



# Finance Bill 2016

KPMG in Mauritius | Tax Alert

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# Foreword

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Dear Valued Clients,

The Finance (Miscellaneous Provisions) Bill 2016 ("the Bill") has been released for consultation and will be introduced in the Parliament next week. This draft legislation incorporates the measures announced by the Honourable Minister of Finance in his Budget Speech on 29 July 2016. 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 and the dates they become effective. Note that the Bill may be subject to changes following parliamentary debates.

You will recall that the Hon Minister of Finance announced that tax holidays will be provided to companies holding Treasury Management Licence, Overseas Family Corporation Licence, Global Headquarters Administration Licence as well as to Foreign Ultra High Net Worth Individuals investing a minimum of USD 25 Million in Mauritius. These highly awaited measures are, unfortunately, not included in the Bill. We expect that these tax holidays to be introduced through Regulations and that the conditions to be met in order to avail of the tax incentives will be clearly set out in the Regulations.

The Bill provides for amendment to the MRA Act for the introduction of an Alternative Dispute Resolution Panel ('ATDR Panel') that will independently review the assessments raised by MRA. Given the number of pending tax cases at the Assessment Review Committee (ARC) with the value of taxes involved being over Rs8bn as at December 2015, such a measure is welcomed. However, the Bill provides that the Panel shall comprise of two officers from MRA and one independent lawyer. We highly recommend that the composition of the Panel be reviewed to make it more independent from MRA.

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

Regards,



**Wasoudeo Balloo**

*Tax Partner*

# Corporate Tax



Key measures	Effective
<p><b>Investment Tax Credit</b></p> <ul style="list-style-type: none"> <li>Investment tax credit shall be allowed in respect of investment made during the year 2003 to 2008 amounting to: <ul style="list-style-type: none"> <li>i. MUR 60 Million or 20% of stated capital, whichever is higher, of a Spinning Factory: and</li> <li>ii. MUR 10 Million or 20% of stated capital, whichever is higher, of a weaving, dyeing or knitting of fabrics factory</li> </ul> </li> </ul> <p>The tax credit shall be, by way of deduction from the factory's income tax payable as follows –</p> <ul style="list-style-type: none"> <li>a) 15 per cent of the investment over 4 years; or</li> <li>b) 10 per cent over 6 years,</li> </ul> <p>as from the year the investment was made, less any investment tax credit it has been allowed in the past in respect of the same investment</p> <ul style="list-style-type: none"> <li>Investment tax credit may now be carried forward for a period of 6 consecutive years from the income year in which the investment was made</li> <li>Investment tax credit can be offset against past tax liability but shall not give rise to refund of tax already paid</li> <li>Companies may offset investment tax credit against past tax liabilities only if the amount paid is still under dispute with the MRA. This shall not apply if the dispute is pending before any court or other judicial bodies</li> </ul>	Gazette date

# Corporate Tax



Key measures	Effective
<b>Investment Tax Credit (Cont'd)</b> <ul style="list-style-type: none"> <li>An investment tax credit shall be allowable by way of deduction from a company's income tax in respect of the year of investment and for each of the 2 subsequent income years for investment made during the period 1 July 2016 to 30 June 2020, in respect of: <ul style="list-style-type: none"> <li>Plant and machinery acquired by a company manufacturing or producing any of the goods or products and rates specified as per Appendix A, or</li> <li>Share capital of a subsidiary company engaged primarily in the setting up and management of an accredited business incubator at 15% per annum up to a maximum of MUR 3 Million</li> </ul> </li> <li>Any excess tax credit may be carried forward to the following income year</li> <li>The tax credit shall not be carried forward beyond a period of 10 consecutive income years following the income year in which the capital expenditure was incurred</li> <li>Where the plant and machinery or the shares are sold or otherwise transferred, within a period of 5 years from the date of its acquisition, the tax credit shall be claw-back</li> </ul>	Gazette date
<b>Corporate Social Responsibility</b> <ul style="list-style-type: none"> <li>CSR Fund to be remitted to MRA as follows: <ul style="list-style-type: none"> <li>At least 50% of the CSR Fund set up on or after 1 January 2017 up to 31 December 2017;</li> <li>At least 75% of the CSR Fund set up on or after 1 January 2018</li> </ul> </li> <li>Any remaining amount of CSR Fund set up: <ul style="list-style-type: none"> <li>before 1 January 2019, shall be used by a company to implement a CSR Programme in accordance with its own CSR Framework;</li> <li>On or after 1 January 2019, CSR fund should be disbursed in 6 new priority areas of intervention as per Appendix B</li> </ul> </li> </ul>	Gazette date

# Corporate Tax



Key measures	Effective
<b>Corporate Social Responsibility (Cont'd)</b> <ul style="list-style-type: none"> <li>No CSR money shall be spent by a company in respect of the activities specified in Appendix C</li> <li>Where a company is required to file APS return, it shall remit 25% of the above mentioned CSR fund payable to MRA in each of the first 3 quarters and the remaining 25% in its annual return</li> <li>Where a company is not required to file APS returns, the CSR fund payable to MRA shall be remitted in its annual return</li> </ul>	Gazette date
<b>Transfer of losses upon takeovers or mergers</b> <ul style="list-style-type: none"> <li>Section 59A is being extended to authorize the transfer any unrelieved losses where the Minister has deemed such take-over to be in the public interest</li> <li>The acquiree company may remain in operation as a going concern</li> </ul>	Gazette date
<b>Tax Deducted at Source</b> <ul style="list-style-type: none"> <li>The following payments will as from 1<sup>st</sup> October 2016 be subject to withholding tax: <ul style="list-style-type: none"> <li>— Management fees payable to: <ul style="list-style-type: none"> <li>a) a resident (5%)</li> <li>b) a non-resident (10%)</li> </ul> </li> <li>— Fees payable to a non-resident entertainer or sportsperson (10%)</li> <li>— Fees payable to Accountant/Accounting firm (3%)</li> <li>— Fees payable to Tax Adviser or his representative (3%)</li> </ul> </li> </ul>	1 October 2016

# Personal Tax



Key measures	Effective*
<b>Unexplained wealth</b> <ul style="list-style-type: none"> <li>Where the Director-General (DG) of the MRA suspects that a person has acquired unexplained wealth of MUR10 Million or more, he shall make a report to the Integrity Reporting Services Agency specifying the full name, address and the sum of the unexplained wealth of that person</li> <li>The sum of the unexplained wealth is not liable to income tax</li> <li>The DG shall issue an assessment if the sum specified in the report is not subject to confiscation (wholly or partly) further to the directions from the Integrity Reporting Board to the Integrity Reporting Services Agency</li> </ul>	Gazette date
<b>Interest relief on loan for first time home buyers</b> <ul style="list-style-type: none"> <li>Full interest relief is extended on secured housing loan irrespective of date loan was contracted</li> <li>Individuals who are first time home buyers and whose total income does not exceed MUR4 Million will avail of the full interest relief on loan</li> </ul>	1 July 2016
<b>Solar Energy Investment Allowance</b> <ul style="list-style-type: none"> <li>An individual who has invested in a solar energy unit, is entitled to relief by way of deduction from his net income after deducting the applicable amount of income exemption threshold, interest relief and relief for medical or health insurance premium</li> </ul>	1 July 2015
<b>Filing date for PAYE return by the employer</b> <ul style="list-style-type: none"> <li>The due date to file the PAYE Return for the month of May and November is 2 days excluding Saturdays and public holidays before the end of June and December respectively</li> </ul>	Gazette date
<b>Penalty for late payment of PAYE by employer</b> <ul style="list-style-type: none"> <li>An employer is liable to a penalty of 10% (currently 5%) of the amount of the tax remaining unpaid</li> </ul>	Gazette date

\* The effective date relates to the commencement date of the income year in which the measure becomes effective.

# Personal Tax



Key measures	Effective*
<b>Obligation to withhold PAYE for September 2016</b> <ul style="list-style-type: none"> <li>For the month of September 2016, an employer should take into account the amount of income exemption threshold claimed by the employee in his Employee Declaration Form in respect of the income year ending 30 June 2016</li> </ul>	Gazette date
<b>Submission of statement of assets and liabilities by individuals</b> <ul style="list-style-type: none"> <li>At the time of submission of his annual income tax return, a person is required to submit a statement of assets and liabilities to the DG if: <ul style="list-style-type: none"> <li>his net income and exempt income derived in the income year exceeds MUR15 Million; or</li> <li>he owns assets whose cost exceeds MUR50 Million</li> </ul> </li> <li>The penalty for non submission of the statement of assets and liabilities is MUR2,000 per month or part of the month and does not exceed MUR20,000</li> </ul>	1 July 2016
<b>Child Pursuing Tertiary Education</b> <ul style="list-style-type: none"> <li>The relief is available if the annual tuition fee is a minimum MUR34,800 (previously MUR44,500) and the taxpayers total income is less than MUR4 Million (previously MUR2 Million)</li> </ul>	1 July 2016

## Income Exemption Threshold

	From	To
Effective Income Year ending	30 June 2016	30 June 2017
	MUR	MUR
Category A (1) – Individual with no dependent	285,000	295,000
Category B (2) – Individual with one dependent	395,000	405,000
Category C (3) – Individual with two dependents	455,000	465,000
Category D (4) – Individual with three dependents	495,000	505,000
Category E (5) – Retired/Disabled person with no dependent	335,000	345,000
Category F (6) – Retired/Disabled person with one dependent	445,000	455,000

\* The effective date relates to the commencement date of the income year in which the measure becomes effective.

# Value Added Tax



Key measures	Effective
<b>Reverse VAT Charge</b> <ul style="list-style-type: none"> <li>Reverse VAT Charge is now extended to NON-VAT registered persons on the supply of services received from abroad where non-VAT registered persons are defined as persons that are required to be registered under the Business Registration Act or as the law may prescribe</li> <li>Such NON-VAT registered persons will have to submit a return to the MRA and pay the applicable VAT amount to the MRA without being able to claim the same amount as input VAT compared to the reverse charge mechanism for VAT registered persons</li> <li>Not applicable on individuals receiving supply of services from abroad for personal purposes</li> </ul>	Upon proclamation
<b>VAT Deregistration</b> <ul style="list-style-type: none"> <li>Upon an increase in the amount for compulsory VAT registration threshold, registered persons no longer having annual taxable supplies more than the prescribed threshold can apply for deregistration</li> <li>Application for deregistration will have to be made within 30 days upon increase in the threshold. More guidance is needed regarding this measure taking into consideration that it is being applied effective as from 1 July 2015</li> <li>Where a VAT registered person applies for deregistration, VAT shall no longer be payable on assets forming part of the business</li> <li>Upon VAT deregistration, no refund will be made for excess VAT in the last taxable period</li> </ul>	1 July 2015
<b>Wrong claim for input VAT</b> <ul style="list-style-type: none"> <li>Where excess VAT is carried forward and it is found that input VAT has been over claimed, a penalty of 20% will be applicable on the amount over claimed</li> <li>This penalty should be included as output VAT in the next return and is capped at MUR100,000</li> <li>Such penalty will not be applicable on claims for repayment of excess VAT relating to capital goods and zero rated supplies</li> </ul>	1 October 2016

# Value Added Tax



Key measures	Effective
<b>Penalty for late payment of tax</b> <ul style="list-style-type: none"> <li>Increased from 5% to 10% of unpaid amount</li> </ul>	Gazette Date
<b>Information required by the MRA</b> <ul style="list-style-type: none"> <li>Over and above the prima facie evidence of fraud, the Director General will also have the authority through the Independent Tax Panel to require any information with respect to non-submitted returns irrespective of the open years of assessments</li> </ul>	Gazette Date
<b>Public Sector Agency</b> <ul style="list-style-type: none"> <li>A public sector agency (including a Ministry, a Government department, a local authority, a statutory body and the Rodrigues Regional Assembly) had to previously retain and pay a VAT amount to the MRA on contracts exceeding MUR300,000 as prescribed in the VAT Act</li> <li>This will be no longer applicable</li> </ul>	1 July 2016
<b>Validity of notice of assessment or determination</b> <ul style="list-style-type: none"> <li>Any notice of assessment or determination will not be void in case of an error or omission made with respect to: <ul style="list-style-type: none"> <li>the name or address of the person;</li> <li>the date or period;</li> <li>amount of VAT assessed</li> </ul> </li> </ul>	Gazette date
<b>Objections to assessments</b> <ul style="list-style-type: none"> <li>At the time of objection, a taxpayer shall henceforth submit any outstanding returns and pay the resulting tax together with the applicable penalties and interests in respect to the taxable periods covered by the assessment. In such case, the amount payable at objection will be 10% of the difference between the tax payable inclusive of penalties /interests and the amount claimed in the notice</li> <li>Where a taxpayer has submitted the required returns, he will have to pay any outstanding tax payable and 10% of the amount claimed in the notice at the time of objection</li> </ul>	Gazette date

# Value Added Tax



Key measures	Effective
<b>Refund of VAT to persons on residential building, house or apartment</b> <ul style="list-style-type: none"> <li>VAT refund scheme is also applicable to the construction or purchase of a house subject to conditions</li> <li>VAT refund can be claimed up to an aggregate amount of MUR500,000 instead of MUR300,000</li> </ul>	Gazette date
<b>Zero-rated supplies</b> <ul style="list-style-type: none"> <li>Zero-rated supplies will now include: <ul style="list-style-type: none"> <li>Photovoltaic generators, photovoltaic panels, photovoltaic batteries and photovoltaic inverters</li> <li>Production of films for export</li> <li>Entrance to new leisure attractions including world class Aquarium subject to conditions</li> <li>Fees payable for examination of vehicles in accordance with Road Traffic Act up to 30 June 2017</li> <li>CCTV camera systems, including CCTV digital video recorders</li> <li>Burglar alarm systems and sensors</li> </ul> </li> </ul>	Gazette date
<b>VAT exempt bodies</b> <ul style="list-style-type: none"> <li>VAT should not be applied on: <ul style="list-style-type: none"> <li>the purchase of aircraft spare parts including aircraft engines, repairs, printed ticket stock and airway bill by an airline;</li> <li>the purchase of semi-low floor bus bodies built on chassis for semi-low floor buses by a holder of a road service licence;</li> <li>the construction of a purpose-built building for a private hospital, nursing home or residential care home by a company licensed under Private Health Institutions Act or the Residential Care Homes Act and registered with the Board of Investment</li> <li>purchase of plant, machinery and equipment by a company engaged in the exploration and mining of seabed for the exclusive use of its business activity</li> </ul> </li> </ul>	Gazette date

# Other Taxes



## SMEs

Key measures	Effective
<b>Small enterprise qualified under an approved scheme</b> <ul style="list-style-type: none"> <li>Qualifying small enterprises set up prior to 01 June 2015 and registered with SMEDA are now being granted 4 years tax holiday as from income year 2015/16</li> <li>Previously, a small company was defined as a company incorporated under the Companies Act and registered with the SMEDA on or after 02 June 2015. This has now been extended to include co-operative societies set up on or after 02 June 2015 and registered with the SMEDA</li> </ul>	Effective as from 1 <sup>st</sup> July 2015
<ul style="list-style-type: none"> <li>Qualifying small enterprises and cooperative societies registered with SMEDA on or after 2 June 2015 will benefit from an 8 year tax holiday</li> <li>Unrelieved tax losses of the qualifying small enterprises shall not be carried forward after the 8 year exemption period</li> </ul>	Gazette Date

## Land (duties and taxes) Act

Key measures	Effective
<ul style="list-style-type: none"> <li>Section 42B has been introduced stating that the Registrar-General may make a written request to the Director-General to collect and enforce any unpaid duty or tax on his behalf</li> <li>Upon the written request, any unpaid duty or tax shall be treated as tax due to the MRA</li> <li>The Registrar-General shall also submit a list of outstanding debts to the Director-General and inform the debtor that his debt has been referred to the Director-General for recovery</li> <li>The exemption from payment of Land Transfer Tax has been extended to 30 June 2019 (formerly 2018) with regards to the transfer of a portion of freehold land to a company registered under the Companies Act for construction of a housing estate of at least 5 residential units</li> <li>Promoters of residential units being built and sold under projects registered with the MRA for a value of up to MUR6 Million (formerly MUR4 Million) is exempt from Land Transfer Tax up till 30 June 2019 (formerly 30 June 2018) provided that the transfer is made on or before 30 June 2020 (formerly 31 December 2019) and the sale is made to a citizen of Mauritius.</li> </ul>	Gazette Date

# Other Taxes



## Registration Duty Act

Key measures	Effective
<p><b>Amendments to the Registration Duty Act</b></p> <ul style="list-style-type: none"> <li>Companies purchasing freehold land during the period 01 January 2012 to 30 June 2018 under the construction project of housing estates for the construction of at least 5 residential units were exempted registration duty. This has now been extended to 30 June 2019</li> <li>No registration duty is applicable on the first MUR2 Million (previously MUR1.5 Million) for first time buyers of bare residential land not exceeding 20 perches</li> <li>No registration duty is applicable for a Mauritian citizen acquiring a new house or a new apartment with a value not exceeding MUR6 Million during the period 1<sup>st</sup> September 2016 to 30 June 2020</li> <li>Duty leviable in respect of any deed of transfer to an individual regarding the transfer of a newly-built dwelling on or before 30 June 2020 will be reduced by the amount of the duty leviable or MUR 300,000, whichever is the lesser. A transferee will be eligible for a reduction provided that the following conditions are met: <ul style="list-style-type: none"> <li>— He is a citizen of Mauritius</li> <li>— The transfer is <b>not</b> in relation to a newly-built dwelling situated on Pas Géométriques or acquired under the Investment Promotion (Real Estate Development Scheme) Regulations 2007, Investment Promotion (Property Development Scheme) Regulations 2015 or Investment Promotion (Invest Hotel Scheme) Regulations 2015;</li> <li>— The value of the newly-built dwelling does not exceed MUR6 Million</li> </ul> </li> <li>The Receiver may make a written request to the Director-General of the MRA for the collection and enforcement on his behalf of any unpaid registration duty</li> <li>In the event the receiver makes a written request as stated above, any unpaid registration duty will be deemed to be taxed due to the MRA</li> <li>Where a written request has been made to the Director-General of the MRA, the receiver shall submit a list of outstanding debts to be recovered by him at the same time and inform the debtor that the debt has been referred to the Director-General of the MRA</li> </ul>	<p>Gazette date</p>

# Other Taxes



## Tax Administration

Key measures	Effective
<b>Amended return</b> <ul style="list-style-type: none"> <li>Where a person has already submitted a return for a particular year of assessment and subsequently submits a new return for that same year of assessment amending the previous return, he shall be deemed to have submitted the return on the date of submission of the new return. A penalty of MUR 2,000 per month or part of the month (not exceeding MUR 20,000) until the new return is submitted will be applicable</li> <li>An amended tax return made by a company or a society shall be submitted electronically and must provide reasons for each alteration made to the previous return</li> <li>The penalty of MUR 2,000 per month until a new tax return is submitted will not be applicable where the amended return is submitted by an individual and the amendments relate only to emoluments or to the amount of personal reliefs and deductions</li> <li>An amended return shall not be submitted after 3 years from the end of that year of assessment except if the amended returns are submitted in respect of undeclared or under-declared income or submitted by an individual in relation to emoluments or to the amount of personal reliefs and deductions</li> </ul>	1 January 2017
<b>Penalties for loss over-claimed</b> <ul style="list-style-type: none"> <li>Where a person has claimed a loss in excess of the actual loss incurred or brought forward, the person shall be liable to a penalty of 5% of the loss over-claimed</li> <li>The penalty of 5% will be offset against the correct amount of loss carried forward, hence reducing the loss to be carried forward</li> </ul>	Gazette date

# Other Taxes



## Tax Administration

Key measures	Effective
<b>Company not in operation</b> <ul style="list-style-type: none"> <li>Where a company has not started business or ceased business, and has not derived any income in an income year, it shall file a declaration form within 3 months after the expiry of that income year instead an income tax return. However, this will not apply to companies holding a Category 1 Global Business Licence or trusts</li> </ul>	1 July 2016
<b>Assessment beyond 3 years of assessments</b> <ul style="list-style-type: none"> <li>The Director General of the MRA will require approval from Independent Tax Panel to raise assessments beyond 3 years statutory limit in case a taxpayer has not submitted a tax return and is liable to tax. Previously, this was possible only in the case of fraud</li> </ul>	Gazette date

# Other Taxes



## Tax Administration - Mauritius Revenue Authority Act amended

Key measures	Effective
<p><b>Objection determined by MRA</b></p> <ul style="list-style-type: none"> <li>Where an objection is determined, the Director General of the MRA shall specify the reasons for his determination in respect of each ground of objection</li> </ul>	Gazette date
<p><b>Alternative Dispute Resolution Panel (“ATDR Panel”)</b></p> <ul style="list-style-type: none"> <li>A newly introduced mechanism at the level of MRA to accelerate tax appeal cases</li> <li>The ATDR Panel consist of 3 members and comprises of the following: <ul style="list-style-type: none"> <li>—chaired by an officer not below the grade of director and appointed by the Director General;</li> <li>—a senior officer, designated by the Director General ; and</li> <li>—a person who has been a law practitioner for not less than 5 years, appointed by the Minister</li> </ul> </li> </ul> <p><b>Who can apply?</b></p> <ul style="list-style-type: none"> <li>Taxpayers who have lodged an objection to the assessment;</li> <li>Taxpayers who are dissatisfied to the decision of the MRA;</li> <li>Taxpayers who have appealed to the Assessment Review Committee, the Supreme Court or the Privy Council</li> <li>The ATDR Panel shall provide its decision within 6 months from the date that the taxpayer was informed that his application for review has been referred to the Panel</li> </ul>	Gazette date

# Appendices



# Appendices

A.	Capital expenditure incurred on new plant and machinery for companies engaged in manufacturing or production of	Rate of annual tax credit allowable (Percentage of cost)
	Computers	15
	Electronic or optical products	5
	Electrical equipment	5
	Film	15
	Furniture	5
	Jewellery and bijouterie	5
	Medical and dental instruments, devices and supplies	5
	Pharmaceuticals or medicinal chemicals	15
	Ships and boats	15
	Textiles	15
	Wearing apparels	15

## B. SIX PRIORITY AREAS OF INTERVENTION

- Dealing with health problems resulting from substance abuse and poor sanitation
- Educational Support targeting families in the Social Register of Mauritius
- Family protection – protection to victims of domestic violence
- Poverty Alleviation targeting families listed in the Social Register of Mauritius
- Social Housing targeting families in the Social Register of Mauritius
- Supporting persons with severe disabilities

## C. ACTIVITIES WHICH DO NOT QUALIFY UNDER CSR

- Activities discriminating on the basis of race, place of origin, political opinion, colour or creed
- Activities targeting shareholders, senior staff or their family members
- Activities which are against public safety and national interest
- Religious, political, trade union, self-financing, staff welfare and marketing activities

# Key contacts:

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The above information has been extracted from the Finance Bill released for consultation on 24<sup>th</sup> August 2016

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.

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