



FINANCE ACT 2019

Summary of Measures

Foreword

Themed as ***“Embracing a brighter future together as a nation”***, the Budget for the fiscal year 2019 – 2020 was presented by the Prime Minister, the Honourable Pravind Kumar Jugnauth on 10 June 2019. With the forthcoming elections in sight, this Budget was widely described as a social Budget aiming to strengthen the current regime’s electoral support. The main measures announced in this year’s Budget from a financial services / business perspective were:

- Further move to paperless administration (e.g. E-signatures and e-licences).
- New framework for fund administration and fund management.
- Mauritian licensed funds and management companies recognised and qualified to operate in the Gujarat jurisdiction.
- ‘umbrella licence’ for wealth management activities.
- New rules and an attractive tax regime to promote REITs.
- Scheme for headquartering of ‘e-commerce’ activities.
- Framework for green finance in line with the ‘Marrakech pledge’.
- Regime for robotics and AI-enabled financial advisory services.
- New licence for fintech service providers.
- Crowd funding as a new licensable activity.
- New category of enterprises, namely the mid-market enterprises (annual turnover MUR 50 million - MUR 250 million).
- New trading platform at the stock exchange of Mauritius to allow medium sized profitable enterprises to raise capital and trade their shares.
- A ‘single-window system’ at the FSC to allow for submission of documents for financial services and global business applications.
- Promoting gender equality – public companies and statutory bodies to have at least one woman on their board of directors.
- New workers’ rights bill and introduction of portable retirement gratuity fund.
- Financial data handling code of conduct to address cyber risks.
- New financial crime commission.
- Introduction of the Controlled Foreign Company rule.

The Finance Act 2019, which will implement the measures announced in the Budget, has now been approved without amendments, and received the assent of the President of Republic to become law.

We are pleased to provide you with a summary of the main measures brought-about by the Finance Act 2019, and wish you a pleasant reading!

Best wishes,

Tax Team
AAA Global Services Ltd





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Companies Act

Beneficial Ownership

- New definition of Beneficial Owner (“BO”) and Ultimate Beneficial Owner (“UBO”):
 - means any natural person who ultimately owns or controls a company or the natural person on whose behalf a transaction or activity is being conducted in relation to a company;
 - includes:
 - (i) the natural person who ultimately owns or controls a company through –
 - (A) direct or indirect ownership of such shares in such percentage as may be prescribed;
 - (B) voting rights;
 - (C) ownership interest; or
 - (D) control by other means;
 - (ii) where no natural person under paragraph (i) is identified, or if there is any doubt that the person identified is the beneficial owner, the natural person who controls the company in the manner one company controls another company under section 5 of the Companies Act;
 - (iii) where no person under paragraphs (i) and (ii) is identified, the natural person who acts as executive director or has equivalent executive powers.
- Action taken to identify the BO or UBO of a company as per the above definition must now be duly recorded in the registers of the company.
- Information on the BO and UBO must be lodged with the Registrar of Companies within 14 days from the date on which any entry or alteration is made in the share register.
- Information on the BO and UBO must be kept by the last directors of a company for at least 7 years after the cessation of its business.
- A company other than a small private company, which fails to comply shall commit an offence and shall, on conviction, be liable to a fine not exceeding MUR 300,000.
- A director or former director of a company, other than a director or former director of a small private company who fails to comply shall commit an offence and shall, on conviction, be liable to a fine not exceeding MUR 300,000.

Note: The Limited Liability Partnership Act and the Limited Partnership Act 2016 have also been amended to reflect the above definition of BO and UBO.

Gender Equality

There must now be at least one woman on the Board of a public company.

Definition of Private Company

A private company may now have up to 50 members, compared to a maximum of 25 previously.

Property of company removed from register

Where the Registrar has become aware of the vesting of a property in the Curator of Vacant Estates, the Registrar shall:

- a) (i) inform the Curator of Vacant Estates; and
(ii) give public notice, of the vesting, setting out the name of the former company and particulars of the property.
- b) The applicant requesting for the vesting of the property on the Curator of Vacant Estates shall pay for the costs of the public notice.

Financial Services Act

- Global Business Companies must now refer to the Income Tax Act for the substance requirements with respect to their core income generating activities.
- In a view to align all relevant definitions, in the section relating to Authorised Companies, the requirement termed as “place of effective management outside Mauritius” has been replaced by “central management and control outside Mauritius”.
- Money Laundering Reporting Officer (“MLRO”), Deputy MLRO and Compliance Officer have been added to the definition of ‘officer’ for the purpose of the Financial Services Act.
- For the purpose of an investigation, the FSC may also access any program or data and take extracts of any file, document or record held electronically in any computer or other electronic device of the licensee.
- New provisions have been made for the protection of whistleblowers reporting to the FSC.
- The FSC may now provide extensions to deadlines at its own discretion.
- Introduction of a Single Window System which will include applications for Occupation Permit and Certificate of Incorporation.
- Crowdfunding, Fintech Service Provider and Robotic and Artificial Intelligence Enabled Advisory Services have been added as new licensed financial activities. It is expected that relevant rules and regulations will be issued to provide further details on the respective licenses and their requirements.
- Administration of e-commerce can now be offered as a service by a company holding a Global Headquarters Administration license to its related companies.

Securities Act

- Green bonds have been added to the definition of securities for the purpose of the Securities Act.
- New licenses have been introduced, namely:
 - Agents of investment dealers; and
 - Real Estate Investment Trusts.

It is expected that relevant rules and regulations will be issued to provide further details on the respective licenses and their requirements.

Income Tax Act

Companies treated as non-resident in Mauritius

The term “place of effective management” has been replaced by “centrally managed and controlled” with respect to companies considered as non-resident in Mauritius, in a view to align all definitions across all Acts. The section now reads as follows: “Notwithstanding section 73, a company incorporated in Mauritius shall be treated as non-resident if it is centrally managed and controlled outside Mauritius.”

Controlled Foreign Company

A Controlled Foreign Company (“CFC”) is defined as a company which is not resident in Mauritius and in which more than 50% of its total participation rights are held directly or indirectly by a Mauritius resident company. A CFC will also include a permanent establishment of a resident company.

Where a resident company carries on business through a CFC and the MRA considers that the non-distributed income of the controlled foreign company arises from non-genuine arrangements which have been put in place for the essential purpose of avoiding or postponing an income tax liability, or reducing same, that income shall be deemed to form part of the chargeable income of the resident company.

As per the Finance Act 2019, an arrangement or a series thereof shall be regarded as non-genuine to the extent that the controlled foreign company would not own the assets or would not have undertaken the risks which generate all, or part of, its income if it were not controlled by a company where the significant people functions, which are relevant to those assets and risks, are carried out and are instrumental in generating the controlled company’s income.

The CFC rules shall however not apply to a CFC where in an income year:

- Accounting profits are not more than EUR 750,000, and non-trading income is not more than EUR 75,000;
- Accounting profits amount to less than 10% of its operating costs for the tax period (operating costs shall not include the cost of goods sold outside the country where the entity is resident for tax purposes and payments to associated enterprises¹); or
- The tax rate in the country of residence of the controlled foreign company is more than 50% of the tax rate in Mauritius.

¹ “associated enterprise” means:

(a) an entity in which the company holds directly or indirectly a participation in terms of voting rights or capital ownership of 25% or more or is entitled to receive 25% or more of the profits of that entity;

(b) an individual or entity which holds directly or indirectly a participation in terms of voting rights or capital ownership in the company of 25% or more or is entitled to receive 25% or more of the profits of the company, where an individual or entity holds directly or indirectly a participation of 25% or more in the company and one or more entities, all the entities concerned, including the company, shall also be regarded as associated enterprises

Partial Exemption

Subject to meeting their respective prescribed substance requirements, the following types of income are now also eligible for a partial exemption of 80%:

- Reinsurance and reinsurance brokering activities;
- Leasing and provision of international fibre capacity;
- Sale, financing arrangement, asset management of aircraft and its spare parts and aviation advisory services related thereto.

Tax Holidays

The following activities will now benefit tax holidays:

- 4-year income tax holiday on income derived by a company from bunkering of low Sulphur Heavy Fuel Oil from the income year ending 30 June 2019 or for a company set up after 1 July 2019, 4 succeeding years as from the income year in which that company starts its operations.
- 8-year income tax holiday on income derived by a company from intellectual property assets which are developed in Mauritius on or after 10 June 2019.
- 5-year income tax holiday income derived by a company set up on or before 30 June 2025 from the operation of an E-Commerce platform and issued with an E-Commerce certificate by the Economic Development Board, subject to meeting the prescribed substance conditions.
- 8-year income tax holiday on income derived by a company set-up on or after 10 June 2019 and engaged in the development of a marina
- 5-year income tax holiday on income derived by a person from the operation of a Peer-to-Peer Lending platform, operated under a licence issued by the Financial Services Commission, provided that the person has started their operations prior to 31 December 2020, the income is derived from the activities covered under that licence and that the person satisfies the conditions relating to the substance of its activities, as specified by the Financial Services Commission

Peer-to-Peer Lending platform

Addition to taxable income of interest derived by a person from money lent through any Peer-to-Peer Lending platform operated under a licence by the Financial Services Commission under the Financial Services Act.

Bad debts and irrecoverable sums

- Bad debts or interest arising from money lent by a person through any Peer-to-Peer Lending platform operated under a licence issued by the Financial Services Commission under the Financial Services Act may be deducted from any interest received from money lent through the same Peer-to-Peer Lending platform.
- Where the amount of debt or interest cannot be fully relieved under the above, the person may, claim that the unrelieved amount of debt or interest be carried forward and set off against interest received from money lent through the same Peer-to-Peer Lending platform in the succeeding income years. There shall be no time limit for the setting-off of any unrelieved bad debt thus arising.

Tax Deductible at Source

No TDS on interest payable to a person in respect of money lent by that person through a Peer-to-Peer Lending platform operated under a licence issued by the Financial Services Commission under the Financial Services Act.

Income from Peer-to-Peer Lending platform

80% of interest derived by a person from money lent through a Peer-to-Peer Lending platform operated under a licence issued by the Financial Services Commission.

Leviable Income

The following have been added to leviable income:

- the share of dividends of that individual in a resident société or succession to which he would have been entitled as an associate of a société or heir in a succession, had the dividends received by the société or succession been wholly distributed among the associates or heirs, as the case may be; but
- does not include any lump sum by way of commutation of pension or by way of death gratuity or as consolidated compensation for death or injury, and paid –
 - by virtue of any enactment;
 - from a superannuation fund; and
 - under a personal pension scheme approved by the Director-General.

Companies engaged in manufacturing activities in a freeport zone

Lower Tax Rate

Where, in an income year, a freeport operator or private freeport developer is engaged in the manufacture of goods meant for local market in whole or in part, it shall be liable to income tax at 3% on his chargeable income, provided that the freeport operator or private freeport developer satisfies the conditions relating to the substance of its activities as may be prescribed.

Corporate Social Responsibility (“CSR”)

Where a freeport operator or private freeport developer is engaged in the sale of goods on the local market, CSR fund shall be calculated using the formula set out below:

$$\frac{a}{b} \times c \times 2\%$$

Where:

a is the gross income derived from sale of goods on the local market for the preceding year;

b is the gross income derived from all the activities of the freeport operator or private freeport developer for the preceding year;

c is the chargeable income for the preceding year.

Real Estate Investment Trust ("REIT")

- An REIT is defined as a collective investment scheme or a closed-end fund authorised as a REIT by the Financial Services Commission established under the Financial Services Act.
- No REIT shall be liable to income tax, provided it satisfies such conditions as may be prescribed.
- Every beneficiary or participant to a REIT, as the case may be, shall be liable to income tax on his share of the distribution made by the REIT at the appropriate rate specified in the First Schedule².
- The first MUR 50,000 received by a person from an REIT shall be exempt from income tax.

Expenditure incurred for arbitration, conciliation or mediation under an Alternative Dispute Resolution Mechanism

A company which makes an application for arbitration, conciliation or mediation for the settlement of a dispute before a recognised arbitration institution in Mauritius and has incurred expenditure in respect of filing fees, shall in that income year be allowed a deduction of an amount equivalent to 150% of the expenditure so incurred from its gross income.

Presumptive Tax for Small Enterprises³

Small enterprises may, by irrevocable notice, on or before the due date for the filing of its return of income, elect to pay a presumptive tax at the rate of 1% of its gross income. Where a small enterprise has elected to pay a presumptive tax, it shall submit a return to the MRA not later than the due date for the filing of the return, as the case may be, specifying such particulars as MRA may determine and at the same time pay the presumptive tax payable in accordance with the return, after offsetting any tax deducted at source.

Where a small enterprise has elected to pay presumptive tax, it shall not be entitled to claim any deduction, Income Exemption Threshold, relief or allowance.

² An individual having an annual net income:

(a) not exceeding MUR 650, 000 – rate of income tax: 10%
(b) exceeding MUR 650, 000 – rate of income tax: 15%

³ "small enterprise" means a person:

(a) who is engaged in activities specified in the Thirteenth Schedule of the Income Tax Act;
(b) whose gross income in an income year does not exceed MUR 10 million; and
(c) whose gross income from sources, other than those specified in the Thirteenth Schedule, does not exceed MUR 400,000.

Activities specified in the Thirteenth Schedule:

- Agriculture, forestry and fishing
- Manufacturing excluding restaurants
- Wholesale of goods
- Retail of goods, including sale of food to be consumed off premises

Income Exemption Threshold

The Income Exemption Thresholds have been updated to the following:

	2018/19 MUR	2019/20 MUR
Individual with no dependent	305,000	310,000
Individual with one dependent	415,000	420,000
Individual with two dependents	480,000	500,000
Individual with three dependents	525,000	550,000
Individual with four or more dependents	555,000	600,000

In cases where the individual is a retired person who, in an income year, has gross income other than specified income, or a person having a physical or mental disability, that person shall, in addition to the deduction specified above, be entitled to deduct from their net income in that income year an additional amount of MUR 50,000.

Tax credit for employees

- Where an employee who has derived in the first month of an income year, a basic salary inclusive of compensation not exceeding MUR 50,000, he shall be allowed a tax credit by way of deduction from income tax otherwise payable by him for that income year, provided his total annual net income in that income year does not exceed MUR 700,000.
- The tax credit allowable shall be equivalent to 5% of the chargeable income of the individual attributable to his net income from emoluments.
- An individual whose net income is less than MUR 650,000 in an income year shall not be entitled to this tax credit.

Expenditure incurred on fast charger for electric car

Where, in an income year, a person incurs expenditure on a fast charger for an electric car used in the production of his gross income, he may deduct from his gross income, twice the amount of such expenditure in that income year.

Fast charger for electric car investment allowance

- Where an individual has in an income year acquired a fast charger for his electric car, he shall be entitled to deduct from his net income, the expenditure incurred for the acquisition of the charger.
- Where, in an income year, a person has claimed a deduction in respect of a fast charger for an electric car used in the production of his gross income, he shall not be entitled to a deduction in respect of the same charger.
- Any unrelieved amount in an income year may be carried forward and deducted from the net income of succeeding years.

Voluntary Disclosure of Income Scheme – Foreign Assets

Where, on or before 31 March 2020, a person makes a voluntary disclosure of his undeclared income derived from Mauritius but held offshore in bank accounts or used to purchase assets offshore, in respect of any year of assessment preceding the year of assessment ending on 30 June 2020, he shall, pay tax on that income at the rate of 15% of his chargeable income, free from any penalty and interest which may have become due. Where the tax is not paid in full on or before 31 March 2020, any unpaid tax shall carry interest at the rate of 0.5% per month

Admissibility of documents produced by computer

A statement contained in a document generated by computer shall now be admissible as evidence of any fact stated therein.

National Social Inclusion

- CSR is renamed as National Social Inclusion
- Where, in respect of a year of assessment, the Director-General has reason to believe that money has not been spent in respect of a CSR Fund, he may raise an assessment under section 129 of the Income Tax Act.

CPS

An individual does not need to submit a CPS return where his gross income for the preceding year does not exceed MUR 10 million and he is engaged in activities specified in the Thirteenth Schedule.

Mauritius Revenue Authority Act

Repeal of amendment brought by the Finance Act 2017 requiring tax agents to register with the MRA.

Value Added Tax Act

Refund of VAT to event organisers

- Event organisers registered with the EDB can now benefit from a VAT refund scheme on accommodation costs for events of at least 100 visitors over 3 nights in a hotel in Mauritius.
- The VAT refund application should be made within 60 days from the end of the event and should be accompanied by VAT invoices.

Repayment of input tax

A VAT registered person may claim repayment of VAT paid on

- Goodwill on acquisition of business or part of business; or
- Computer software, patents or franchise agreements.

Human Resource Development Act

During the period 1 July 2019 to 30 June 2020, employers whose employees earn a salary not exceeding MUR 10,000 per month, shall pay a training levy of 1% and the rate to be remitted to the Human Resource Development Council for the National Training Fund shall be 0.5%.

Economic Development Board Act

- Introduction of a new e-Commerce Scheme for persons involved in e-Commerce activities.
- Setting-up of a Sports Economic Commission to promote Mauritius as an international centre for the hosting of international multi-disciplinary sports events; facilitate and promote the Mauritius Sportstech Incubator to start-ups; regulate, facilitate and issue approval to existing and new sports infrastructure development under the PPP model; and facilitate the development of track and trail under the sponsorship and partnership of the private sector to promote Sports Tourism.

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