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Global Tax Alert

Mauritius enacts legislation to mitigate impact of COVID-19

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On 15 May 2020, the Mauritian National Assembly passed the *COVID-19 (Miscellaneous Provisions) Act 2020*. The Act amends 56 legal provisions, including amendments to the *Bank of Mauritius Act*, *Companies Act*, *Consumer Protection (Price and Supplies Control) Act*, *Courts Act*, *Customs Act*, *Customs Tariff Act*, *Education Act*, *Financial Services Act*, *Income Tax Act*, *Insolvency Act*, *Interpretation and General Clauses Act*, *Mauritius Revenue Authority Act*, *National Pensions Act*, *Public Health Act*, *Registration Duty Act*, *Tourism Authority Act*, *Value Added Tax Act* and *Workers' Rights Act*. Most of the changes to the *Income Tax Act* are effective as from 23 March 2020. The changes made to the *Value-Added Tax Act* are effective as from 24 March 2020.

This Alert summarizes the key changes to the *Income Tax Act* and the *Value-Added Tax Act*.

Changes to the *Income Tax Act*

Contribution to COVID-19 Solidarity Fund: new section 27H

Individuals

Contributions made to the COVID-19 Solidarity Fund during the fiscal years ending 30 June 2020 and 2021 qualify for deduction against the net income of an individual after deducting the Income Exemption Threshold, interest relief, medical or health insurance premium and deduction for household employees.

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The amount of the deduction to the COVID-19 Solidarity Fund is unlimited. Any excess deduction may be utilized against the net income of the individual for the subsequent two years.

Companies

Contributions made to the COVID-19 Solidarity Fund during the fiscal years ending 30 June 2020 and 2021 qualify for deduction for companies.

A company may have a financial year end other than 30 June. The fact that the amendment on the deduction of the contribution has been cross referenced to the section for individuals may give rise to various interpretations. A strict application of the law would imply that the contribution that is deductible should be made during the years ending 30 June 2020 and 2021 only. If the interpretation is based on the year of assessment, then the outcome may be substantially different. Take the example of a company with a calendar year end, extrapolating the 30 June year end to the relevant year of assessment would imply that the contributions that would qualify for deduction may be made during the calendar years 2020 and 2021. It is expected that the law will be clarified regarding this provision.

The contribution may be restricted if the company has exempt income. Hence, it cannot be assumed that any contribution during the qualifying period would be wholly deductible.

COVID-19 levy

An employer who has benefited from an allowance under the Wage Assistance Scheme (WAS) may be subject to a levy. Depending on the level of its taxable profit, a company may have to effectively refund the aggregate amount of any WAS allowance through the levy. The levy is restricted to 15% of the taxable profit of the company. For the purpose of the levy, the taxable profit should exclude any tax loss brought forward.

A company with a tax loss during the year is not required to pay the levy. The WAS allowance would be considered as a subsidy in those cases. To determine the tax loss for the relevant year, the WAS allowance should be considered in the first instance.

The following depicts three scenarios to illustrate the mechanism of the levy.

	Scenarios		
	A	B	C
		Rs	
Taxable profit for the year	600,000	675,000	650,000
Tax loss brought forward		(50,000)	(725,000)
Net taxable profit	600,000	625,000	
Tax loss carried forward to next year			(75,000)
WAS allowance	100,000	100,000	100,000
Maximum levy			
Taxable profit for the purposes of the levy	600,000	675,000	650,000
15% thereon	90,000	101,250	97,500
Amount of levy	90,000	100,000	97,500
Net financial benefit			
WAS allowance	100,000	100,000	100,000
Levy	(90,000)	(100,000)	(97,500)
Net	10,000	Nil	2,500

The levy is payable at the time the company submits its annual tax return, though the WAS allowance may be granted for the months of March, April and May 2020 or any such other prescribed month.

There are various provisions on the powers of the Mauritius Revenue Authority (MRA), including the application of the various anti-avoidance provisions on the levy.

Wage Assistance Scheme

An eligible employee is an employee employed on a part-time or full-time basis by an employer earning gross income from a business. Employees employed by a charitable institution, by the MRA or registered under the *Registration of Associations Act*, charitable trust or charitable foundation are also considered as eligible employees. The law specifically provides that any other categories of employees may be prescribed by way of regulations. The monthly basic salary for the months of March, April and May 2020 or any other prescribed month, should not exceed Rs50,000.

The following categories of employees do not qualify for the WAS: an employee of a Ministry, a Government department, a local authority, a statutory body or the Rodrigues Regional assembly, or any employee employed by any prescribed employer or any such categories of employees that may be prescribed.

The allowance is computed as follows where the main business activities of the employer is in Mauritius:

Month	Percentage of basic salary or wage %	Maximum allowance Rs
March 2020	50	12,500
April 2020	100	25,000
May 2020	100	25,000

For any other prescribed month, the portion of the allowance and maximum amount will be defined in the regulations.

There are various provisions on:

a. The application process for the WAS allowance

b. The manner the MRA is to respond to an application

c. The WAS allowance for certain employees of an export manufacturing enterprise

d. The powers of the MRA under certain circumstances, like the request for any information or document to assess the correctness of the information submitted in an application

Changes to the *Value-Added Tax Act*

New items in Fifth Schedule

The following are deemed to be zero-rated supplies:

a. Protective masks against dust, odors and the like of H.S. Code 6307.90.30

b. Other breathing appliances and gas masks, excluding protective masks having neither mechanical parts nor replaceable filters of H.S. Code 3808.94.10

c. Hand sanitizers of H.S. Code 3808.94.10

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