

LEGAL UPDATE

# NON-RESIDENT TAX ON MAURITIUS-SOURCE INCOME

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## Non-resident tax on Mauritius-source income

Non-residents are generally liable to tax in Mauritius in respect of their Mauritius-source income. Section 74(1) of the Income Tax Act (the “Act”) provides examples of streams of income considered to be derived from Mauritius.

Essentially, where non-residents derive income directly or indirectly from Mauritius, such income would be taxed in Mauritius. This would, however, be subject to any relief provided by applicable double taxation avoidance agreements or any exemptions under the Act.

It is also apposite to note that section 74(2) of the Act limits the application of the provisions on derivation of income. Certain circumstances (e.g., the successive steps of production or manufacture are in different countries; or the making of a contract is in one country and its performance is in another) can result in the source of an income not being exclusively in Mauritius. The Act provides that in such cases, the income must be apportioned between its source in Mauritius and its source elsewhere, or attributed to one of such sources exclusively, in such manner as the MRA deems fit. In so doing, the MRA will have regard to the nature and relative importance of the source of such income. Only the income apportioned or attributed to a source in Mauritius will then be considered as derived from Mauritius and taxed accordingly.

One notable exception to section 74 of the Act applies to non-residents holding a premium visa. The premium visa scheme was introduced following the 2021-2022 Budget Speech to encourage eligible foreigners to come in Mauritius for a period of at least one year. The Act provides that where such non-resident individuals derive income for work performed remotely from Mauritius, the income will be deemed to be derived by them in Mauritius, only when the income is remitted in Mauritius. It is interesting to note that money spent in Mauritius by the holder of a premium visa through the use of his or her foreign credit or debit card is not

deemed to have been remitted in Mauritius. However, if the holder of the premium visa makes deposits in a bank account in Mauritius, he or she shall be liable to income tax in Mauritius on such deposits unless the person makes a declaration that the required tax has been paid on that income in his or her country of origin or residence.

Furthermore, a new provision (section 74A) concerning the tax treatment of the Mauritius-source income of the foreign employers of premium visa holders, has been added to the Act, following the 2022-2023 Budget Speech. Section 74A of the Act provides that where a person carries on business outside Mauritius and has an employee performing work remotely from Mauritius, any gross income attributable to the work performed by that employee in Mauritius will be reckoned as income derived by that foreign employer from Mauritius in that income year. However, this provision will not apply where the employee is a holder of a premium visa, and the core business activities of the foreign employer are outside Mauritius. In our view, this new provision will consolidate Mauritius as a destination for foreigners to come for long stay and work remotely. If the premium visa holders meet the relevant statutory requirements (and do not create any permanent establishment for their foreign employer in Mauritius), their foreign employer would not be liable to tax in Mauritius.

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