



Intercontinental Trust Ltd

Newsletter

**Finance
(Miscellaneous
Provisions) Act 2022**

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(SME)

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The Finance (Miscellaneous Provisions) Act 2022

Gazetted on 2 August 2022, the Finance (Miscellaneous Provisions) Act 2022 (hereinafter referred interchangeably as the “Finance Act 2022” or the “Act”) makes provision for the implementation of measures announced by the Minister of Finance, Economic Planning and Development, Dr. the Honourable Renganaden Padayachy in his budget speech 2022/2023.

Our newsletter sets out some of the main amendments and updates to the existing regulatory framework as reported in our Budget Highlights 2022/2023 and which we believe are of relevance to our valued client base.

If you have any questions or concerns on how these measures will affect your current or upcoming structures/plans, please get in touch with your usual contact person at ITL or write to us on info@intercontinentaltrust.com

Global Business and Financial Services

In order to further enhance the competitiveness of the Mauritian International Financial Services Sector, the below key legislative changes have been brought to the global business landscape:

Companies Act 2001

Small Private Company

The definition of Small Private Company has been amended to include private companies with Turnover less than MUR 100 million in respect of its last preceding accounting period.

Previously, the threshold to qualify as a small private company was a turnover of less than MUR 50 million.

Redomiciliation of companies

Regarding the redomiciliation of a foreign company to Mauritius, the Registrar of Companies (“ROC”) will now issue a conditional certificate of registration and request that the foreign company be deregistered from its original place of registration. Only after receipt of the certificate of deregistration, that the ROC will enter the name of the company on the register of companies and issue a certificate of registration as from the date of such deregistration.

Similarly, where a Mauritian company proposes to redomicile to another jurisdiction, the ROC will require evidence of the company's registration in the other jurisdiction prior to removing the company from the register of companies in Mauritius.

Removal from Registers

A company can apply to be removed from the register of companies either on the ground that it has ceased to carry on business or when there is no reason for a company to continue to exist. *Previously those two grounds were taken jointly.*

Financial Services Act 2007

A Settlement Committee has been created with a view to assessing the possibility for early dispute resolution of disciplinary matters with a licensee.

A new "Global Activities" category has been created to cater for the following licenses:

- a. Global headquarters administration;
- b. Global shared services; and
- c. Global treasury activities

Previously, these items were defined as "financial services".

Securities Act 2005

An audit firm has to be approved by the Financial Services Commission (FSC) and has to demonstrate that it has the adequate experience, expertise and resources in order to audit the financial statements of a Collective Investment Scheme (CIS) and a CIS manager.

Financial Reporting Act 2004

Public Interest Entities

Public interest entities can make an application to the ROC to be exempted from preparing financial statements.

Professional Services

The definition of “professional services” has been amended:

- a. to mean services relating to –
- i. the preparation of financial and management accounts, and bookkeeping services;
 - ii. auditing, fund accounting, forensic accounting, cost accounting, fiduciary accounting, corporate accounting and insolvency services; and
 - iii. taxation, providing tax advice to individual and corporate clients and representing a client with tax authorities; and
- b. to include such other professional services related to accountancy field as the Mauritius Institute of Professional Accountants may, through its rules, recognise or determine.

Small and Medium Enterprises (SMEs)

SMEs are henceforth categorised depending on their turnover as per below:

SME	Category Turnover
Micro-Enterprise	Not Exceeding MUR 10 million
Small Enterprise	MUR 10 million up to MUR 30 million
Medium Enterprise	MUR 30 million up to MUR 100 million
Mid-Market Enterprise	MUR 100 million to MUR 250 million

The Mid-Market Enterprise has been introduced as a new category under the SME Act. This category includes enterprises with an annual turnover of MUR 100 million up to MUR 250 million.

The delay for the granting or rejection of an application has shortened from “within 15 days” to “within 7 days”. It will now also be implied that, where registration is not rejected within 7 working days, the application shall, for all intents and purposes, be deemed to have been granted.

It is also worth mentioning that if a mid-market enterprise ceases its business activity or stops to meet the criteria to be considered a mid-market enterprise, the holder of the registration certificate shall inform the Registrar in writing within 15 days of the cessation.

Waiving penalties and interests

Outstanding penalties as at 25 March 2022 for SMEs with an annual turnover not exceeding MUR 100 million will be waived as follows:

- a. Late submission of return or statement of income:
 - The penalties imposed will be waived subject to the due date for the submission of the return or statement falling in 2020 or 2021 and the tax payable having duly been paid.
- b. Late payment or non-payment of tax payable in accordance with returns or statements submitted:
 - The penalties imposed will be waived subject to the due date for the submission of the return or statement falling in 2020 or 2021 and the tax payable having duly been paid.

Angel Investor Allowance

Where an angel investor has, in an income year, invested a minimum of MUR 100,000 to the seed capital of a qualifying start-up SME (an SME set up on or after 1 July 2022 and meeting such eligibility criteria as may be prescribed), by way of acquisition of shares, he shall be entitled to a relief, by way of a deduction from his net income, of 50 per cent of the amount invested in that income year.

It is to be noted that the relief shall be subject to terms and conditions as prescribed in the act and that the maximum deduction allowed in an income year under this scheme will be MUR 500,000.

Financial assistance for payment of salary compensation 2022

Financial assistance with respect to Salary Compensation for 2022 will be provided to “eligible employees” from SMEs, export enterprises and enterprises in the tourism sector.

The allowance for each month beginning January 2022 and ending June 2022 will be attributed as follows:

Enterprise	Basic Wage (W)	Allowance (MUR)
SME (non-export enterprise) & tourism sector enterprise	$W \leq \text{MUR } 13,500$	500
	$\text{MUR } 13,500 < W \leq \text{MUR } 50,775$	400
SME (export enterprise)	$W \leq \text{MUR } 13,360$	360
	$\text{MUR } 13,360 < W \leq \text{MUR } 50,635$	260

The application for the allowance will have to be made electronically, as determined by the Director-General.

Tax deduction for manufacturers on products manufactured by local SMEs

In order to extend further support to SMEs, the **deduction allowable** for manufacturers (with turnover exceeding MUR 100 million) for purchases of locally manufactured products from SMEs (with a turnover **not** exceeding MUR 100 million) has been increased from 10% to 25% for expenditure incurred as from 1 July 2022.

Extension of SME Incentives and Schemes up to June 2023

The following schemes introduced by the Government for SMEs have been extended up to June 2023:

- a. Freight Rebate System (FRS)* - Effective as from 1 July 2022, SMEs exporting to the South African market are now eligible for the FRS.
- b. SME International Fairs Refund Scheme* - As from July 2022, the scheme is also open to free port operators for participation in international fairs.

Taxation

In a continued effort to align Mauritius with the International tax norms and standards, the following changes have been brought to the local tax regime:

Income Tax Act 1995

Global Minimum Tax

A domestic minimum top-up tax of 15 percent has been introduced for resident companies forming part of large multinationals having a global revenue of EUR 750 million.

Tax on foreign employer

The gross income attributable to the work performed by an employee (1) who is employed by a person carrying business outside Mauritius and (2) who works remotely from Mauritius, will be deemed as income derived from Mauritius in that income year.

This shall not apply where the employee holds a premium visa or where the core business activities are deemed to be outside Mauritius.

Personal tax – new individual tax rates

New thresholds – applicable as from income year commencing 1 July 2022 - have been introduced with regard to individual income tax rates, as follows:

Annual Net Income (MUR)	Tax Rate (%)
Below 700,000	10
Between 700,000 and 975,000	12.5
Above 975,000	15

Income tax deductions have been reviewed as follows:

Deductions for:	Changes brought in Finance Act 2022
Health Insurance Premiums	Increase to MUR 25,000 for individuals and first dependent, and to MUR 20,000 for every other dependent
Non-sponsored full-time tertiary study	- Include postgraduate courses - Increase to MUR 500,000
Contributions to personal pension scheme	Increase to MUR 50,000
Donations to charitable institutions	Increase up to MUR 50,000
Tax exemption for petrol or travelling allowance	Increase to MUR 20,000

Tax Deduction at Source

The rate of Tax Deduction at Source (“TDS”) has increased as follows:

- a. From 3% to 5% with regard to payments made to service providers
- b. From 5% to 7% with regard to rent paid to residents

There is also the imposition of a TDS of 3% on payments made:

- a. to consultants (other than those already specified in Fifth Schedule of the Income Tax Act*);
- b. to providers of security and cleaning services, and pest management services; and
- c. by insurance companies to motor surveyors and mechanics for repairs of motor vehicles of policy holders.

**This includes accountants, tax advisor, legal consultant, barrister, attorney*

International Arrangements

The Minister of Finance may now pass regulations with regard to resolving cross-border tax disputes through the implementation of internationally agreed measures to address the tax challenges arising from the digitalisation of the economy.

Schemes offered by the Economic Development Board

To attract further investments in Mauritius and to develop certain specific sectors, the Finance Act has introduced tax breaks and other benefits for schemes offered by the Economic Development Board (EDB) and other business activities as follows:

Scheme/Activity	Tax exemption period	Conditions
Sustainable Agriculture	8 years	Registered with EDB
Integrated Modern Agricultural Morcellement Scheme	8 years	Use of an innovative agricultural method
Freeport operators / Private Freeport operators	8 years	Minimum investment of MUR 50 million and operations starting on or after 1 July 2022

In addition to the 8-year tax holiday, certificate holders under the Integrated Modern Agricultural Morcellement Scheme will also benefit from the exemption of registration duty on transfer of land.

Certificate holders under the Transit Oriented Scheme by the EDB will be exempt of registration duty on the leasehold rights in State land or the transfer of land.

Prime à L'emploi scheme

An allowance for employers recruiting Mauritian workers previously unemployed for six months and taking employment during the period starting on 1 July 2022 and ending on 30 June 2023 has been introduced. This allowance:

- a. is applicable to the first 10,000 workers (being men aged 35 or less and women aged 50 or less) in respect of whom applications are made to the Mauritius Revenue Authority (MRA) by their respective employers.
- b. is payable monthly for a period of one year and is equivalent to the basic wage or salary of that worker for that month. The basic wage or salary should not exceed MUR 15,000.
- c. is not applicable to trainees, household employees or workers of the public sector.

Value Added Tax Act 1998

Compulsory VAT registration for non-registered taxable persons

Taxable persons who have failed to register for VAT will now be compulsorily registered and allocated with a VAT Registration number and a certificate of registration. The Director-General will also have the authority to publish a list of all registered persons that will be updated on a quarterly basis.

Tax liability for agents of deceased persons

In the case of the death of a taxable person, the successors of the estate (heirs, legatees, executors or liquidators) shall be liable to file VAT returns and pay the Director-General, on behalf of the deceased person for VAT collected but not remitted on the business affairs of the deceased.

E-Invoicing system

An e-invoicing system will be set up by the Director-General to allow businesses to electronically connect to the system for the registration of all invoices generated, including debit notes and credit notes, as well as the issue of fiscal invoices to customers.

The MRA will also require certain businesses, conducting specific business activities or otherwise notified by the MRA, to acquire the necessary equipment and software for the issue of fiscal invoices.

In the case of failure to issue fiscal invoices, a penalty of Rs 10,000 per month up to a maximum total of Rs 200,000 shall be imposable and payable within 28 days from the date that the claim is received by the MRA.

VAT deduction at source by public sector agency

A public sector agency (i.e. a Ministry, a Government department, a local authority, a statutory body or the Rodrigues Regional Assembly) is required to deduct VAT at source when making payments to VAT-registered persons, and remit the amount deducted to the MRA. The deduction is made in respect of the following contracts at the rates set out below:

- a. Goods and services procured under a single contract and where the payment, exclusive of VAT, exceeds MUR 300,000: deduction of 40% of VAT amount.
- b. Goods procured under a contract and where the payment, exclusive of VAT, exceeds MUR 100,000: deduction of 30% of VAT amount.
- c. Services procured under a contract and where the payment, exclusive of VAT, exceeds MUR 30,000: deduction of 60% of VAT amount.

Refund of VAT to certain persons

The VAT Refund Scheme is now applicable for small farmers (1) having turnovers of less than MUR 10 million and (2) registered with the Small Farmers Welfare Fund.

VAT Refunds on accommodation costs for events comprising 50 participants instead of 100 participants will be given to event organisers registered with the EDB.

In the event of an erected residential building or a purchased residential apartment/house from a property developer having floor area not exceeding 1,800 square feet, a VAT refund is applicable.

The refund of the VAT shall be made not more than 30 days from date of receipt of all supporting documents.

Sustainability

Taking a consequential step towards green growth, the Mauritian government has put at the forefront several measures from an environmental sustainability perspective through the introduction of:

- a. a Sustainable City Scheme for the development of new concept of sustainable living built for people and nature
- b. a Transit Oriented Scheme where property developers will be eligible for accelerated annual allowance on “green technology equipment” expenditure
- c. an Integrated Modern Agricultural Morcellement Scheme
- d. an 8-year income tax holiday granted to persons engaged in:
 - i. sustainable agricultural practices
 - ii. innovative agricultural method under the Integrated Modern Agricultural Morcellement Scheme.

Further provisions have been made for regulations with regard to the payment of recycling fee in an effort to support the local recycling of recyclable wastes.

Regulatory & Compliance

In an effort to strengthen the robustness of the existing legal and regulatory framework on the fight against financial crime, several amendments were brought to the Regulatory & Compliance sector as follows:

Financial Intelligence and Anti-Money Laundering Act (“FIAMLA”)

The FIAMLA has been amended to cater for the inclusion of “proliferation financing” under its scope, in line with Financial Action Task Force (FATF) requirements.

United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019

A new definition for “international terrorism” has been introduced, as follows:

- a. terrorist acts that go beyond national boundaries in terms of:
 - i. the methods used,
 - ii. the people who are targeted or
 - iii. the places from which the terrorists operate
- b. violent or criminal acts committed by individuals or groups that are inspired by, or associated with, foreign terrorist organisations

Bank of Mauritius Act

The Bank of Mauritius Act now provides for the establishment of:

- a. A Central KYC System
 - This will aim to facilitate the electronic verification of the identity of customers, validation and extraction of KYC records of customers by KYC institutions, as well as the collection of KYC records submitted to KYC institutions by their customers;
- b. A Central Accounts Registry (the “Registry”)
 - The Registry has the purpose of collecting information on accounts maintained by customers, other than the balance and amount held in these accounts. KYC institutions will be required to furnish to the Registry, on such terms and conditions as it may determine, such information as it may require for the purpose of maintaining the Registry.

Virtual Asset and Initial Token Offering Services Act 2021 (“VAITOS Act”)

The VAITOS Act makes provision for allowing the FSC or any other investigatory authority to make use of any of the following appropriate tool or information to carry out an investigation, supervision or other function:

- a. blockchain or distributed ledger analytics tools;
- b. law enforcement and intelligence reports;
- c. web-scraping or open-source information;
- d. information obtained from international co-operation; or
- e. any other reliable or reputable source of information.

The updated section further clarifies that:

- a. the above-mentioned tools and information are admissible as evidence in any criminal proceedings
- b. Information sharing between the FSC and any investigatory authority, where applicable, with regard to investigation proceedings is possible.

Prevention of Corruption Act

Foreign public official

The definition for “Foreign public official” is as follows:

- a. A person
 - i. who holds a legislative, an executive, an administrative or a judicial office in a foreign country, whether by way of appointment or election;
 - ii. who performs a public function for a foreign country/ agency/ enterprise or public company, or an official / agent of a public international organisation
- b. A public agency, public enterprise or public company

Provisions are made for Bribery by, or of, foreign public official whereby any foreign public official or any person who partake in bribery shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 10 years.

Non-tax deductibility of bribes

A person who, in his tax return to the MRA, deducts any sum which has been given as bribe from his turnover or income shall commit an offence and shall, on conviction, be liable to a fine of not less than MUR 50,000 but not exceeding one million rupees and to imprisonment for a term not exceeding 2 years.

Mutual Assistance in Criminal and Related Matters Act

The definition of “property” has been aligned with that provided under the FIAMLA.

Good Governance and Integrity Reporting Act

Under the Good Governance and Integrity Reporting Act:

- a. a respondent shall disclose all information to the Integrity Reporting Services Agency (IRSA) necessary for the recovery of a virtual asset when the Judge in Chambers makes an Unexplained Wealth Order for the confiscation of the virtual asset.
- b. An expert should be appointed by the IRSA to assist in the recovery and realisation of any confiscated virtual asset.

For any additional information please contact us.

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