Finance Bill 2018

Tax Alert Issue 4

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Contents

Foreword

Dear Valued Clients,

The Finance (Miscellaneous Provisions) Bill 2018 (“the Bill”) has been released for consultation and has been introduced in Parliament this week. The draft legislation incorporates the measures announced by the Honourable Minister of Finance in his budget speech on 14 June 2018.

Once approved by Parliament and the President of Mauritius, the legislation will come into force.

This alert covers the key tax measures contained in the Bill, the dates they become effective, and our views. Note, however that the Bill may be subject to changes following parliamentary debates.

I hope you will find this alert informative. Feel free to contact us for any queries or any suggestions you may have.

Regards,

Wasoudeo Balloo
Partner, Head of Tax

Corporate Tax

Corporate Tax

GBC & Domestic

<table>
<tr><th>Key measures</th><th>Effective</th></tr>
<tr><td>
Tax Regime of Global Business Companies (GBCs) and Domestic Companies
— Companies which have been issued with a Category 2 Global Business Licence (“GBL2”) on or before 16 October 2017 shall be exempted from income tax until 30 June 2021
— Under the new tax regime, an income tax exemption of 80% shall apply on the following:
I. Foreign source dividend, provided the dividend has not been allowed as a deduction in the source country and the company satisfies the conditions relating to the substance of its activities as prescribed;
II. Foreign source interest, provided the company satisfies the conditions relating to the substance of its activities as prescribed;
III. Profit attributable to a permanent establishment which a resident company has in a foreign country;
IV. Overseas income derived by a collective investment scheme (CIS), closed end fund, CIS manager, CIS administrator, investment adviser or asset manager, provided the company satisfies the conditions relating to the substance of its activities as prescribed; and
V. Overseas income derived by a company engaged in ship and aircraft leasing provided the company satisfies such conditions as may be prescribed relating to the substance of its activities
— No credit shall be allowed on foreign source income where the 80% exemption has been claimed
— The definition of foreign source income shall be changed to “income which is not derived from Mauritius”
— Up to 30 June 2021, the current definition of foreign source income shall continue to apply to corporations issued with Category 1 Global Business Licence (“GBL 1”) on or before 16 October 2017
</td><td>1 January 2019</td></tr>
</table>

Corporate Tax

GBC & Domestic

KPMG VIEWS

Despite the budget speech suggesting that the 80% partial exemption regime would apply to foreign source royalties, there is no indication of this particular exemption within the provisions of the Finance Bill 2018.

In the new definition of foreign source income, it appears that income derived from transactions between two GBCs would not qualify as foreign source income. Income derived by a CIS Manager from investment management services to a Mauritius Fund may not qualify for the partial exemption.

A number of GBCs derive income from consultancy, advisory and other support services to group companies in Africa and beyond. However, the 80% partial exemption does not cater for the aforementioned income streams. We believe that the partial exemption regime should be extended to these income to encourage these GBCs to carry out more substantial activities from Mauritius.

Corporate Tax

Banking

Key measures	Effective
Companies engaged in banking activities	Year of assessment commencing on 1 July 2020

Companies engaged in banking activities

— The current income tax regime shall continue to apply until year of assessment ending 30 June 2020

— As per the new tax regime, a bank shall be liable to income tax on its chargeable income as per the rates provided in the table below:

Chargeable income	Rate of income tax
(a) First MUR1.5 Billion	5%
(b) remainder	15%

— However, the effective tax rate of a bank can be reduced for banks having a chargeable income exceeding MUR1.5 Billion as per the below table:

<table>
<tr><th colspan="2">Chargeable income greater than base year and chargeable income of base year exceeds MUR1.5 Billion</th><th>Chargeable income greater than base year and the chargeable income of base year does not exceed MUR1.5 Billion</th></tr>
<tr><td>(a) First MUR1.5 Billion</td><td>5%</td><td rowspan="3">Rate of income tax
5%</td></tr>
<tr><td>(b) Exceeding MUR1.5 Billion up to the amount equivalent to the chargeable income of the base year</td><td>15%</td></tr>
<tr><td>(c) remainder</td><td>5%</td></tr>
<tr><td colspan="3">Subject to prescribed conditions</td></tr>
</table>

— Where a bank is liable to income tax at the rate of 5%, it may not claim foreign tax credit against its foreign source income.

— “base year” means –

a) for a bank in operation as at 30 June 2018, the year of assessment 2017-2018;

b) for a bank starting operation after 1 July 2018, the first year of assessment corresponding to a period of 12 months.

Effective: Year of assessment commencing on 1 July 2020

Corporate Tax

Banking (cont.)

Key measures	Effective
Liability to special levy — The current special levy on banks shall be maintained until accounting period ending 31 December 2018 — The Value Added Tax Act shall be amended in respect of the new regime for special levy — Under the new regime, a bank shall be liable to special levy on its net operating income derived from its domestic operations in every accounting period at the rate of – (a) 5.5% in the case of a bank having a net operating income of not more than MUR1.2 Billion ; (b) 4% in the case of a bank having a net operating income of more than MUR1.2 Billion . — The special levy shall be remitted to the Director-General by the bank at least 5 months from the end of the accounting period — Where a bank incurs losses in an accounting period, it shall not be liable to special levy — In case of late payment of levy, a penalty of 5% on the levy amount and interest of 0.5% per month or part of the month on the levy amount shall apply	Accounting period ending on or after 1 January 2019

KPMG VIEWS

The prescribed conditions relating to income tax has not yet been issued

As from year of assessment commencing 1 July 2020, banks will not be required to submit auditor’s certificate on segmental split of expenses

Corporate Tax

Others

Key measures	Effective
Tax Residency in Mauritius — A company incorporated in Mauritius shall be treated as non-resident if its place of effective management is situated outside Mauritius, but shall still be required to submit a return of income in Mauritius	1 October 2018
Tax Credit in Respect of Expenditure on New Plant and Machinery — An investment tax credit of 5% over 3 years (in the year of acquisition and subsequent two years) will be introduced in respect of expenditure incurred during the period 1 July 2018 to 30 June 2020 in new plant and machinery (excluding motor cars) by a company importing goods in semi knocked-down form — This tax credit will be available on the condition that there is an incorporation of at least 20% local value addition	Gazette date
Deduction of Emoluments Payable to Homeworkers — During the period 1 July 2018 to 30 June 2020, where a person employs a full-time homeworker, he shall be eligible for a deduction of 200% of the emoluments payable to the homeworker. This deduction applies only in respect of homeworker emoluments payable during a period not exceeding 24 consecutive months starting from 1 July 2018 or the month in which the homeworker starts working from home, and subject to meeting other conditions as prescribed — During the period 1 July 2018 to 30 June 2020, where a person incurs capital expenditure on information technology systems for the purpose of employing homeworkers, he shall be allowed, a tax credit equal to 5% of the cost of the information technology system over 3 years	Gazette date

Corporate Tax

Others

Key measures	Effective
Solidarity Levy on Telephony Service Providers	
— The solidarity levy shall be extended to the years of assessment commencing on 1 July 2018 and 1 July 2019	Gazette date
— The levy shall be payable by profitable companies and the requirement for book profit of the company to exceed 5% of its turnover to be liable to the levy shall be removed	
Investment Banking Licence	
— The income of any corporation issued with an Investment Banking Licence on or after 1 September 2016 shall continue to be treated as exempt for a period of 5 income years as from the income year in which the corporation was granted its licence	Gazette date
Exempt Income	
— Income derived by a company from activities carried out as a project developer or project financing institution in collaboration with the Mauritius Africa Fund for the purpose of developing infrastructure in the Special Economic Zones for a period of 5 succeeding income years as from the income year in which the activities began	
— Income derived by a person from any activity under the sheltered farming scheme, set up by the Food and Agricultural Research and Extension Institute, during 8 successive income years as from the income year in which the person starts the activity	Gazette date
— Income derived by a company registered with the Economic Development Board and engaged in the manufacturing of automotive parts during 8 successive income years as from the income year in which the company starts the activity	

Corporate Tax

Others

Key measures	Effective
Corporate Social Responsibility — Companies may continue to contribute 50% of CSR (instead of 75%) to the MRA provided they receive approval from the National CSR Foundation — The reduction in amount to be remitted to the Director-General will only apply where the company receives the prior written approval of the National CSR Foundation — Companies shall not be allowed to offset any available tax credit against any amount of CSR payable — Companies benefiting from tax holidays under the Second Schedule of the Income Tax Act shall be required to contribute to CSR	Year of assessment commencing on 1 July 2019

KPMG VIEWS

With the introduction of “Place of Effective Management (“POEM”)” as a criteria to determine tax residency, clarity should be provided on whether corporations should consider the OECD’s definition of POEM or where a corporation which satisfies the requirements as set out under Section 71(1)(3) of the FSA will be deemed to have its POEM for Mauritius tax purposes, or whether the Mauritius Revenue Authority will come out with a POEM definition.

CSR remains non-applicable for Global Business Companies.

Corporate Tax

Others

Key measures	Effective
Definitions — "export of goods" includes international buying and selling of goods by an entity in its own name, whereby the shipment of such goods is made directly by the shipper in the original exporting country to the final importer in the importing country, without the goods being physically landed in Mauritius;	1 January 2019
— Section 49 on "Companies in the freeport zone" has been repealed from the Income Tax Act	Gazette Date

KPMG VIEWS

Both Global Business Companies and domestic companies engaged in the export of goods shall be liable to income tax at a rate of 3%.

In line with the Budget speech, Freeport Companies will no longer be exempt from income tax . However, a transition period has been established for Freeport companies licensed on or before 14 June 2018, whereby these companies will continue to benefit from the existing exemption until 30 June 2021.

Freeport companies will not be subject to CSR

Global Business

Global Business

Regulatory

Key measures	Effective
Transition period relating to GBL1 and GBL 2 — GBL1 and GBL2 issued with a licence prior to 16 October 2017 shall continue to be governed by the provisions of the Financial Services Act 2007 (**“FSA”**) up to 30 June 2021. Past this date, a GBL1 shall be deemed to be a Global Business Licence while GBL2 shall cease to exist — For GBL1 and GBL2 issued with a licence after 16 October 2017, they will be governed by the provisions of the FSA up to 31 December 2018. Past this date, GBL1 shall be deemed to be a Global Business Licence while GBL2 shall cease to exist — A GBL2 lapsed after either 31 December 2018 or 30 June 2021 (refer to above comments) shall continue to: – comply with the FSA; – remain subject to the obligations of a licensee; and – comply with the directions of FSA for the orderly dissolution of its business and the discharge of its liabilities.	1 January 2019
Authorised Company Where a company’s (other than a licensed bank) majority of shares or voting rights or legal and beneficial interest are held or controlled by a person who is not citizen of Mauritius and such company: – Proposes to conduct or conducts business principally outside Mauritius or with such category of persons as may be specified in FSC Rules; and – Has its place of effective management outside Mauritius, such company shall apply for an Authorised Company. The application must be made through a management company.	Gazette Date

Global Business

Regulatory

Key measures	Effective
Change of Name — Category 1 GBL will be renamed as Global Business Licence (**“GBC”**).	1 October 2018
Global Business Licence — In addition to be managed and controlled from Mauritius and be administered by a management company, a GBC shall at all times carry out its core income generating activities in, or from, Mauritius by; i. employing, either directly or indirectly, a reasonable number of suitably qualified persons to carry out the core activities; and ii. having a minimum level of expenditure, which is proportionate to its level of activities	1 January 2019

KPMG VIEWS

The FSC has not yet issued any guidelines on the pre-defined substance conditions to qualify for the 80% partial exemption. We hope that the substance conditions will take into consideration the business activities of the companies

Clarity should be provided for existing domestic companies that have foreign shareholding and conduct business outside Mauritius - whether they need to be converted into a GBC or an Authorised Company.

Existing GBL 2 to consider whether they should apply for an Authorised Company Licence or convert into a GBC.

Personal Tax

Personal Tax

Key measures	Effective
Tax band rate (i) An individual deriving an annual net income up to MUR650,000 will be taxed at a lower rate of 10% (ii) An individual deriving an annual net income above MUR650,000 will be taxed at a rate of 15% (iii) A non-resident individual deriving any rent, royalty, premium or other income from property would be taxed at the rate of 15%.	Income year beginning 01 July 2018
Income Exemption Threshold The Income Exemption Thresholds for all categories have been increased by MUR5,000.	Income year beginning 01 July 2018
Deduction for Tertiary Education (i) The deduction in respect of a dependent pursuing tertiary education locally has been extended from MUR135,000 up to a maximum of MUR 175,000 (ii) Similarly, the relief for a dependent child pursuing a tertiary education abroad has been increased from MUR135,000 to MUR200,000.	Income year beginning 01 July 2018
Taxation of Artists — A Mauritian artist who is a member of the Mauritius Society of Authors can choose to claim a deduction of up to 50% of his earnings from his artistic work (other than a literary work) provided that such earnings are not included in its emoluments and that such earnings do not exceed MUR500,000.	Income year beginning 01 July 2018
Lump Sum Exemption — The exemption threshold on lump sum relating to severance allowance, pension, retiring allowance or compensation has been increased from MUR2 Million to MUR2.5 Million.	Gazette Date

Personal Tax

Key measures	Effective
Relief for Investment in Rainwater Harvesting System — Full deduction would be provided for the investment made during the year by any individual who has invested in rainwater harvesting system. — The deduction may be taken by the individual's spouse or shared equally among them, provided the spouse is not a dependent spouse. — Any unrelieved amount may be carried forward and deducted against net income of succeeding years.	Income year beginning 01 July 2018

Indirect Taxes

Indirect Taxes

Value Added Tax

Key measures	Effective
Deferred payment of VAT at importation — Where capital goods being plant and machinery are entered and cleared at importation by a VAT registered person, the payment of VAT at importation may be deferred by including the deferred VAT as output tax in his return, if the following conditions are met: (i) the duty-paid value on the capital goods is at least MUR1 Million; (ii) the capital goods are to be used in the course of the VAT registered person's business; (iii) the VAT registered person is compliant with his tax obligations under the Revenue Laws; (iv) the VAT registered person is not under bankruptcy, liquidation or receivership; (v) a security, by bond, is furnished to cover the deferred VAT payable; and (vi) proper books and records are kept. — Where VAT payable deferred at importation is not declared as output VAT in the taxable period in which the VAT is deferred, the deferred VAT shall become due and payable together with applicable penalties and interests.	Gazette date

KPMG VIEWS

This initiative will facilitate the cash flow operation of businesses as a VAT registered person will no longer be required to pay taxes on import of capital goods

Indirect Taxes

Value Added Tax

Key measures	Effective
Cancellation of registration — Where a person is deregistered from VAT, that person is required to submit its last VAT Return and pay tax due on any capital goods exceeding MUR100,000 forming part of the assets of the business other than motor cars and other motor vehicles which was for own use or consumption.	Gazette date
Credit for input tax against output tax — VAT paid by registered person involved in accommodation or lodging, catering, entertainment or rental/lease of motor vehicles businesses can be recovered unless it has been incurred for personal use or consumption. — VAT paid by a registered person on quad bikes, golf cars and similar vehicles shall be recoverable unless it has been incurred for personal use or consumption.	Gazette date
Removal of VAT on goods and services — Zero-rated supplies will now include: (i) All components forming an integral part of photovoltaic system (ii) Services relating to upgrading, repairs and maintenance, patrol and monitoring or rental of burglar alarm system	Gazette date
Return and Payment of tax — The VAT Act is now being amended to include a list of taxable supplies to be reported in terms of serially numbered invoices together with the value of supplies	Gazette date
Proceedings for temporary closing down of business — The VAT Act is now being amended to remove the proceedings for temporary closing down of business.	Gazette date

Indirect Taxes

Value Added Tax

Key measures	Effective
Penalty on amount claimed in assessment — Where a VAT assessment is made by the Director- General and the amount of tax claimed by the Director-General under the following: i. Penalty for failure to apply for compulsory registrations; ii. A penalty representing 20% of an amount over-claimed provided that the penalty does not exceed MUR 200,000; iii. Late submission of return; iv. Penalty for failure to join electronic system; and v. Penalty for late payment of tax shall carry a penalty not exceeding 50% and the penalty will be part of the tax claimed.	Gazette date
Additional Assessment — The Director- General may make an additional assessment on the amount of tax which ought to have been paid or the excess to be carried forward if it is subsequently found that the tax has been under-claimed or the excess to be carried forward has been overstated.	Gazette date

Tax Administration

Tax Administration

Key measures	Effective
Review of penalty by Registrar-General's Department	
— A reduced penalty at 10% (instead of 20%) shall be applicable on land transfer tax and registration duty where immovable property is being undervalued between 10% and 50%.	Gazette Date
— Where the undervaluation of the immovable property exceeds 50%, a reduced penalty of 25% (instead of 50%) shall be applicable on land transfer tax and registration duty.	Gazette Date
— Interest at the rate of 0.5% per month up to a maximum of 50% of the amount of unpaid tax or duty shall be applicable upon failure of payment of any tax or duty claimed by the Registrar-General.	3 September 2018
Tax deduction at source (TDS) — TDS shall be applicable on the following: – commission payments - 3%; and – rent payable to non-residents – 10%.	Gazette Date
Statement of Assets and Liabilities by High Net Worth Individuals — A Mauritius tax resident individual shall not, in an income year, be required to submit a statement of assets and liabilities where he has submitted his income tax return for each of the five income years preceding that income year.	1 July 2018
Exchange of Information with other Countries — A person who fails to provide information to the Director-General required for the automatic exchange of information with other countries shall be subject to penalties.	Gazette Date
Additional 5 % payment on appeal to Assessment Review Committee (ARC) Taxpayers lodging representations to the ARC will be required to pay to the MRA an additional 5% of the amount determined as per notice of determination	1 September 2018

Tax Administration

Key measures	Effective
Return of Information	
— Winnings exceeding MUR100,000 by operators (including Mauritius National Lottery Operator, a Casino Operator, a Hotel Casino Operator or a Gaming House Operator licensed under the Gambling Regulatory Authority Act) shall attract a withholding tax at 10%.	1 January 2019
— Operators shall submit a statement of winnings and payments where applicable by no later than 20 days from the end of month in which the tax was deducted.	1 September 2018
— Failure to submit the statement of winnings and payments where applicable within deadline shall give rise to penalties and interests as applicable.	1 September 2018
Islamic Finance Arrangement Exemptions — Interest income shall be exempt where: – it is derived by individuals and non-resident companies from Sukuks quoted on the Stock Exchange; and – it is derived by individuals and companies from Sukuks issued by a company to finance renewable energy projects.	Gazette Date
Additional Assessment — Where the Director-General is of opinion that tax has been under claimed under an assessment raised, he may raise an additional assessment on the amount of chargeable income. — Taxpayers can object against the additional assessment raised. — An additional assessment shall not be raised after three years from the year of assessment to which the additional assessment relates.	Gazette date
Carry forward tax losses — Subsequent determination can be made where the Director-General is of opinion that the tax losses available for carry forward/set off has been overstated from the previous determination. — Taxpayers can object against the determinations raised. — Tax losses incurred by approved exempt bodies such as SMEs, companies engaged in bio-farming project, fishing activities and innovation driven activities can be carried forward and deducted as applicable.	Gazette date

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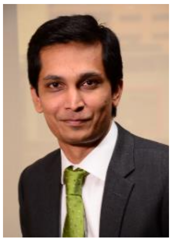

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Download the KPMG application:

The above information has been extracted from the Finance Bill released for consultation on 13 July 2018

The Bill may be amended significantly before enactment. The content of this summary is intended to provide a general guide to the subject matter and should not be regarded as a basis for ascertaining liability to tax or determining investment strategy in specific circumstances. In such cases specialist advice should be taken.