



Mauritius Global Business Update 17

THE FINANCE (MISCELLANEOUS PROVISIONS) ACT 2012

THE ECONOMIC & FINANCIAL MEASURES (MISCELLANEOUS PROVISIONS) ACT 2012

(collectively, the “Acts”)

The Acts became effective on 21st December 2012, following the budget speech of 9th November 2012. Several changes pertaining to the legislative framework of the global business sector in Mauritius are pointed out below. This update is not meant to be and is not an exhaustive list of all changes brought about by the new legislations. Only those changes which, in our opinion, may be of interest to international clients are included here.

1. Advance Payment System (APS) & VAT

- 1.1. APS is a system whereby companies* are required to pay provisional annual corporate tax in advance on a quarterly basis spread over three quarters. APS applies where the company's gross income does not exceed Rs 2 million or it does not have chargeable income in the immediately preceding accounting year. Amendments to the Income Tax Act 1995 provide that, with effect from 1st January 2013, this APS threshold of Rs 2 million is now increased to Rs 4 million.
- 1.2. The threshold in respect of the annual turnover of taxable supplies for compulsory VAT registration has been raised from Rs 2 million to Rs 4 million.

**include a non-resident société, Mauritius tax resident société holding a GBC1 licence, a cell of a protected cell company, certain types of trusts and a limited partnership, among others.*

2. Global Business

- 2.1. GBC 1 corporations are henceforth required to seek written approval from the Financial Services Commission (FSC) in respect of the matters listed below. It is also worth noting that henceforth a GBC1 corporation is required to seek the approval of the FSC to enable it to hold shares in a GBC2 company or a Mauritius domestic company.
 - (i) conducting business in Mauritius;
 - (ii) dealing with a person resident in Mauritius or with a corporation holding a Category 2 Global Business Licence; or
 - (iii) holding shares or other interests in a corporation resident in Mauritius.



2.1 The law has also been reviewed so as to promote the setting-up of **global headquarters administration** and **global treasury activities** in the global business sector in Mauritius.

2.1.1. Services provided by a corporation holding a global headquarters administration licence or a global treasury activities licence to its related corporation which holds a Global Business Licence, i.e. tax resident in Mauritius, are deemed to constitute business conducted outside Mauritius. Accordingly, the benefits related to a Global Business Licence will accrue to such global headquarters or a global treasury corporation.

2.1.2. Global headquarters administration means that at least 3 of the following services should be provided by the licensee to at least 3 of its related corporations –

- a) Administration and general management
- b) Business planning and development and coordination
- c) Economic or investment research and analysis
- d) Services related to international corporate headquarters in Mauritius
- e) Such other global headquarters administration services as may be specified in FSC Rules

2.1.3. Global treasury activities means that at least 3 of the following services should be provided by the licensee to at least 3 of its related corporations –

- a) Arrangement for credit facilities, including credit facilities with funds obtained from financial institutions in Mauritius or from surpluses of network companies
- b) Arrangement for derivatives
- c) Corporate finance advisory
- d) Credit administration and control
- e) Factoring, forfeiting and re-invoicing activities
- f) Guarantees, performance bonds, standby letters of credit and services relating to remittances
- g) Management of funds for designated investments
- h) Such other global treasury activity as may be specified in FSC Rules

3. Registration of Professionals

3.1. The Financial Reporting Act 2004 has been amended to require that any professional accountant working in Mauritius as a professional accountant, whether Mauritius nationals or foreign nationals, including any person who uses any description or designation likely to create the impression that he is a professional accountant or be employed as such in Mauritius, must register as a professional accountant with the Mauritius Institute of Professional Accountants (“MIPA”).



- 3.2. The Financial Reporting Act 2004 now explicitly recognises MIPA as the regulatory body of all professional accountants, public accountants and member firms in Mauritius.
- 3.3. A professional accountant registered by MIPA is henceforth required to submit to a prospective employer a certified copy of his certificate of registration as a professional accountant at the time of making his application for employment.
- 3.4. In the absence of such MIPA certificate, employment cannot be offered to any person as a professional accountant or public accountant in Mauritius.
- 3.5. Any professional accountant who is not so registered with MIPA has three months from the date the amendment to the law became effective i.e. 21st December 2012, to make good his registration and produce to his employer a certified copy of his registration or the original certificate itself.
- 3.6. Failure to abide by the requirements above by the accountant is an offence and the fine is an amount not exceeding 50,000 rupees.
- 3.7. We draw your attention to the fact that the requirement to register with MIPA has always been there since the enactment of the Financial Reporting Act 2004, save that the law was not as explicit and strict as the amendments have now made it. Non registration was previously also not an offence under the law.
- 3.8. All licensed auditors, professional accountants, public accountants and member firms must comply with relevant guidelines issued by the Financial Intelligence Unit (FIU) in accordance with the law. Failure to do so is an offence and carries a fine.

4. Validity of written resolutions of shareholders

- 4.1. Previously, a written resolution of shareholders was valid only if it was signed by the higher of at least 75% of the shareholders eligible to vote on that resolution or such % of shareholders as may be required under the constitution to pass a special resolution.
- 4.2. The Companies Act 2001 has been amended to provide that a written resolution of shareholders will henceforth be valid where it is signed by shareholders eligible to vote on that resolution and who hold at least 75% of the eligible votes or such higher % as may be required under the constitution.
- 4.3. This change may greatly facilitate the passing of written resolutions of shareholders of global business entities.



5. Concept of Service Address

Directors, secretaries and shareholders are henceforth required to provide a service address to the Registrar of Companies i.e an address where documents may be served (includes the address of a registered office. This concept has been introduced in consent forms for directors, secretaries and shareholders.

6. Documents registered by global business entities

- 6.1. In accordance with the Registration Duty Act, documents witnessing a transaction by a company holding a Global Business Licence must be registered within 3 months of the transaction with the Registrar General, except for documents witnessing a transfer of an immovable or a moveable property in Mauritius, in relation to global business activities.
- 6.2. This change does not apply to the routine transfers of shares in global business corporations in Mauritius where no immovable property is involved. Statutory filings of such transfers are only done at the Registrar of Companies office.

7. Nominee shareholders register

The law henceforth requires that the name and last known address of a nominee shareholder be included in the share register. The same details must be included in the share register in respect of any persons giving instructions to the shareholder to exercise a right in relation to a share, either directly or through the agency of one or more persons.

8. Duty of Trustees relating to records and register

8.1. A trustee is now required by law to keep:

- 8.1.1. up-to-date and accurate accounts and records of his trusteeship; and
- 8.1.2. a register of the names, in alphabetical order and the last known addresses of each beneficiary and settlor of the trust, including a non-resident foreign trusts administered by him.

8.2. As per law, the records to be kept include inter alia proper books, registers, accounts, receipts, invoices, contracts and agreements which represent a full and true record of all transactions and other acts engaged in by the trust. The period of retention must be of at least 5 years after the completion of transactions to which they relate.



International network

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