



FINANCE BILL 2018

SUMMARY OF MEASURES



New Paradigm

The Prime Minister and Minister of Finance and Economic Development announced major changes in the way businesses were going to be carried out in his Budget Speech in June 2018. The Finance Bill 2018 reflects this position. Some of the main measures of the Finance Bill 2018 can be highlighted as follows:

- Phased abolishment of the deemed foreign tax credit regime
- Phased abolishment of the Category 1 and Category 2 Global Business Licences regime
- Introduction of a new Global Business Licence
- Introduction of a new Authorised Company regime
- Introduction of a new partial exemption regime affecting foreign source income
- New rules on anti-money laundering and terrorist financing matters

Before analyzing in further details the changes being brought by the Finance Bill 2018, it may be good to brush up the previous regimes in Mauritius. Under our existing laws, an organization could have been set up either under a domestic regime or under a Global Business regime. The main distinction to apply for one or the other regime was the place where the organization intended to do business. The organization was eligible for the Global Business regime only if the majority of its operations would have been undertaken outside Mauritius. It is noted that an organization could still have opted to follow the domestic regime even though it may have qualified for a Global Business Licence.

The Global Business regime was further divided into two main components: namely those entities holding a Category 1 Global Business Licence ("GBC1") and a Category 2 Global Business Licence ("GBC2"). One of the main differences between a GBC1 and a GBC2 was that the former was resident for income tax purposes in Mauritius whereas the GBC2 was not. The GBC2 had further restrictions such as it was not available to residents of Mauritius and could not do certain types of activities such as financial services.

Organizations operating under both the domestic regime or holding GBC1 were resident for income tax purpose. They were subject to a 15% headline tax rate on their chargeable income. Credit for foreign tax suffered could be claimed to mitigate the tax liability of the organization but only those holding a GBC1 could benefit from a deemed tax credit of 80% on the tax liability if proof of foreign tax suffered could not be provided. The net effect of the above meant that the organization holding GBC1 was subject to a maximum tax rate of 3%.

The Finance Bill 2018 has not only revamped the business regime of an organization but also the tax regime in Mauritius. The Bill has also introduced several measures relating to anti-money laundering and terrorist financing. We have covered changes in the business regime under sub-section 1, changes in the tax regime under sub-section 2 and changes in anti-money laundering and terrorist financing rules under sub-section 3.

Wishing you a pleasant reading.

AAA Team

New Business Regime

Existing GBC1 and GBC2

The Finance Bill 2018 has abolished both the GBC1 and the GBC2 regimes. All organizations licensed as a GBC1 on or prior to 16 October 2017 are grandfathered and shall continue to hold their GBC1 licence up to 30 June 2021. As from 01 July 2021, the licence will be **automatically** converted from a GBC1 to a Global Business Licence (“GBL”). An organization licensed as a GBC1 after 16 October 2017 will be automatically converted to a GBL as from 01 January 2019.

As regards the GBC2, licences issued on or prior to 16 October 2017 will lapse on 30 June 2021 and licences issued after 16 October 2017 will lapse on 31 December 2018. Once the licence has lapsed, a GBC2 will continue to remain subject to the obligations of the GBC2, comply with the terms and conditions imposed by the Financial Services Commission (“FSC”) and will be required to comply with the directions of the FSC for the orderly dissolution of its business and the discharge of its liabilities.

New Concepts

The Finance Bill 2018 has introduced two new concepts namely, the **GBL** and the **Authorised Company (“AC”)**.

The terminology GBL appears to be similar to the previous Category 1 Global Business regime, but it should be noted that the underlying rules are noticeably different. The previous Category 1 Global Business regime was optional to an organization in the sense that the organization could have chosen whether or not to apply for a Global Business Licence if it was qualified to do so.

Under the new regime, it is now an **obligation** for an organization to apply for either a GBL or seek authorization to be an AC once it meets BOTH of the following criteria:

	Must apply for GBL or seek authorization to be an AC if
1. Citizenship Test	The majority of shares or voting rights or legal or beneficial interest in a resident corporation (other than a bank licensed by the Bank of Mauritius and such other corporation as may be specified in FSC rules) are held or controlled by a person who is not a citizen of Mauritius
2. Conduct of Business Test	The corporation proposes to conduct business principally outside Mauritius or with such category of persons as may be specified in FSC Rules

Once the organization meets both the citizenship test and the conduct of business test, it has an obligation to:

- Apply for a GBL if its principal place of effective management is **IN** Mauritius;
- Seek authorization to be an AC if its principal place of effective management is **OUTSIDE** Mauritius.

New Business Regime (continued)

It is to be noted that a holder of a GBL must 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 qualified persons to carry out the core activities and (ii) having a minimum level of expenditure, which is proportionate to its level of activities (it is expected that the FSC will soon come up with the applicable regulations to provide clarity); and
- Be managed and controlled from Mauritius; and
- Be administered by a management company.

It is also to be noted that an AC must have at all times a registered agent in Mauritius which shall be a management company.

The Finance Bill 2018 has further introduced penalties applicable where a corporation fails to apply for a GBL or seek authorization to be an AC. On conviction, the corporation will be liable to a fine not exceeding Rs 1 million.

Beneficial Ownership

The Finance Bill 2018 is proposing amendments to several pieces of legislation in connection with beneficial ownership.

Indicatively, they are as follows:

Companies Act 2001

- It is now an offence if a company has failed to notify the Registrar of Companies on the identity of its beneficial owner where shares are being held by a nominee company. On conviction, the company will be liable to a fine not exceeding Rs 300,000.
- Foreign companies that wish to establish in Mauritius are required to provide both the name of its shareholders and beneficial owners to the Registrar of Companies.

Financial Services Act

It is now mandatory for a qualified trustee under the Trusts Act to keep a register of trusts under its administration or trusteeship and mandatory for holders of financial services licence to keep a register of beneficial ownership for each of its customers.

New Business Regime (continued)

Foundations Act

It is a legal obligation to disclose the name of the beneficial owner or ultimate beneficial owner of foundations to the Registrar of Companies. The Registrar of Companies will, however, make this information publicly available only in limited circumstances (e.g. where required by the beneficial owner or for the purpose of an investigation or enquiry or by an order of the court).

Limited Liability Partnerships Act

It is mandatory for all limited liability partnerships to keep a register of partners and file such information with the Registrar of Companies. The Registrar of Companies will, however, make this information publicly available only in limited circumstances (e.g. where required by the beneficial owner or for the purpose of an investigation or enquiry or by an order of the court).

Limited Partnerships Act

It is mandatory to file the name of the beneficial owners of the limited partnership to the Registrar of Companies. The Registrar of Companies will, however, make this information publicly available only in limited circumstances (e.g. where required by the beneficial owner or for the purpose of an investigation or enquiry or by an order of the court).

Employment Permits

The Finance Bill 2018 proposes new measures to facilitate employment in Mauritius. In particular:

- It will be possible to apply for a work permit with the Economic Development Board (“EDB”) with respect to any of the following activities:
 - Artificial Intelligence
 - Biotechnology
 - Fintech
 - Robotics

- The spouse of the holder of an occupation permit, or a permanent residence permit, may apply for a work permit with the EDB.

New Business Regime (continued)

Removal from register

The Finance Bill 2018 proposes amendments to allow for applications for the removal of the following entities from register:

Entity	Application By
Foundations	A founder or a beneficiary to the Registrar of Companies
Limited Liability Partnerships	A partner to the Registrar of Companies
Limited Partnerships	A partner to the Registrar of Companies

Transitional Provisions

With the GBC1 and the GBC2 regimes being abolished, the Finance Bill 2018 has introduced transitional provisions in several legislations to ensure that previous legislations which governed the GBC1 and GBC2 (as the case may be) continue to apply to as if the legislation has not been amended. The transition period is as follows:

	Application of Existing Laws to Licensees	
	Licensed on or before 16 October 2017	Licensed after 16 October 2017
Captive Insurance Act	Up to 30 June 2021	Up to 31 December 2018
Financial Services Act	Up to 30 June 2021	Up to 31 December 2018
Insurance Act	Up to 30 June 2021	Up to 31 December 2018
Limited Liability Partnership Act	Up to 30 June 2021	Up to 31 December 2018
Limited Partnerships Act	Up to 30 June 2021	Up to 31 December 2018
Non-Citizen (Property Restriction) Act	Up to 30 June 2021	Up to 31 December 2018
Protected Cell Companies Act	Up to 30 June 2021	Up to 31 December 2018
Securities Act	Up to 30 June 2021	Up to 31 December 2018

New Tax Regime

The key tax measures brought by the Finance Bill 2018 are as follows:

Corporate tax

Introduction of an 80% exemption regime

The Finance Bill 2018 introduces the 80% exemption regime and shall apply to the following income:

- Foreign source dividend, provided the dividend has not been allowed as a deduction in the source country
- Interest income from foreign source
- Profit attributable to a permanent establishment of a resident company in a foreign country
- Foreign source income derived by a Collective Investment Scheme (CIS), Closed End Fund, CIS administrator, investment adviser or asset manager licensed or approved by the FSC
- Income derived by companies engaged in ship and aircraft leasing.

The 80% regime is available on meeting substance requirements issued by the FSC. Guidelines on such requirements are yet to be issued.

Foreign tax credit is not allowed on foreign source income where 80% exemption has been claimed.

The 80% exemption regime replaces the deemed foreign tax credit which will phase out as from 01 January 2019 for GBC1s incorporated after 16 October 2017.

The transitional period available to GBC1s are as follows:

Date licence issued	Grandfathered
On or before 16 October 2017	Up to 30 June 2021
After 16 October 2017	Up to 31 December 2018

Foreign source income

The Finance Bill 2018 changes the definition of foreign source income to ***income which is not derived from Mauritius.***

The definition used to include, in the case of a GBC1, income derived from its transactions with non-residents or corporations holding a Global Business Licence. For GBC1s licensed on or before 16 October 2017, the foreign source income shall continue to include such income up to 30 June 2021.

New Tax Regime (continued)

GBC2

GBC2s are considered as non-resident companies in Mauritius and are exempted from income tax. With the phasing out of GBC2s, the transitional period in terms of income tax will be as follows:

Date licence issued	Grandfathered *
On or before 16 October 2017	Up to 30 June 2021
After 16 October 2017	Up to 31 December 2018

* Certain intellectual property assets are excluded.

Companies treated as non-resident in Mauritius

Under the new tax regime, companies incorporated in Mauritius and having their place of effective management outside Mauritius shall be treated as non-resident. No tax shall be payable in Mauritius but they shall be required to submit a return of income to the MRA.

Reduced Corporate Tax rate

Companies engaged in international buying and selling of goods where the goods are being shipped directly from the exporting country to the importing country shall benefit from a reduced corporate tax rate of 3%.

Corporate Social Responsibility ("CSR")

- CSR will not apply to freeport operators and private freeport developers.
- Subject to the prior written approval of the National CSR Foundation, a CSR fund set up on or after 1 January 2019 may reduce the amount to be remitted to the MRA by up to 25% where it intends to use such amount to finance a CSR programme which has started before 1 January 2019.
- Companies shall not be allowed to offset any available tax credit against any amount of CSR payable.

Deduction of Emoluments payable to homeworkers

- During the period 01 July 2018 to 30 June 2020, where a person employs a full-time homeworker, he shall be allowed to deduct from his gross income, for the first two years, an amount twice the emoluments payable to the homeworker, subject to certain conditions
- During the period 01 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 of equal to 5% of the cost of the information technology system in the year of acquisition and in each of the two subsequent years.

New Tax Regime (continued)

Tax Holidays

The Finance Bill 2018 introduced new activities that will benefit from tax holidays:

- 5-year income tax holiday for project developers and project financing institutions with respect to development of infrastructure in Special Economic Zones in collaboration with the Mauritius Africa Fund.
- 8-year tax exemption for a company registered with the Economic Development Board and engaged in the manufacturing of the automotive parts.
- 8-year tax exemption from any activity under the Sheltered Farming scheme.

Tax Deduction at Source (TDS)

TDS shall apply on the following:

- Commission - at a rate of 3%
- Rent paid to non-residents - at a rate of 10%

Value added tax (VAT)

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 if certain conditions are met.
- The deferred VAT shall be paid on submission of the VAT return for the taxable period in which VAT is deferred.
- Deferred VAT not paid on the submission of the VAT return shall become due and payable together with applicable penalties and interests.

Cancellation of Registration

When 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 Rs 100,000 forming part of the assets of the business other than motor cars/motor vehicles used for own consumption.

New Tax Regime (continued)

Electronic Fiscal device

- There shall be a penalty of Rs 5,000 capped to Rs 50,000 for every month or part of the month for non-use of electronic fiscal device.
- A penalty not exceeding Rs 50,000 will apply for misuse of the electronic fiscal device that misleads the MRA and deliberately tampers or causes an electronic fiscal device to work properly.
- Failure to use an electronic or misuse of or tampering with electronic fiscal device is an offense and on conviction, the person shall be liable to a fine not exceeding Rs 200,000 and to imprisonment for a term not exceeding 12 months.

Credit for input tax against output tax

- VAT paid by registered persons involved in accommodation or lodging, catering services, entertainment, receptions 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.

Personal tax

Rate of income tax

- An individual earning an annual net income of up to Rs 650,000 will be taxed at a rate of 10% instead of 15%.
- An individual earning an annual net income above Rs 650,000 will be taxed at a rate of 15%.
- A non-resident individual deriving any rent, royalty, premium, or other income from property will be taxed at the rate of 15%.

New Tax Regime (continued)

Income Exemption Threshold

The Income Exemption Thresholds for all categories have been increased by Rs 5,000 as follows:

Category	(Rs)
Category A- Individual with no dependent	305,000
Category B- Individual with one dependent	415,000
Category C- Individual with two dependents	480,000
Category D- Individual with three dependents	525,000
Category E- Individual with four or more dependents	555,000
Category F- Retired/Disabled person with no dependent	355,000
Category G- Retired/Disabled with one dependent	465,000

Additional deduction for tertiary education

- The deduction in respect of a dependent pursuing tertiary education in Mauritius has been extended from Rs 135,000 up to a maximum of Rs 175,000.
- The deduction of a dependent pursuing tertiary education outside of Mauritius has been increased from Rs135,000 to Rs 200,000.

The above deduction is applicable to a maximum of 3 dependents.

Lump Sum Exemption

The tax exemption threshold on lump sum relating to severance allowance, pension, retiring allowance has been increased from Rs 2 million to Rs 2.5 million.

Rain Harvesting Investment Allowance

Full deduction is available for an individual investing in rainwater harvesting system. The deduction may be taken by either the spouse or shared equally between the spouse, provided the spouse is not a dependent person. Any unrelieved amount may be carried forward and deducted against net income of succeeding years.

Interest relief

An individual taking a loan by way of Islamic financing arrangement on a secured immovable property used exclusively for the purchase or construction of his house can claim interest relief.

New Tax Regime (continued)

Sukuks

Any interest payable on sukuks quoted on the stock exchange held by an individual is tax exempt.

Interest derived by an individual from sukuks issued by a company to finance renewable energy projects approved by the MRA is tax exempt.

New Anti-Money Laundering / Terrorist Financing Regime

Bank of Mauritius Act

The Bank of Mauritius may establish a Central KYC Registry and require any KYC institution to furnish KYC records of their customers to the Registry. A KYC institution is defined under the Bank of Mauritius Act as any institution or person, duly licensed by the Bank of Mauritius or the FSC which or who is required to verify the identity of its or his customers under the Financial Intelligence and Anti-Money Laundering Act (***note to readers: KYC institutions will include companies that provide financial services such as investment managers, investment advisors, management companies etc.***).

When submitting KYC records to the Registry, the KYC institution is required to inform its customers that their KYC records shall be submitted to the Registry.

Where any KYC institution fails to comply with the above requirements, the Bank of Mauritius may:

- (a) by directive, require the KYC institution to remedy the situation;
- (b) impose a penalty or charge not exceeding 50,000 rupees for each day of non-compliance. The penalty may be deducted from any balance which the KYC institution has with the Bank of Mauritius or as money owing to the Bank of Mauritius as if it were a civil debt; or
- (c) in the absence of any reasonable excuse, proceed against the KYC institution the relevant section of the Banking Act on grounds that it is carrying on business in a manner which is contrary to the interests of the public or, in the case of any other KYC institution, refer the matter to the relevant supervisory authority for such action as it may deem appropriate.

The Financial Intelligence and Anti-Money Laundering Act (FIAMLA)

The Finance Bill 2018 introduces a whole new section on Risk Assessment, as detailed hereunder, requiring every reporting person to identify, assess and monitor its money laundering and terrorism financing risks.

A reporting person means a Bank, Financial Institution, Cash Dealer or member of a relevant profession or occupation.

Risk factors include, amongst others, own activities, customers' activities, products and services and technological developments. It is to be noted that guidance and codes on Anti-Money Laundering and combating terrorist financing have been there for a long time and players have been adhering / complying to the guidance / code. It appears that the introduction of the new section is to consolidate the practice by all players.

New Anti-Money Laundering / Terrorist Financing Regime (continued)

Reporting persons shall be required to:

- establish policies, controls and procedures to mitigate and manage the risks identified in its risk assessment and regularly review and update such policies, controls and procedures.
- undertake CDD measures (simplified or enhanced depending upon the risk assessment) not just when establishing business relationship with customers but also if doubts exist about the veracity or adequacy of existing CDD or whenever there is a suspicion of money laundering or terrorism financing involving the customer or the customer's account.
- Apply CDD requirements at appropriate times and on the basis of materiality and risk and taking into account whether and when CDD measures have previously been applied and the adequacy of the data obtained.
- maintain all books and records with respect to his customers and transactions and shall ensure that such records and books are maintained for a period of not less than 7 years after business relationship ends / transaction is completed / date relevant report has been made, as applicable.
- submit a report to the FIU of any currency transaction in an amount equal to or above the prescribed amount.

Any person who fails to comply with the above shall commit an offence and on conviction shall be liable to a fine not exceeding 10 million rupees and to imprisonment for a term not exceeding 5 years.

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Contact us

AAA Global Services Ltd
1st Floor, The Exchange, 18 Cybercity, Ebene, Mauritius

T : +230 454 3200 | F : +230 454 3202

E : headoffice@aaa.com.mu

W: www.aaa.com.mu