

Mauritian Finance Minister issues new regulations on social contributions

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Executive summary

On 8 September 2020, the Mauritian Minister of Finance issued the first set of regulations (the CSG Regulations) regarding the *Contribution Sociale Generalisée* (CSG) that was introduced by section 42(f) of the *Finance (Miscellaneous Provisions) Act 2020* through a new Part in the *National Pensions Act*.

The CSG Regulations are effective as from 1 September 2020 and employers subject to the regulations should ensure that their payroll system can be adapted to the requirements of CSG as the amount on which CSG applies is not always the same as the tax base for the purposes of the tax to be withheld under the Pay As You Earn system.

Depending on the monthly salary of the employees, the CSG may lead to an increased employment cost.

This Alert summarizes the key provisions of the CSG Regulations.

Detailed discussion

Computation of the CSG

The CSG is based on the basic wage or salary, as defined in the *Workers' Rights Act 2019* (WRA) and includes any payable additional remuneration. Except for cases where the terms and conditions of employment are governed by

Remuneration Regulations or Wages Regulations, an arbitral award or other award, the “basic wage or salary” is defined as all the emoluments received by the worker, excluding any bonus or overtime. The term “emoluments” is defined in section 2 of the WRA as follows:

“(E)moluments” means any payment in money or money’s worth which is salary, wages, leave pay, fee, overtime pay, perquisite, allowance, bonus, gratuity, commission or other reward or remuneration, by whatever name called, in respect of, or in relation to, the office or employment of a worker.”

Except for payment of any bonus or overtime, the amount on which the CSG is applied is wide enough to include money’s worth also. The scope for purposes of the *Income Tax Act* (ITA) is wider considering that sections 2 and 10 of the ITA provide that “emoluments” means “any advantage in money or money’s worth.”

The CSG is administered by the Mauritius Revenue Authority (MRA) and it is not known if the MRA will in practice apply the definition under the ITA in the context of the CSG. If it does, then this will imply the monetary amount of the benefit in kind provided in the Second Schedule to the Income Tax Regulations 1996 is effectively being used for the purposes of the CSG. This may have legal ramifications.

We do not know the type of emoluments that are within the definition of “payable additional remuneration.” If the additional remuneration, includes bonus or overtime, it is presumed that such bonus or overtime should be excluded. It would be useful to understand the impact on the CSG if the additional remuneration is subsequently waived. The treatment of discretionary bonus should also be clarified.

The CSG applies to individuals who are considered to be participants. The CSG Regulations specifically provide that it includes the following individuals:

- ▶ Individuals who work on a part-time or full-time basis, whether in a position of a permanent nature or on a contract with a predetermined duration, including:
 - Public sector employees
 - A share worker
 - A non-citizen employee
 - Individuals employed by private households
 - An individual aged 65 or above
 - An individual performing atypical work
 - An executive director of a company
 - A self-employed individual

The following categories of individuals are not considered to be participants:

- ▶ A non-citizen employed by an export manufacturing enterprise who has resided in Mauritius for a continuous period of less than two years, including any period of absence which does not exceed nine consecutive weeks or during which he maintains a residence in Mauritius.
- ▶ A non-citizen who holds a work permit and is employed by a foreign contractor engaged in the implementation of a project which is funded by a foreign state up to not less than 50% of the estimated project value, from grant or concessional financing, as the Minister of Finance may determine.
- ▶ An individual training under a training scheme set up by the Government or under joint public-private initiative with a view to facilitating the placement of jobseekers in gainful employment.
- ▶ A non-executive director of a company.

Rate of CSG

The rate of CSG for employees other than public-sector employees is:

| | Rate of CSG | |
|---|-------------|----------|
| | % | |
| | Employee | Employer |
| Monthly remuneration not exceeding Rs50,000 | 1.5 | 3 |
| Remuneration exceeding Rs50,000 | 3 | 6 |

For employees in the public sector, the total amount of the CSG is payable by the employer. Though the rates are comparable for non-public sector employees and public sector employees, the employer is not allowed to withhold any portion of the CSG from the remuneration of a public sector employee. The rate of the CSG is not split between the employer and employee for public sector employees so that the total CSG has to be borne by the employer.

The CSG Regulations do not prescribe the rate for an employee with a monthly remuneration of Rs50,000 for public sector and non-public sector employees.

The CSG for a self-employed individual is Rs150 per month. The CSG Regulations provide that "self-employed" does not include an individual who has exclusively passive income. Passive income for the purposes of the CSG Regulations means income from rents, dividends or interest.

CSG return and payment

A monthly return is required for the purposes of the CSG. The return should include the following:

- ▶ Full name of the employee
- ▶ National Identity Card number
- ▶ Identification number issued by the immigration officer for a non-citizen
- ▶ Pay period
- ▶ Remuneration
- ▶ CSG rate
- ▶ CSG payable by the employer
- ▶ CSG payable by the employee
- ▶ Such other particulars as may be determined by the MRA

The monthly return and payment are both submitted at the same time to the MRA. Except for the month of May and November, the CSG is generally payable within one month of the pay period. For the month of May and November, the CSG is payable two days, excluding Saturdays and public holidays, before the end of June and December of each year, respectively. Where the employee is a seaman and his remuneration is based on a portage bill, the CSG should be remitted within one month and 20 days after the end of the pay period.

The CSG for the month of September 2020 should be paid by the end of November 2020.

Certain individual employers, like an individual with household employees, may elect to submit an annual return instead of a monthly return. In such a case, the CSG is payable at the end of the month following the financial year.

The penalty for CSG in the event of an assessment is limited to a maximum of 25% of the additional amount of the CSG.

The Director-General, MRA is allowed to waive the whole or part of any interest or penalty under the CSG Regulations if he is satisfied that the failure to comply with the CSG Regulations is attributable to a just or reasonable cause.

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