retained if CSR programme is already started.
- Companies will not be allowed to offset any unused tax credit such as the foreign tax credit against CSR payable. Companies which have been granted tax holidays will be required to contribute to CSR.
- Tax Deduction at Source (TDS) will be extended to 'commission payment' at the rate of 3%. In addition, the TDS rate applied on rent paid to a non-resident will be increased from 5% to 10%. TDS will not apply to director fees.

INCOME TAX HOLIDAY

- 5-year tax holiday introduced for Mauritian companies collaborating with the Mauritius Africa Fund for the development of infrastructure in the Special Economic Zones (SEZs). The tax holiday will cover investments in SEZ infrastructure development and will benefit 2 eligible categories of firms: project developers and project financing institutions.

NON-CITIZENS

- The Economic Development Board (EDB) will manage 2 schemes to attract High-Net-Worth individuals who satisfy defined criteria and due diligence.
- The first scheme will offer foreigners the opportunity to obtain Mauritian citizenship provided they make a non-refundable contribution of USD 1 million for the applicant and USD 100,000 per family member to the Mauritius Sovereign Fund.
- The second scheme will offer the opportunity to obtain a Mauritian passport provided foreigners make a contribution of USD 500,000 for the applicant and USD 50,000 per family member to the Mauritius Sovereign Fund.
- The EDB will also operate a Foreign Manpower Scheme to attract foreign talents, particularly in emerging sectors such as AI, Biotechnology, smart agriculture and the Ocean Economy, amongst others.
- Government will also offer a new package of fiscal and non-fiscal facilities to attract foreign retirees. Besides, the right to acquire an apartment, they will be exempted from payment of customs duties on the import of personal effects up to a value of MUR 2 million.

BANKING AND NON-BANK FINANCIAL SERVICES

BANK OF MAURITIUS ACT

The Bank of Mauritius Act will be amended to –

- (i) reinforce the powers of the BoM with a view to counter money laundering and for the prevention of financing of terrorism; and
- (ii) increase the fine to Rs 1 million where a financial institution fails to comply with guidelines issued by the BoM.

BANKING ACT

The Banking Act will be amended to –

- (i) allow for banks carrying on exclusively private banking business in Mauritius, to import gold and other precious metals as part of managing their clients' investment portfolio and provide safety vault services;
- (ii) allow for the identification and certification of good conduct of beneficial owners in determining an application for a banking licence;
- (iii) allow the BoM to impose a fine of up to Rs 1 million where confidential information of bank customers has been disclosed;
- (iv) allow for the fine-tuning of the provision on licensing of issuers of commercial papers;
- (v) allow every financial institution using new or developing technologies for both new and pre-existing products to –
 - a. undertake a risk assessment prior to the launch or use of such products, practices and technologies;
 - b. identify and assess the money laundering and terrorism financing risks that may arise in relation to the launch or use of such products, practices and technologies;
 - c. take appropriate measures to manage and mitigate the risks identified; and
 - d. implement programmes against money laundering and terrorism financing, having regard to the money laundering and terrorism financing risks and the size of its business, which include, amongst others internal policies, procedures and controls.
- (vi) clarify that a non-bank deposit taking institution has to maintain a minimum capital of Rs 200 million or such higher amount as may be prescribed, after deduction of the accumulated losses;

(vii) allow every financial institution and every holder of a licence operating in a group structure to implement group-wide programmes against money laundering and terrorism financing which are applicable to all branches and subsidiaries of the financial group and include, amongst others, the internal policies, procedures and controls;

(viii) allow the BoM to revoke the appointment of auditors of a financial institution where the circumstances so warrant; and

(ix) allow financial institutions and every holder of a licence to ensure that their foreign branches and subsidiaries apply measures to combat money laundering and terrorism financing –

a. consistent with the home country requirements, where the minimum requirements of the host country are less strict than those of the home country, to the extent that host country laws and regulations permit; and

b. where the host country does not permit the proper implementation of anti-money laundering and combatting the financing of terrorism measures and inform their home supervisors.

FINANCIAL SERVICES ACT

The Financial Services Act will be amended to –

(i) allow the FSC to –

a. give directions to any person as may be required, for the purposes of its functions, to ensure compliance with licensing conditions;

b. take actions against a licensee which fails to comply with section 52 or section 52A of the Bank of Mauritius Act; and

c. appoint an administrator in relation to the business activities of a person whose authorisation has been withdrawn;

(ii) ensure that licensees maintain the requirements needed for the grant of a licence at all times;

(iii) extend the scope of the offence with respect to licensees who provide false and misleading information;

(iv) extend the scope of the offence with respect to a person who destroys, falsifies, conceals or disposes of, or causes or permits the destruction, falsification, concealment or disposal of any document, information stored on a computer or other device where such information is relevant to the Commission;

(v) clarify that the Review Panel needs to receive the application for review within 21 days of the issue of the written notification;

(vi) allow for any determination of the Review Panel to be published except that any information which the Review Panel considers to be sensitive shall be omitted;

(vii) allow the FSC to regulate Custodian Services (Digital Asset) and Digital Asset Marketplace;

(viii) allow the FSC to regulate Compliance Services and Global Shared Services;

(ix) cease the issuance of Category 2 Global Business Licence as from 1st January 2019;

(x) rename the Category 1 Global Business Licence as Global Business Licence;

(xi) remove all restrictions applicable to dealings in Mauritius;

(xii) provide that all resident companies and partnerships incorporated/registered under the laws of Mauritius whose majority shareholdings/parts are held by non-resident and which conduct business mostly outside Mauritius will be required to seek a Global Business Licence or an authorisation from the FSC, through a duly appointed Management Company. The latter will be responsible for Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT), Legal, Regulatory & Corporate Governance compliance of these companies/partnerships; and

(xiii) provide for enhanced substance requirements for entities holding a Global Business Licence.

Consequential amendments will be made to sections in other legislations relating to companies holding a Category 1 or 2 Global Business Licence, namely, the Companies Act, Foundations Act, Insurance Act, Limited Liability Partnership Act, Limited Partnerships Act, Private Pension Schemes Act, Non-Citizens (Property Restriction) Act, Protected Cell Companies Act, Securities Act, and Trusts Act.

PROMOTION OF FINTECH

As mentioned in last year's budget, Mauritius has the ambition to become a regional Fintech centre. In that respect, the following initiatives will be taken:

- Setting up of a National Regulatory Sandbox Licence Committee to consider all issues relating to Sandbox licencing for Fintech activities including the investment and development of blockchain technologies and cryptocurrencies as digital assets.

- Creation by the FSC of new licensable activities, namely Custodian of Digital Assets and Digital Asset Marketplace, so as to provide a regulated and safe environment for digital assets custody and exchange.

- Issuance by the FSC of guidelines on investment in digital assets such as crypto currency.

- Application for Fintech activities with the FSC will be subject to compliance with cyber-security and cyber-resilience policies and capacities.

- Harmonization and updating of the regulatory framework against money-laundering and terrorist financing for banking and non-banking financial services with the best international norms and standards.
- Setting up of a Mauritius Artificial Intelligence Council to strengthen the foundations and ecosystem for Artificial Intelligence (AI) development.
- Setting up of a scholarship scheme for 50 students annually to specialise in digital technologies, including AI and Blockchain.
- Setting up of a new Mauritius Innovation and Entrepreneurship Framework for young inventors and entrepreneurs to have access to state-of-the-art technologies to facilitate their business activities.

SECURITIES ACT

The Securities Act will be amended to allow the FSC to make Rules to cater for any new market participants for Derivatives and Commodities Market.

COMPANIES ACT

The Companies Act will be amended to –

- (a) make provision for an offence being committed by a director for breach of duty where the director fails to disclose that he has an interest in a transaction or a proposed transaction with the company. On conviction, the Director will be liable to a fine of up to Rs 100,000 and to imprisonment for a term of up to 1 year;
- (b) make provision for the Annual Report of a company to also mention any major transaction which took place during the accounting period to which it refers;
- (c) provide that where the Registrar restores a company on his own motion, the requirement to give public notice in 2 daily newspapers will no longer apply to avoid unnecessary costs in relation to publication;
- (d) eliminate the requirement for a certificate of current standing to contain a statement regarding payment of licence fees as same are no longer applicable;
- (e) allow for disclosure and availability of Beneficial Ownership Information following enquiries related to AML/CFT;
- (f) allow for the time for keeping the share register to be extended to 7 years following the removal of the company from the register;
- (g) allow for enhanced protection to minority shareholders;
- (h) allow for more transparency to shareholders; and
- (i) allow for recovery of outstanding fees during liquidation process.