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Mauritius – The changing tax landscape – What action should you take?

This article follows our July 2018 edition where we informed you of amendments to the global business sector in Mauritius.

The focus of this update is to address the recent changes to the Mauritian tax landscape and, more importantly, the decisions that must be made by affected clients and new entrants into the market, to ensure compliance with the transitional and new regulations going forward.

To conform with international standards and eliminate potential harmful tax practices, Mauritius has implemented various Base Erosion and Profit Shifting ("**BEPS**") measures as prescribed by the Organisation for Economic Co-operation and Development ("**OECD**").

These changes will mainly affect the Category 1 Global Business Licence ("**GBL1**") and Category 2 Global Business Licence ("**GBL2**") regimes, whilst also introducing a new Global Business Licence regime ("**NewGBL**") and the new concept of an 'Authorised Company'. The choices facing affected clients who need to consider converting either GBL1 or GBL2 into the NewGBL and 'authorised company' will be discussed in summary below.

GBL1 – The next steps

A transitional process applies to existing GBL1 companies, subject to the following timelines set out below.

For GBL1 companies licensed before 16 October 2017, the existing tax regime will remain intact and will be grandfathered (i.e continue with activities or operations that were approved before the implementation of these new developments) till 30 June 2021.

With effect from 1 July 2021, existing GBL1 companies will automatically be converted into the NewGBL regime, subject to various requirements, as discussed below, being met;

* For GBL1 companies licensed between 17 October 2017 and 31 December 2018, the existing GBL1 regime will remain intact until 31 December 2018. With effect from 1 January 2019, existing GBL1 companies will automatically be converted into the NewGBL regime, subject to various requirements, as discussed below, being met; and
* With effect from 1 January 2019, the NewGBL regime applies, subject to various requirements, as discussed below, being met.

It is expected that most GBL1 companies will automatically be converted to the NewGBL regime, within the respective transitional timeframes noted above. However, in line with the BEPS initiative, in order to qualify for the NewGBL regime, the affected company must have its Place of Effective Management ("**POEM**") in Mauritius, in addition to complying with the yet to be published 'substance requirements'. Where both the POEM and 'substance requirements' are met, the following applies to income earned by the company under the NewGBL regime –

* Foreign dividends, foreign interest and profits from a foreign permanent establishment will be subject to an effective tax rate of 3%, based on the new partial exemption provisions;
* Leasing income from ships and aircraft, as well as foreign income earned by Collective Investment Schemes ("CIS"), closed end funds, CIS managers, CIS administrators, investment advisors or asset managers will similarly be subject to an effective tax rate of 3%, based on the new partial exemption provisions; and
* Any other foreign or Mauritian sourced-income (e.g. fees, commission etc.) will be subject to a tax rate of 15%.

GBL2 – More complex decision making

As with the GBL1 regime, a transitional process applies to existing GBL2 companies, subject to the following timelines set out below –

* For GBL2 companies licensed before 16 October 2017, the existing tax regime will remain intact and will be grandfathered till 30 June 2021. Prior to 30 June 2021, existing GBL2 companies will need to consider alternative structures including, but not limited to conversion into the NewGBL, 'Authorised Company' or Domestic Company regimes, failing which, its licence will be revoked and steps to terminate the existence of the entity will commence;

- For GBL2 companies licensed between 17 October 2017 and 31 December 2018, the existing GBL2 regime will remain intact until 31 December 2018. Prior to 31 December 2018, existing GBL2 companies will need to consider alternative structures including, but not limited to conversion into the NewGBL, 'Authorised Company' or Domestic Company regimes, failing which, its licence will be revoked and steps to terminate the existence of the entity must commence; and
- With effect from 1 January 2019, the NewGBL or 'Authorised Company' regime applies, subject to various requirements, as discussed below, being met.

The 'Authorised Company' regime has certain similarities to the existing GBL2 regime, except for the fact that Mauritian sourced income will be subject to tax at 15%, all other income will be tax exempt in Mauritius and, crucially, that its POEM must be outside Mauritius – in the latter regard, the 'Authorised Company' must report on an annual basis to the Mauritian Revenue Authority of the location of its POEM to confirm that it is in fact not a tax resident of Mauritius.

It is clear that various important decisions will need to be made by impacted clients to comply with the changing tax landscape in Mauritius.
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