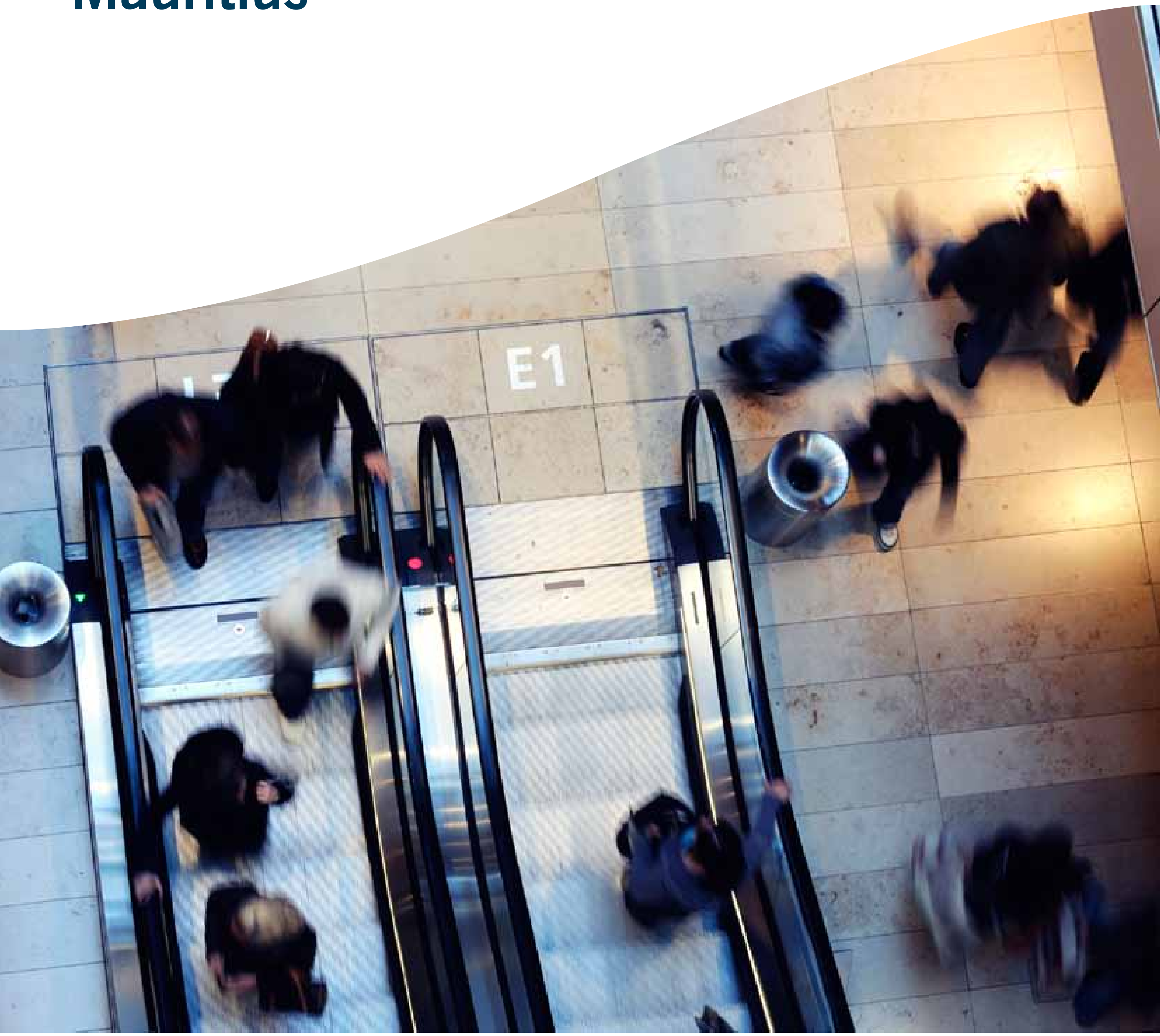
BAKER TILLY
INTERNATIONAL

Doing Business in Mauritius



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Preface

This guide has been prepared by Baker Tilly Mauritius, an independent member of Baker Tilly International. It is designed to provide information on a number of subjects important to those considering investing or doing business in Mauritius.

Baker Tilly International is the world's 8th largest network of independent accounting and business advisory firms by combined fee income, and is represented by 149 firms in 125 countries and over 24,000 people worldwide. Its members provide high quality accounting, assurance, tax and specialist business advice to privately held businesses and public interest entities.

This guide is one of a series of country profiles compiled for use by Baker Tilly International member firms' clients and professional staff. Copies may be downloaded from www.bakertillyinternational.com.

Doing Business in Mauritius has been designed for the information of readers. Whilst every effort has been made to ensure accuracy, information contained in this guide may not be comprehensive and recipients should not act upon it without seeking professional advice. Facts and figures as presented are correct at the time of writing.

Up-to-date advice and general assistance on Mauritian matters can be obtained from Baker Tilly Mauritius; contact details can be found at the end of this guide.

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1 Fact sheet

Geography

Location	Off the coast of East Africa
Area	1 ,865 km^2
Land boundaries	None (an island)
Coastline	Indian Ocean
Climate	Sub-tropical with a summer season from October to May and cool season from June to September
Terrain	Small coastal plain rising to discontinuous mountains encircling a central plateau
Time zone	GMT +4

People

Population	1.3 million
Religion	Hinduism, Muslim, Buddhism and Christian
Language	The official languages are English and French

Government

Country name	Republic of Mauritius
Government type	Parliamentary democracy
Capital	Port Louis
Administrative divisions	Three district councils and Five municipal councils
Political situation	The President is the Head of State but full executive power lies with the Prime Minister who is also the head of Government. Members of Parliament, the National Assembly, are elected for a five-year term

Economy

GDP – per capita	US$15,000 (2011 est)
GDP – real growth rate	4.2% (2011 est)
Labour force	600,000 (2011 est)
Unemployment	7.8% (2011 est)
Currency (code)	Mauritian rupee (MUR)

2 Business Entities and Accounting

The most popular types of business entities in Mauritius are companies, funds, trusts, sole proprietorships and partnerships.

The categorisation of businesses depends on whether they operate nationally or internationally.

2.1 Businesses Operating Nationally

2.1.1 Domestic companies

Domestic companies are incorporated under the Companies Act 2001. Companies may be formed with either limited or unlimited liability for the participators. Limited companies may be limited by shares or by guarantee. A company may either be set up as public or private.

- **Public company** – A company is considered public unless it is stated in its constitution (or application) that it is private. A company with shares listed on the Stock Exchange of Mauritius is deemed, and therefore treated as, a public company.
- **Private company** – A private company cannot have more than 25 shareholders, cannot offer its shares or debentures to the public and may restrict the transfer of its shares.

  A private company is classified as small if turnover of its last preceding accounting period is less than MUR10m.

  A private company is classified as a one-person company if there is only shareholder who is also the sole director of the company.

2.1.2 Sole proprietorships

Many smaller businesses in Mauritius fall into this category where the business is not registered under the Companies Act 2001. A sole trader has unlimited liability. These businesses must apply for a Business Registration Number (BRN) under the Business Registration Act 2002.

2.1.3 Partnerships

The Code de Commerce provides for two types of partnerships (Société en Nom Collectif) and limited partnerships (Société en Commandite Simple).

- **Société en Nom Collectif** – Under this type of partnership, the partners have unlimited liability for debts of the partnership.

- **Société en Commandite Simple** – This partnership has both managing and limited partners. Managing partners have unlimited liability whilst the liability of the limited partners is restricted to the amount contributed by them to the partnership.

2.2 Businesses Operating Internationally

2.2.1 Category 1 global business (GBC1) company

A GBC1 company is a corporation holding a Category 1 Global Business Licence issued under the Financial Services Act 2007 (FSA).

A GBC1 company is considered to be tax resident in Mauritius and it enjoys the benefits of the country's extensive double taxation agreement (DTA) network. Foreign sourced income generated from global business activities is taxable at a maximum effective rate of 3%.

A GBC1 company can undertake any activity provided it is not unlawful, contrary to public interest or may cause prejudice to the good reputation of Mauritius as a financial services centre.

In order for a company to operate as a GBC1 company it must be licensed, authorised, approved and registered prior to commencing business. It is recommended that professional advice is sought to assist with this process.

Public companies and companies engaged in banking, insurance, fund related activities or in the provision of nominee or trusteeship services must be set up as a GBC1 company. A GBC1 company may also be structured as a Protected Cell Company or a Collective Investment Scheme

- **Protected cell companies** – The Protected Cell Company Act 1999 enables GBC1 companies to create cells in order to provide additional opportunities, flexibility and security for international investment structuring. A protected cell company (PCC) is a single legal entity with the ability to create one or more cells for the purpose of segregating and protecting cellular assets. As a result, the rights of creditors are limited to the assets of the cell of which they are creditors. The members of cells may be different to the members of other cells within a PCC.
- **Global Funds** – Global Funds are entities holding a Category 1 Global Business Licence under the Financial Services Act and are authorised under the Securities Act as a Collective Investment Scheme or a Close Ended Fund. Global Funds can be structured as a company, a trust, a PCC or any other legal form as approved by the FSC.

- **Trusts** – The legal framework for trusts is contained in the Trust Act 2001. Various types of trusts may be set up by residents and non-residents in Mauritius such as charitable, discretionary, purpose and trading trusts. Flexibility is provided under the Trust Act in determining the applicable governing law, however, notwithstanding this flexibility the trust will not be enforceable in Mauritius to the extent that its actions constitute a breach of Mauritian law.

2.2.2 Category 2 global business (GBC2) company

A GBC2 company is a private company holding a Category 2 Global Business Licence incorporated or registered under the Companies Act 2001 and conducting an approved global business only with non-residents in currencies other than MUR.

A GBC2 company is not tax resident in Mauritius and therefore cannot benefit from the DTA network. It is completely exempt from paying taxes in Mauritius.

2.3 Limited Partnerships (LP)

A LP registered under the Limited Partnership Act may be formed to carry on any lawful business in Mauritius. It must have at least one general partner and one limited partner. General partners are jointly and severally liable for the limited partnership's debts and obligations; limited partners are liable only to the extent of their agreed contributions, unless they participate in the management of the limited partnership. The LP must have a partnership agreement and maintain all books and records in Mauritius.

Any registered LP can elect for its income to be taxed in the hands of the partners rather than be treated as a taxable entity in its own right.

2.4 Audit, Accounting and Filing Requirements for Companies

The Companies Act 2001 requires companies to maintain statutory books and records that adequately explain the transactions and the financial position of the company. All companies, including GBC1 companies but excluding domestic private companies with turnover of less than MUR50m, are required to have their financial statements audited and to file them with the Registrar of Companies.

A shareholders' meeting must be held once a year no later than six months after the balance sheet date and not more than 15 months since the last meeting.

Financial statements for domestic companies must be completed within six months of the balance sheet date of the company and filed with the Registrar of Companies within 28 days of the annual general meeting.

Financial statements subject to audit must be prepared in accordance with International Financial Reporting Standards (IFRS). However, for GBC1 companies any internationally accepted accounting standards may be used; and audited financial statements must be filed with the Financial Services Commission within six months of the balance sheet date.

GBC2 companies are not subject to audit; however, they are required to file an unaudited financial summary (which is comprised of an income statement and a statement of financial position or profit and loss account and balance sheet) with the Financial Services Commission.

3 Finance and Investment

3.1 Exchange Control and Other Restrictions

Since the abolition of exchange controls in Mauritius in 1994, banks are permitted to repatriate currency freely at their clients' request.

The current legislation to deal with the risks of money laundering is the Financial Intelligence and Anti-Money Laundering Act 2002 (FIAMLA).

FIAMLA mainly applies to financial institutions and requires that suspicion of money laundering activity is reported directly to the Financial Intelligence Unit (FIU Mauritius).

FIAMLA also facilitates the dissemination of information to other regulatory and law enforcement bodies and includes provisions for the regulatory bodies to report to the FIU Mauritius, should they suspect money laundering.

FIAMLA imposes a limit on cash payments: subject to certain exemptions, cash transactions exceeding MUR500,000 are prohibited.

3.2 Sources of Finance

3.2.1 Banking

Mauritius has a relatively sophisticated banking sector with a wide range of locally owned and international banks offering private banking, deposit taking, loans, foreign exchange facilities, trade financing, investment advisory services and internet banking facilities.

The Bank of Mauritius, established in 1967, is responsible for the licensing, regulation and supervision of the banking sector in Mauritius.

As far as data protection is concerned, banks are under the duty to guarantee strict confidentiality unless required by law to disclose.

Bank accounts may be opened in all major foreign currencies and Mauritian rupees. For deposits of more than MUR500,000, legitimacy of transaction must be ensured according to the FIAMLA.

3.2.2 Stock exchange

The Stock Exchange of Mauritius (SEM) was established in 1989 and is regulated by the Financial Services Commission. SEM's aim is to move away from an equity-based domestic exchange to being a multi-product internationally oriented exchange. The stock market is open to foreign investors who may benefit from numerous incentives such as free repatriation of sales proceeds and the absence of both withholding tax on dividends and tax on capital gains.

An applicant seeking listing should appoint a sponsor who will be responsible for dealing with the SEM. Additionally, an entity applying for listing of its securities must prepare listing particulars.

The applicant must also appoint two authorised representatives to act as its principal channel of communication with the SEM.

In order to obtain a listing, the SEM must be satisfied that the issuer and its business are suitable and that there is an adequate and open market in the securities for which the listing is sought. There may be further special conditions imposed by the SEM which it considers appropriate in the interests of protecting the investors.

The entry requirements for an eligible listing are based on the following:

- Three years audited accounts (if the company has an appropriate "track record" an accountant's report must be prepared, if there is no appropriate "track record", a business plan must be prepared and this must be certified by an independent financial advisor)
- MUR20m market capitalisation
- 200 shareholders (this condition may be waived for investment entities and GBC1 companies)
- 25% in public hands (this condition may be waived for investment entities and GBC1 companies).

Upon admission on the SEM, the issuer must observe certain continuing obligations, including:

- Keeping the SEM and the market informed of all price sensitive information
- Publishing quarterly financial statements
- Publishing an annual report
- Reporting notifiable transactions (including related party transactions).

3.2.3 Venture capital

Venture capital is available to finance direct investment and to provide loans to finance small enterprises. Venture capital firms may purchase equity, make loans, or both.

3.2.4 Other sources of finance

While banks are the most common source of business financing, businesses may also consider other sources of finance from non-banking financial institutions, leasing companies and insurance companies.

4 Employment Regulations and Social Security Contributions

4.1 Residence and Work Permits

Visas are generally required to visit Mauritius except for persons coming from countries, eg Commonwealth countries or the EU, which are exempt from this requirement and for purposes other than tourism or business. A visa, tourist, or business, is normally given for two months. The visitor should hold a passport with a minimum validity of six months, a valid return ticket and sufficient funds to meet the costs of stay in Mauritius. The visas may be extended upon application.

All non-Mauritian citizens require a residence permit issued by the Passport Immigration Office and a work permit in order to take up employment in Mauritius. An application should be made to the Ministry of Labour, Industrial Relations and Employment by both the applicant and the employer. The work permit process normally takes four to six weeks in clear cut cases.

Investors, professionals, or self-employed persons are eligible to apply for an occupation permit under certain conditions. An occupation permit allows a non-national to work and live in Mauritius and is both a work and a residence permit. Application is made through the Board of Investment to the Passport Immigration Office.

A foreigner may acquire residential property in Mauritius under the Real Estate Scheme (RES) and the Integrated Resort Scheme (IRS).

4.2 Employment

On engagement, an employer and employee normally sign a contract of employment, which includes:

- Salary package, including benefits and bonuses
- Hours of work
- Annual leave and sick leave arrangements
- Conditions of work
- Probation period
- Travel allowance
- Duration which may be a definite or indefinite period
- Job title

- Start date and end date, if applicable
- Place of work.

An employee may not be required to work more than eight hours per day, six days per week. There are 14 public holidays. After one year of continuous service with the same employer an employee is entitled to:

- 22 working days' annual paid leave
- 15 working days' paid leave on the ground of illness.

Legal minimum wages vary according to job category and number of years of service and are fixed periodically by the National Remuneration Orders.

Notice of the intention to terminate employment may be verbal or written. If a worker has been in continuous employment with the same employer for at least one year, at least one month's notice must be given (unless otherwise specified in the employment contract). No notice is required when the dismissal is for gross misconduct.

Except in cases of dismissal for gross misconduct, an employer must pay a severance allowance to any employee with continuous service of 12 months or more on termination of employment or upon retirement either on or after reaching the age of 60 or at the request of the employer. The severance allowance payable to the employee is normally equal to one quarter of a month's wage for each 12 months of service. Where the work force is reduced, the Termination of Contracts of Service Board will determine whether the termination of employment is justified or not and hence whether the severance allowance is payable

4.3 Social Security Contributions and Fringe Benefits

Payment for social security is made by means of contributions to the National Pension Funds (NPF) and the National Solidarity Fund (NSF). For NPF contributions, employees and employers contribute at a rate of 3% and 6% of basic salary up to a maximum contribution of MUR12,460, the maximum applies separately in respect of both employer and employee contributions. For NSF contributions, employees and employers contribute at a rate of 1% and 2.5% of basic salary up to a maximum contribution of MUR12,460, this maximum also applies separately. The employer also contributes a levy of 1.5% of the employees' basic salaries.

Common taxable fringe benefits for expatriate executives include housing allowances or the provision of free accommodation, a company car, airfares to the home country and contribution towards school fees. Travel allowances are negotiated between the employer and the employee.

5 Taxation

5.1 Personal Tax

Mauritius has a self-assessment tax system. An individual pays tax on income derived during the preceding year. The fiscal year runs from 1 January to 31 December.

Resident individuals are subject to income tax in Mauritius on income, other than exempt income, which is derived from Mauritius. Income derived from outside Mauritius is taxable in Mauritius on being remitted to Mauritius.

A resident individual is defined as one who has their domicile in Mauritius, but does not include individuals present for a temporary purpose, or individuals who are not present in Mauritius for more than 183 days in the relevant income year or for more than 270 days over three consecutive fiscal years.

A non-resident individual is subject to income tax on income, other than exempt income, derived from or accruing in Mauritius.

The rate of income tax is 15%.

5.1.1 Fees payable to directors

Fees payable by a company to any of its directors are subject to withholding tax at the flat rate of 15%, irrespective of whether the services are performed in or outside Mauritius. Where the director is a non-resident and does not derive any other gross income in Mauritius, the amount of tax withheld is the final amount of tax payable and it is not necessary for an annual tax return to be filed.

5.1.2 Pay As You Earn (PAYE) cumulative system

Under the PAYE system, the amount of monthly tax to be withheld is calculated on a cumulative basis and is withheld by the employer after accounting for the deductions of the employee. The tax withheld is remitted to the Mauritius Revenue Authority (MRA).

5.1.3 Current Payment System (CPS)

An individual deriving income from a business, profession, or rent, who in respect of the preceding year had chargeable or gross income in excess of MUR2m, must submit to the MRA quarterly statements of income and pay the tax computed for each quarter. The due date for submission of CPS statements and payment of tax thereon is three months after the end of the relevant quarter. The quarters end on 31 March, 30 June and 30 September.

5.1.4 Annual tax return

The due date for the submission of the return and payment of tax is 31 March. If the return is submitted electronically and payment of tax is made via internet banking, the filing date is extended to 15 April. This also applies for general and limited partners of a LP where these partners are chargeable to tax on their share of profits from the LP.

5.1.4.1 Annual tax return for resident sociétés and trusts

The due date for the submission of the return and payment of tax is 31 March.

5.1.4.2 Taxation of Sociétés

A resident société is not liable to income tax. The associates of the société are liable to income tax on their share of income in the société. However, a non-resident société is liable to income tax in the same way as a company.

5.2 Corporate Tax

5.2.1 Resident company

A company is resident in Mauritius if it is either incorporated or has its central management and control in Mauritius. A resident company is subject to tax on its worldwide income. A non-resident company is taxable on its Mauritian sourced income only.

5.2.2 Taxable income

Taxable income is computed by deducting from non-exempt gross income all allowable deductions. Any expenditure or loss is deductible from gross income to the extent to which it is exclusively incurred in the production of the gross income, unless it is specifically treated as non-allowable. Non-allowable expenses include items of a capital or private nature, general provisions, entertainment, gifts and expenditure incurred in the production of exempt income.

5.2.3 Tax rate

The rate of income tax is 15%.

5.2.4 Capital allowances

An annual allowance of 5% of cost is allowable on capital expenditure incurred on the acquisition of industrial and commercial premises. Annual allowances at prescribed rates are allowable on the acquisition of plant or machinery, agricultural improvements, scientific research, the setting up of golf courses etc.

5.2.5 Tax losses

Unrelieved tax losses, without limit, can be carried forward and offset against net income derived in the following five income years. The time limit of five years does not apply where the loss is attributable to annual capital allowances.

5.2.6 Exempt income

Dividends received from a company resident in Mauritius, interest and royalties received by a non-resident from a corporation holding a Category 1 or Category 2 Global Business Licence are exempt from tax in Mauritius. Any gain or profit derived from the sale of units or securities in a company holding a Category 1 Global Business Licence is also exempt income.

5.2.7 GBC1

GBC1 companies are taxed at the flat rate of 15% but can take advantage of foreign tax credits that may result in a maximum effective rate of 3%. They are able to take advantage of the benefits available under the tax treaties in force in Mauritius.

5.2.8 GBC2

GBC2 companies are non-resident for tax purposes in Mauritius. Income derived by GBC2 companies is not subject to tax in Mauritius.

5.2.9 Foreign tax credits

A resident company which has suffered foreign tax on foreign source income can claim foreign tax credit in that respect. Underlying tax credits are also available for relief if the resident company holds at least 5% of the capital of the company paying the dividend. A Tax Sparing Credit is also available in respect of foreign tax that would have been chargeable in the absence of any provisions relating to the promotion of industrial, commercial, scientific or educational development. The Income Tax (Foreign Tax Credit) Regulations 1996 also provide for a deemed foreign tax credit, to corporations holding a Category 1 Global Business Licence, equal to 80% of the Mauritius tax chargeable, if documentary evidence of the foreign tax charged is not presented to the tax authorities. The chargeable income of a company holding a Category 1 Global Business Licence would therefore be taxed at a maximum effective rate of 3%.

5.2.10 Foreign source income

Foreign source income is defined as income which is not derived from Mauritius and includes income derived by a GBC1 company from its transactions with non-residents or its transactions with corporations holding a Category 1 Global Business Licence. It also includes income derived by a bank from its banking transactions with a non-resident or with a corporation holding a Global Business Licence.

5.2.11 Tax treaties

Mauritius, being a tax planning jurisdiction, has focused the development of its offshore sector on the use of a growing network of double taxation agreements.

5.2.12 Tax deduction at source (TDS)

Mauritius, TDS is applicable on interest payable to a non-resident, royalties, rent, and payments made to contractors and providers of services. Interest and royalties payable to non-residents are subject to TDS at 10% and 15% respectively or the rate applicable under the relevant double taxation agreement treaty, whichever is lower. This is considered as final payment. There is no TDS on royalties and interest payable by GBC1 companies.

5.2.13 Annual tax return

The deadline for filing tax returns and for payment of tax on a self-assessment basis is six months from the end of the month in which the accounting period ends.

5.2.14 Advance payment system (APS)

Companies, including GBC1 companies, are required to submit quarterly returns of income (APS statements) to the tax authorities and at the same time pay any tax as per the APS statement. The deadline for filing the quarterly APS statement is three months from the end of the relevant quarter.

5.2.15 Alternative minimum tax (AMT)

AMT is applicable to all companies, except GBC1 companies, which distribute dividends but pay tax which is less than 7.5% of their book profits. AMT is calculated at 7.5% of book profits or 10% of dividends paid, whichever is lower.

5.2.16 Corporate social responsibility (CSR))

With the exception of GBC1 companies, trusts, non-resident partnerships, and banks (in respect of banking transactions with non-residents or GBC1 companies), all profitable enterprises are required to contribute towards CSR an amount equivalent to 2% of their chargeable income. The due date for payment is six months after year end to MRA.

5.3 Other Taxes

5.3.1 Value added tax (VAT)

VAT is a tax on the value added or generated at each stage of production or distribution chain.

Most goods and services are subject to VAT at the rate of 15%. Certain essential goods and services, including staple foods, pharmaceutical products, medical services and educational and training services, are not taxable.

It is compulsory for businesses which have an annual turnover of MUR2m or more to register for VAT.

Registered persons must submit returns no later than 20 days after each taxable period. If the return is submitted electronically, the deadline for filing is extended to the last day of the month following the end of the taxable period.

5.3.2 Customs and excise duties

This is levied on imports into Mauritius. The rate of duty varies according to the category of goods.

5.3.3 Registration duties

This is levied on the transfer of immovable properties (5%), motor vehicles (depending on the cylinder capacity of the vehicle), shares in companies (5%) and other deeds which create mortgages and lease agreements (depending on the amount).

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