



Chambers Global Practice Guides

Definitive global law guides offering
comparative analysis from top-ranked lawyers

Corporate Tax 2022

Mauritius: Law & Practice

Jason Harel, Fayaz Hajee Abdoula, Satyan Ramdoo and

Yashna Munbauhal

BLC Robert & Associates

practiceguides.chambers.com

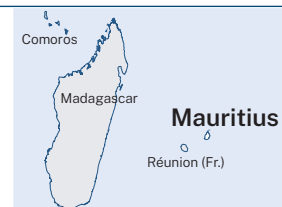
MAURITIUS

Law and Practice

Contributed by:

Jason Harel, Fayaz Hajee Abdoula, Satyan Ramdoo
and Yashna Munbauhal

BLC Robert & Associates see p.14



CONTENTS

1. Types of Business Entities, Their Residence and Basic Tax Treatment	p.4
1.1 Corporate Structures and Tax Treatment	p.4
1.2 Transparent Entities	p.5
1.3 Determining Residence of Incorporated Businesses	p.5
1.4 Tax Rates	p.5
2. Key General Features of the Tax Regime Applicable to Incorporated Businesses	p.6
2.1 Calculation for Taxable Profits	p.6
2.2 Special Incentives for Technology Investments	p.6
2.3 Other Special Incentives	p.6
2.4 Basic Rules on Loss Relief	p.7
2.5 Imposed Limits on Deduction of Interest	p.7
2.6 Basic Rules on Consolidated Tax Grouping	p.7
2.7 Capital Gains Taxation	p.7
2.8 Other Taxes Payable by an Incorporated Business	p.7
2.9 Incorporated Businesses and Notable Taxes	p.8
3. Division of Tax Base between Corporations and Non-corporate Businesses	p.8
3.1 Closely Held Local Businesses	p.8
3.2 Individual Rates and Corporate Rates	p.8
3.3 Accumulating Earnings for Investment Purposes	p.8
3.4 Sales of Shares by Individuals in Closely Held Corporations	p.8
3.5 Sales of Shares by Individuals in Publicly Traded Corporations	p.8
4. Key Features of Taxation of Inbound Investments	p.8
4.1 Withholding Taxes	p.8
4.2 Primary Tax Treaty Countries	p.8
4.3 Use of Treaty Country Entities by Non-treaty Country Residents	p.9
4.4 Transfer Pricing Issues	p.9
4.5 Related-Party Limited Risk Distribution Arrangements	p.9
4.6 Comparing Local Transfer Pricing Rules and/or Enforcement and OECD Standards	p.9
4.7 International Transfer Pricing Disputes	p.9
5. Key Features of Taxation of Non-local Corporations	p.9
5.1 Compensating Adjustments when Transfer Pricing Claims Are Settled	p.9
5.2 Taxation Differences between Local Branches and Local Subsidiaries of Non-local Corporations	p.9
5.3 Capital Gains of Non-residents	p.9
5.4 Change of Control Provisions	p.10
5.5 Formulas Used to Determine Income of Foreign-Owned Local Affiliates	p.10
5.6 Deductions for Payments by Local Affiliates	p.10
5.7 Constraints on Related-Party Borrowing	p.10
6. Key Features of Taxation of Foreign Income of Local Corporations	p.10
6.1 Foreign Income of Local Corporations	p.10
6.2 Non-deductible Local Expenses	p.10
6.3 Taxation on Dividends from Foreign Subsidiaries	p.10
6.4 Use of Intangibles by Non-local Subsidiaries	p.10
6.5 Taxation of Income of Non-local Subsidiaries under Controlled Foreign Corporation-Type Rules	p.10
6.6 Rules Related to the Substance of Non-local Affiliates	p.11

MAURITIUS CONTENTS

6.7	Taxation on Gain on the Sale of Shares in Non-local Affiliates	p.11	9.5	Features of the Competitive Tax System	p.13
7. Anti-avoidance		p.11	9.6	Proposals for Dealing with Hybrid Instruments	p.13
7.1	Overarching Anti-avoidance Provisions	p.11	9.7	Territorial Tax Regime	p.13
8. Audit Cycles		p.11	9.8	Controlled Foreign Corporation Proposals	p.13
8.1	Regular Routine Audit Cycle	p.11	9.9	Anti-avoidance Rules	p.13
9. BEPS		p.11	9.10	Transfer Pricing Changes	p.13
9.1	Recommended Changes	p.11	9.11	Transparency and Country-by-Country Reporting	p.13
9.2	Government Attitudes	p.12	9.12	Taxation of Digital Economy Businesses	p.13
9.3	Profile of International Tax	p.12	9.13	Digital Taxation	p.13
9.4	Competitive Tax Policy Objective	p.13	9.14	Taxation of Offshore IP	p.13

1. TYPES OF BUSINESS ENTITIES, THEIR RESIDENCE AND BASIC TAX TREATMENT

1.1 Corporate Structures and Tax Treatment

Businesses generally adopt a corporate form in Mauritius. Businesses can be structured as companies, limited partnerships, or trusts, amongst others.

Companies

Companies are the most common corporate form. Companies can be either public or private and they may be limited by shares, limited by guarantee, or limited by shares and guarantee.

If such entities are held or ultimately controlled by non-residents and propose to conduct business principally outside Mauritius, they must apply for a “Global Business Licence” from the Financial Services Commission in Mauritius.

The main characteristics of a corporation holding a Global Business Licence is that it must at all times:

- carry out its core income-generating activities in, or from, Mauritius, as required under the Income Tax Act 1995;
- be managed and controlled from Mauritius; and
- be administered by a management company licensed by the Financial Services Commission in Mauritius.

There is no legal definition of “management and control”, but in determining whether a company holding a Global Business Licence is managed and controlled in Mauritius, the Financial Services Commission in Mauritius will, among others, have regard to whether the company:

- has at least two directors, resident in Mauritius, of sufficient calibre to exercise an independent mind and judgment;
- maintains at all times its principal bank account in Mauritius;
- will keep and maintain, at all times, its accounting records at its registered office in Mauritius;
- prepares its statutory financial statements and causes or proposes to have those financial statements to be audited in Mauritius; and
- provides for meetings of directors to include at least two directors from Mauritius.

A company holding a Global Business Licence that is centrally managed and controlled in Mauritius is tax-resident in Mauritius and, as such, may take advantage of Double Taxation Avoidance Agreements in place between Mauritius and other countries. If the company wishes to be certified as tax-resident in Mauritius in respect of an income year, it may apply to the Mauritius Revenue Authority for a Tax Residence Certificate.

However, entities that have their central management and control outside of Mauritius are required to apply for an “authorisation” from the Financial Services Commission in Mauritius. Entities holding an “authorisation” are not tax-resident in Mauritius.

Limited Partnerships

A limited partnership holding a Global Business Licence can opt under the Income Tax Act 1995 to be liable to tax, but in the absence of any such election, will be treated as being “tax-transparent” and will therefore not be taxable in Mauritius.

A limited partnership which is fiscally transparent will not be eligible to take advantage of any

Contributed by: Jason Harel, Fayaz Hajee Abdoula, Satyan Ramdoo and Yashna Munbauhal, BLC Robert & Associates

Double Taxation Avoidance Agreement to which Mauritius is a party.

Trusts

A trust is created under the Trusts Act 2001. It is relatively easy to establish, as there is no registration, incorporation, or corporate filings. An instrument in writing is required containing certain information (including the trust property, name of the trustee, the objects of the trust, the beneficiaries/class of beneficiaries). A trust can have a maximum of four trustees, of whom one must be a qualified trustee.

The above-mentioned entities are taxed as separate legal entities.

1.2 Transparent Entities

Sociétés, limited partnerships and limited liability partnerships are the commonly used tax transparent entities in Mauritius.

While *sociétés* are commonly used in commercial and property transactions at the domestic level, limited partnerships, and limited liability partnerships are used as a flexible investment vehicle in Mauritius by foreign investors to structure their investments from foreign jurisdictions.

1.3 Determining Residence of Incorporated Businesses

Companies

A company is tax-resident in Mauritius if it is incorporated in Mauritius, or if it has its central management and control in Mauritius.

Trusts

A trust is tax-resident in Mauritius if the trust is administered in Mauritius and most of its trustees are resident in Mauritius, or if the settler of the trust was resident in Mauritius at the time the instrument creating the trust was executed.

Transparent Entities

Sociétés or partnerships are tax-resident in Mauritius if they have their seat or *siège* in Mauritius, and have at least one associate or *associé* or *gérant* resident in Mauritius.

1.4 Tax Rates

Subject to applicable credits and exemptions, incorporated businesses are generally taxed at the rate of 15%. Companies engaged in the export of goods or manufacturing activities in a freeport zone are taxed at the rate of 3%.

Businesses owned by individuals are also taxed at the rate of 15%.

Transparent entities are not taxed in Mauritius and their partners are taxed on their share of income from those entities.

Partial Exemption Regime

Under this regime, subject to fulfilling certain prescribed substance requirements, a company can benefit from a partial exemption of 80% on certain specified types of income or activities. This would reduce the tax rate on these specified incomes/activities to a rate of 3%.

Foreign Tax Credit

Where the incorporated business has derived income from abroad, it may claim tax credit in respect of foreign tax paid against income tax payable in Mauritius on that foreign source income, provided the tax suffered abroad can be evidenced.

Underlying Tax Credit

Where a dividend is paid by a company which is not resident in Mauritius to a Mauritius-resident company which owns, directly or indirectly, not less than 5% of the share capital of the company paying the dividend, the credit allowed for the Mauritius-resident company will, in addition to any foreign tax charged on the dividend, include

foreign tax charged on the income out of which the dividend was paid.

2. KEY GENERAL FEATURES OF THE TAX REGIME APPLICABLE TO INCORPORATED BUSINESSES

2.1 Calculation for Taxable Profits

Under the Income Tax Act 1995, income tax is levied on the chargeable income of an incorporated business. This refers to the net income of the entity and is calculated as: Chargeable Income = Gross Income minus Allowable Deductions.

“Gross Income” refers to all income derived by an entity other than income that is exempt from income tax under the Income Tax Act 1995. Allowable deductions are those expenditures, losses or allowances that are classified as deductible under the Income Tax Act 1995.

Taxable profits are generally based on “accounting profits” using the International Financial Reporting Standards (IFRS) as the accounting standard.

The income tax system in Mauritius operates on an accrual basis. However, an entity (excluding an entity holding a Global Business Licence and a non-resident *société*) which has an annual turnover not exceeding MUR10 million (ie, a small enterprise) may generally apply to the tax authorities for the net income of its business to be computed on a cash basis instead of on an accrual basis.

2.2 Special Incentives for Technology Investments

Special incentives relating to technology investments include the following.

- If an entity incurs any qualifying expenditure directly related to his or her existing trade or business, it may, in the income year in which the qualifying expenditure was incurred, deduct twice the amount of the expenditure, provided the research and development is carried out in Mauritius and provided it has not already claimed an annual allowance in respect of its deduction under specified sections under the Income Tax Act 1995.
- If an entity incurs any qualifying expenditure which is not directly related to his or her existing trade or business, the tax authorities may allow a deduction of the expenditure in the income year in which the expenditure was incurred.

2.3 Other Special Incentives

The Partial Exemption Regime (see **1.4 Tax Rates**) apply to all entities including entities holding a Global Business Licence, provided they fulfil the prescribed conditions.

Some other special incentives as provided under the Income Tax Act 1995 include:

- income derived from activities of a company holding a global headquarters administration licence is tax-exempt for a period of eight income years, counting from the income year in which the corporation was granted its licence;
- income of a company set up on or after 1 July 2017 and involved in innovation-driven activities for intellectual property assets developed in Mauritius, or income derived by a company from intellectual property assets developed in Mauritius on or after 10 June 2019, is tax-exempt for a period of eight income years, counting from the income year in which the company started its innovation-driven activities; this exemption shall be granted provided that the company satisfies whatever conditions may be prescribed; and

Contributed by: Jason Harel, Fayaz Hajee Abdoula, Satyan Ramdoo and Yashna Munbauhal, BLC Robert & Associates

- income of a company with a Global Treasury Activities Licence or a Global Legal Advisory Services Licence issued on or after 1 September 2016 by the Financial Services Commission in Mauritius, provided that the income is derived from the activities covered under that licence and the company satisfies conditions of minimum employment and substance of activities as specified by the Financial Services Commission in Mauritius, is tax-exempt for a period of five income years counting from the income year in which the corporation was granted its licence.

2.4 Basic Rules on Loss Relief

If an entity has incurred a loss in a given income year when computing its net income for that year, it may deduct that loss. Subject to certain conditions, if the amount of loss cannot be fully relieved, the entity is entitled to claim that the unrelieved amount of the loss be carried forward and set off against its net income derived in the following five income years.

The time limit to carry forward the losses in the following five income years does not apply for the amount of loss attributable to annual allowance claimed in respect of capital expenditure incurred on or after 1 July 2006.

2.5 Imposed Limits on Deduction of Interest

Deduction of expenditure on interest is allowed under the Income Tax Act 1995, provided that the expenditure is incurred in respect of capital employed exclusively in the production of income. The tax authorities may not allow deductions in respect of expenditure incurred as interest where the interest:

- is payable to a non-resident who is not chargeable for tax on the amount of the interest; or

- the interest is not likely to be paid in cash within a reasonable time.

2.6 Basic Rules on Consolidated Tax Grouping

There are no group tax-relief provisions in Mauritius.

2.7 Capital Gains Taxation

There are no capital gains taxes in Mauritius. Any gains realised by a non-resident or resident corporation on the disposal of its shares in a company shall not be liable to tax in Mauritius. However, where a transaction is in the nature of trade, any gains derived from that transaction may be assessed and taxed as income.

2.8 Other Taxes Payable by an Incorporated Business

Land Transfer Tax

A 5% land transfer tax will be levied on a transfer of shares in any company which reckons among its assets any freehold or leasehold immovable property, and a 20% land transfer tax is levied on the transfer of shares in a company which reckons among its assets any leasehold rights in state land.

Registration Duty

A registration duty of 5% is levied on a transfer of shares in any company which reckons among its assets any freehold or leasehold immovable property. The transfer of shares in any company, the securities of which are quoted on the Official List of the Stock Exchange of Mauritius and the transfer of shares in a company holding a "Global Business Licence" which does not reckon among its assets any freehold or immovable property in Mauritius are exempted from registration duty.

2.9 Incorporated Businesses and Notable Taxes

Incorporated businesses must in every year, set up a Corporate Social Responsibility Fund equivalent to 2% of their chargeable income of the preceding year.

3. DIVISION OF TAX BASE BETWEEN CORPORATIONS AND NON-CORPORATE BUSINESSES

3.1 Closely Held Local Businesses

Most closely held local businesses operate in corporate forms.

3.2 Individual Rates and Corporate Rates

Most closely held local businesses operate in corporate forms.

3.3 Accumulating Earnings for Investment Purposes

There are no rules in place which prevent closely held corporations from accumulating earnings for investment purposes.

3.4 Sales of Shares by Individuals in Closely Held Corporations

There are no capital gains taxes in Mauritius. Any gains realised by individuals on the disposal of shares in a closely held corporation are not liable to tax in Mauritius. However, where the nature of a transaction is characterised by trading activity, any gains derived from that transaction may be assessed and taxed as income.

3.5 Sales of Shares by Individuals in Publicly Traded Corporations

There are no capital gains taxes in Mauritius. Any gains realised by individuals on the disposal of shares in a publicly traded corporation are not liable to tax in Mauritius. However, where the

nature of a transaction is characterised by trading activity, any gains derived from that transaction may be assessed and taxed as income.

4. KEY FEATURES OF TAXATION OF INBOUND INVESTMENTS

4.1 Withholding Taxes

Interest

- Interest payable by any person, other than by a bank or non-bank deposit taking institution under the Banking Act 2004, to any non-resident is subject to a withholding tax of 15%.
- Interest payable to a non-resident not carrying on any business in Mauritius by a corporation holding a Global Business Licence out of its foreign source income is not subject to withholding taxes.
- There are no withholding taxes on interest paid to a Mauritius resident.

Dividends

- There are no withholding taxes on dividends in Mauritius.

Royalties

- Royalties payable to residents are subject to a withholding tax of 10%.
- Royalties payable to non-residents are subject to a withholding tax of 15%.
- Royalties payable to non-residents by a company out of its foreign source income are not subject to withholding taxes.

4.2 Primary Tax Treaty Countries

Mauritius is a party to some 45 Double Taxation Avoidance Agreements. It is also a party to a series of these agreements that await ratification, signature or that are still being negotiated. The primary tax-treaty countries in this regard are Egypt, India, People's Republic of China,

Singapore, South Africa, and the United Kingdom.

4.3 Use of Treaty Country Entities by Non-treaty Country Residents

Nothing prevents foreign investors from availing themselves of the benefits of Double Taxation Avoidance Agreements, provided that the relevant substance requirements are satisfied. It is to be noted that treaty benefits may not be allowed upon the application of the “principal purpose test” under the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (Multilateral Convention).

4.4 Transfer Pricing Issues

There is no specific transfer-pricing legislation or guidance from the tax authorities in Mauritius, although the Income Tax Act 1995 sets out a requirement for transactions between related parties to be conducted on an arm’s-length basis. It must be highlighted that there is no presumption in Mauritius that the arm’s-length principle should not apply to non-related parties, effectively meaning that all transactions must be conducted on an arm’s-length basis in Mauritius.

4.5 Related-Party Limited Risk Distribution Arrangements

As far as is known, the local tax authorities do not challenge the use of related-party limited-risk distribution arrangements for the sale of goods or provision of services locally.

4.6 Comparing Local Transfer Pricing Rules and/or Enforcement and OECD Standards

See **4.4 Transfer Pricing Issues**. The local authorities are working towards implementing the Organisation for Economic Co-operation and Development (OECD) standards.

4.7 International Transfer Pricing Disputes

There are no known international transfer-pricing disputes being resolved through double-tax treaties and mutual agreement procedures.

The local tax authorities have issued guidance notes on how taxpayers can request assistance from the Competent Authority in Mauritius to resolve disputes arising from taxation not in accordance with the relevant Double Taxation Avoidance Agreements. The International Taxation Section of the Large Taxpayers Department of the Mauritius Revenue Authority is the responsible unit for providing assistance with respect to the Mutual Agreement Procedure (MAP) process.

5. KEY FEATURES OF TAXATION OF NON-LOCAL CORPORATIONS

5.1 Compensating Adjustments when Transfer Pricing Claims Are Settled

This is not relevant to the Mauritian jurisdiction.

5.2 Taxation Differences between Local Branches and Local Subsidiaries of Non-local Corporations

Local branches of non-local corporations are usually taxed on the profits attributable to the local branch, while local subsidiaries of non-local corporations are taxed on their worldwide income. They are both taxed at the rate of 15% subject to applicable credits and exemptions.

5.3 Capital Gains of Non-residents

There are no capital gains taxes in Mauritius. Any gains realised by non-residents on the disposal of shares in local corporations is not liable to tax in Mauritius. However, where the nature of a transaction is characterised by trading activity,

any gains derived from that transaction may be assessed and taxed as income.

5.4 Change of Control Provisions

Registration duties and taxes apply on the disposal of shares in a company holding immovable property in Mauritius in so far as that disposal results in a change of control.

5.5 Formulas Used to Determine Income of Foreign-Owned Local Affiliates

Formulas are not used to determine the income of foreign-owned local affiliates selling goods or providing services.

5.6 Deductions for Payments by Local Affiliates

In order for the fees to qualify as an allowable deduction for the local affiliate, the expenses must have been incurred exclusively in the production of gross income of the local affiliate and the transaction must have been conducted on an arm's-length basis.

5.7 Constraints on Related-Party Borrowing

There are no constraints imposed on any related-party borrowing. However, the related-party borrowing must be conducted on an arm's-length basis.

6. KEY FEATURES OF TAXATION OF FOREIGN INCOME OF LOCAL CORPORATIONS

6.1 Foreign Income of Local Corporations

The foreign income of local corporations is taxed at the rate of 15%, subject to applicable exemptions. The local corporations may benefit from the partial-exemption regime, or they may claim

foreign tax credit (up to a maximum of 15%) on the foreign income by giving evidence of the foreign tax suffered to the authorities.

6.2 Non-deductible Local Expenses

This is not relevant to the Mauritian jurisdiction.

6.3 Taxation on Dividends from Foreign Subsidiaries

The dividends would be taxed at the rate of 15%, but the local corporations may benefit from the partial-exemption regime (if the local corporation meets the prescribed substance requirements) or they may claim foreign tax credit on the foreign income by giving evidence of the foreign tax suffered to the authorities.

6.4 Use of Intangibles by Non-local Subsidiaries

This is not relevant to the Mauritian jurisdiction.

6.5 Taxation of Income of Non-local Subsidiaries under Controlled Foreign Corporation-Type Rules

Mauritius introduced controlled foreign company (CFC) rules in 2019 and these rules apply to resident companies carrying on business through a CFC and the non-distributed income of the CFC arises from non-genuine arrangements put in place for the principal purpose of obtaining a tax benefit. This income is deemed to form part of the chargeable income of the resident company.

A non-genuine arrangement is an arrangement whereby a 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 that are relevant to those assets and risks are carried out and are instrumental in generating the controlled company's income.

Contributed by: Jason Harel, Fayaz Hajee Abdoula, Satyan Ramdoo and Yashna Munbauhal, BLC Robert & Associates

A CFC is 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 the resident company or together with its associated enterprises. The definition of a CFC includes a permanent establishment of the resident company.

The CFC rules do not apply to a CFC where, in an income year:

- accounting profits are not more than EUR750,000, and non-trading income is not more than EUR75,000;
- accounting profits amount to less than 10% of its operating costs for the tax period; or
- the tax rate in the country of residence of the controlled foreign company is more than 50% of the tax rate in Mauritius.

6.6 Rules Related to the Substance of Non-local Affiliates

This is not relevant to the Mauritian jurisdiction.

6.7 Taxation on Gain on the Sale of Shares in Non-local Affiliates

Local corporations are not subjected to tax in Mauritius on the gain on the sale of shares in non-local affiliates.

7. ANTI-AVOIDANCE

7.1 Overarching Anti-avoidance Provisions

The Income Tax Act 1995 contains a general anti-avoidance provision which caters for transactions, operations or schemes which have been set up to avoid tax liability in Mauritius. The specific anti-avoidance provisions to be noted relate to:

- interest on debentures issued by reference to shares;

- excess of remuneration or share of profits;
- excessive remuneration to a shareholder or a director;
- benefit to a shareholder;
- excessive management expenses;
- leases for other than an adequate rent; and
- rights over income retained.

8. AUDIT CYCLES

8.1 Regular Routine Audit Cycle

The local tax authorities do not have a regular routine audit cycle, but they are empowered under the Income Tax Act 1995 to carry out assessments on taxpayers. The tax assessments are carried out on an ad hoc basis throughout the year. The time limit for the tax authorities to raise a tax assessment is three years immediately preceding that year of assessment.

9. BEPS

9.1 Recommended Changes

Several major changes have already been implemented in the context of the action plan on BEPS. Mauritius has also made commitments to the OECD to implement transparency and effective exchange of information for tax purposes.

In respect of BEPS Action 5, Mauritius has complied with the recommendations made by the Forum on Harmful Tax Practices regarding the then-preferential regimes prevailing in Mauritius. Since 2019, the Deemed Foreign Tax Credit regime which was available to companies holding a “Category 1 Global Business Licence” and deemed to be a harmful practice has been abolished and the Partial Exemption Regime (as described in **1.4 Tax Rates**) was introduced. In order to benefit from the Partial Exemption Regime, companies have had to satisfy new prescribed substance requirements. Furthermore,

the tax rate for both domestic companies and “Global Business Licence” holders has been aligned at the rate of 15%.

In respect of BEPS Action 6, Mauritius has signed and ratified the Multilateral Convention to implement measures to prevent BEPS in relation to the Mauritius tax treaties. Mauritius has opted to follow the mandatory provisions of the Multilateral Convention under Articles 6, 7 and 16 and the non-mandatory provisions under Article 17 and Part VI (Arbitration).

In respect of BEPS Action 13, Mauritius has signed the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports in January 2017 and regulations giving effect to that agreement have been proclaimed in 2018.

In respect of BEPS Action 14, Mauritius is amending its existing tax treaties covered under the Multilateral Convention to cater for the minimum standard for improving dispute resolution under Action 14 (which requires jurisdictions to allow a taxpayer to present a case to the Competent Authority of either Contracting Jurisdiction for mutual agreement assistance).

In January 2022, the tax authorities reported that synthesised texts are under preparation for most of the Double Taxation Avoidance Agreements (to which Mauritius is a party) modified by the Multilateral Convention. These synthesised texts will not be legally binding and are being prepared to ease interpretation (and application) of Double Taxation Avoidance Agreements modified by the Multilateral Convention.

9.2 Government Attitudes

The Government of Mauritius is committed to adhere to standards set by the OECD. Mauritius joined the Inclusive Framework in November

2017 to work with the OECD towards implementing the BEPS minimum standards.

It remains to be seen how the authorities will give effect to Pillars One and Two.

9.3 Profile of International Tax

International tax has an extremely high public profile in Mauritius, as Mauritius has established itself as a platform used by foreign investors to invest from foreign jurisdictions. Mauritius is therefore fully collaborative with international institutions and is committed to comply with international obligations and standards.

In February 2020, the Financial Action Task Force (the FATF) added Mauritius to its “Grey List”. Since then, the Government of Mauritius embarked on actions plans with the FATF to implement its recommendations. As part of its actions, the Government of Mauritius created several working groups whose primary duty was to enhance the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) regime in Mauritius. As part of the action plan, measures included:

- that relevant legislations be amended to satisfy the requirements of the FATF recommendations on AML/CFT;
- the setting up of financial crimes divisions within certain Mauritian Courts to ensure that financial crime cases are dealt with expeditiously; and
- the recruitment of new personnel to reinforce the compliance capacity of the jurisdiction of Mauritius.

After completing its action plan and following a positive on-site visit by the FATF team in October 2021, Mauritius was removed from the FATF “Grey List” whereby the FATF highlighted that “The FATF welcomes Mauritius’ significant progress in improving its AML/CFT regime. Mau-

Contributed by: Jason Harel, Fayaz Hajee Abdoula, Satyan Ramdoo and Yashna Munbauhal, BLC Robert & Associates

ritius has strengthened the effectiveness of its AML/CFT regime and addressed related technical deficiencies to meet the commitments in its action plan regarding the strategic deficiencies that the FATF identified in February 2020.”

9.4 Competitive Tax Policy Objective

Even if the financial sector has expressed concerns about unfair tax competition which is likely to result especially with regard to non-OECD countries, once the BEPS Actions have been completed, the Government of Mauritius has nevertheless expressed its commitment to implement the BEPS minimum standards.

9.5 Features of the Competitive Tax System

In recent times, there has been an increased emphasis being placed on “substance” in Mauritius. In particular, tax regulations have been amended in respect of the Partial Exemption Regime, in as much as additional conditions have been placed on companies wishing to benefit from that regime. While there is no word on whether the authorities will take steps to tighten these conditions further or place additional obligations on companies, it remains to be seen if the regime will be revisited.

9.6 Proposals for Dealing with Hybrid Instruments

Under the Multilateral Convention, Mauritius has reserved its right not to apply the article addressing the situation of hybrid mismatches. It is not a provision required to meet the BEPS minimum standards.

9.7 Territorial Tax Regime

Mauritius does not have a territorial tax system.

9.8 Controlled Foreign Corporation Proposals

Mauritius does not have a territorial tax system.

9.9 Anti-avoidance Rules

The inclusion of a “principal purpose test” provision in relevant tax treaties is likely to impact investors and at their end, investors should ensure that they would not be denied any treaty benefits under their relevant circumstances.

9.10 Transfer Pricing Changes

Mauritius has not enacted specific transfer pricing rules. See **4.4 Transfer Pricing Issues**.

There is no known controversy regarding the taxation of profits from intellectual property in Mauritius.

9.11 Transparency and Country-by-Country Reporting

Mauritius is in favour of provisions for transparency and country-by-country reporting.

9.12 Taxation of Digital Economy Businesses

There have not been any such changes in relation to the taxation of transactions effected or profits generated by digital economy businesses operating largely from outside Mauritius.

9.13 Digital Taxation

So far, no laws have been implemented in relation to digital taxation.

9.14 Taxation of Offshore IP

Mauritius has not introduced any special provisions dealing with the taxation of offshore intellectual property that is deployed within its jurisdiction.

BLC Robert & Associates is a leading independent business law firm in Mauritius, with the largest number of fee earners. It is mandated to act on an ever-growing number of instructions, reflecting the fact that its services are highly sought after. The firm's membership of the Africa Legal Network (ALN) strengthens its position as the leading provider of legal services, both locally and into the African continent, through the presence of member law firms in 15 African jurisdictions. The firm has eight partners and four main practice areas: corporate and commercial, banking and finance, financial services and regulatory, and dispute resolution. Due to

its size, the firm has been able to create further specialised sub-practice groups: business law, M&A, employment, taxation, real estate and hospitality, insolvency, capital markets, and technology, media and telecommunications. The team specialises in offering innovative tax structures and products to ensure cost-efficient financing, mitigate excessive tax exposure and streamline multi-jurisdictional transactions and re-organisations. Its expertise involves fiscal elements of M&A transactions and restructurings, country and cross-border tax advisory, transaction tax, investment schemes and employee share schemes, and VAT and tax litigation.

AUTHORS



Jason Harel is the co-founding partner of BLC Robert & Associates. He leads the corporate and commercial department of the firm. He possesses substantial

experience in real estate, banking, corporate finance, corporate transactions, mergers and acquisitions, and taxation. He acts for both public and private companies and sits on a number of boards. He acts as an adviser to a number of leading companies in Mauritius, guiding them in their strategic transactions. Prior to joining BLC Robert and after completing his pupillage with Gray's Inn Tax Chambers, the leading tax chambers in the UK, Jason was a senior associate within the trade finance and project finance group of Denton Wilde Sapte LLP in London from 2000 to 2005. Jason also worked for Kingston Smith in its corporate insolvency and restructuring divisions.



Fayaz Hajee Abdoula is a partner at BLC Robert & Associates in the corporate and commercial team. He started his career at the firm as a pupil and over the years, due to his

resilience and commitment, he was appointed partner. Over the last ten years, he has advised a multitude of clients, involving a number of sizeable M&A transactions, joint ventures, private equity firms, regulated entities, listed companies, hotels and multinationals, amongst others. His expertise has led him to be the adviser to leading companies in the tax industry. Fayaz is also the lead employment lawyer in the firm. With his strong understanding of employment laws, local culture and industry developments, he has the ability to craft and execute policies and strategies, ease the corporate culture of companies, and minimise the risk of employee disputes. Fayaz is also a member of the Alternative Tax Dispute Resolution Panel, an independent panel established by the Mauritius Revenue Authority (MRA) to find a mutual agreement in respect of large tax disputes.

Contributed by: Jason Harel, Fayaz Hajee Abdoula, Satyan Ramdoo and Yashna Munbauhal, BLC Robert & Associates



Satyan Ramdoo is a senior associate at BLC Robert & Associates in the corporate and commercial team and advises primarily on business law matters, while assisting clients

with the complexities on mergers and acquisitions. His invaluable insights enable him to advise on banking and finance transactions as well as on regulatory and compliance matters. As part of the intellectual property cluster at the firm, he brings a formidable knowledge of IP law to provide tailored advice to clients engaged in various sectors, such as hospitality, engineering, and innovation. Satyan has acted for an international network of private equity firms making infrastructure investments throughout various African jurisdictions, including Mauritius. He has also advised private local and foreign companies acquiring stakes in Mauritian companies, and has worked on some major financing transactions, acting for both lenders and borrowers. He has also assisted in the corporate and transactional aspects of an amalgamation of Mauritian entities of a US multiple-industry services and solutions group of companies. Satyan's expertise is recognised in his work acting for various private domestic and international companies and investors acquiring a stake in Mauritian companies.



Yashna Munbauhal is an associate at BLC Robert & Associates in the corporate and commercial team. She advises on domestic and cross-border corporate and commercial

transactions, including on mergers and acquisitions, corporate restructuring, and business law matters. She has experience in conducting due diligence exercises and in drafting/negotiating legal documentation relating to corporate and commercial transactions. She also handles a wide range of tax matters, involving domestic and international tax advisory work.

BLC Robert & Associates

26 Bank Street
Cybercity Ebene
72201
Mauritius

Tel: +230 4032400
Fax: +230 4032401
Email: chambers@blc.mu
Web: www.blc.mu

BLC ROBERT & ASSOCIATES  **ALN**