



## **Tax & Regulatory Alert**

Delivering Clarity

### **New Enhanced Substance Requirements and Income Tax Amendments**

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## Background

In line with the OECD's initiatives to counter harmful tax practices and the commitment of the Government of Mauritius to step up and strengthen its good repute as an International Financial Centre, major amendments have been made to domestic legislations.

The abolition of the 80% Deemed Foreign Tax Credit ("DFTC"), introduction of partial exemption and changes to the Global Business tax regime as well as new enhanced substance requirements remain at the heart of these changes.



**Roopesh Dabeesingh**  
Tax Partner  
Deloitte

In continuation to the budgetary measures announced on 14 June 2018 and amendments brought by the Finance Act 2018 ("FA 2018") [refer to our [Alert](#)] which received the President's assent on the 9 August 2018, the long awaited Income Tax regulations were finally gazetted on 11 October 2018.

In the same vein, the Financial Services Commission ("FSC"), the Regulator for Global Businesses in Mauritius, issued Circular Letters on the 12<sup>th</sup> and the 15<sup>th</sup> of October 2018 to clarify the new enhanced substance requirements and to provide indicative definition of core income generating activities respectively.

This Alert summarises the key income tax amendments as well as clarifications brought by the FSC Circular Letters.

We recommend entities doing business in Mauritius to review their structures and assess the impact of the above changes.

## New Enhanced Substance Requirements

As part of the amendments brought by the FA 2018, Category 1 ("GBC1") and Category 2 ("GBC2") Global Business licenses will no longer be issued as from 1 January 2019. Instead, new licenses were introduced, namely the Global Business Corporation ("GBC") and Authorised Company ("AC").

Licensing conditions for a GBC includes, inter alia, carrying out of its core income generating activities at all times in, or from, Mauritius by:

- employing, either directly or indirectly, a reasonable number of suitably qualified persons to carry out the core activities; and
- having a minimum level of expenditure, which is proportionate to its level of activities.

The Circular Letters issued by the FSC provides indicative guidelines regarding the above, as indicated in [Table 1](#) and [Table 2](#).

The FSC has also clarified that it will assess the new enhanced requirements at Group level.

**Table 1**

Type of Licence	Indicative Core Income Generating Activities
<b>Collective Investment Scheme</b>	Investment of funds in portfolios of securities, or other financial assets, real property or non-financial assets; diversification of risks; redemption on the request of the holder
<b>Closed-End Fund</b>	Investment of funds collected from sophisticated investors, in portfolios of securities, or in other financial or non-financial assets, or real property
<b>CIS Manager</b>	Management of a Collective Investment Scheme; taking decisions on the holding and selling of investments; calculating risks and reserves; taking decisions on currency or interest fluctuations and hedging positions; and preparing relevant regulatory or other reports for government authorities and investors
<b>CIS Administrator</b>	Providing services with respect to the operations and administrative affairs of a collective investment scheme including accounting, valuation or reporting services
<b>Investment Adviser or Asset Manager</b>	Advise, guide or recommend other persons, or hold himself out to advise, guide or recommend other persons, whether personally or through printed materials or by other means, to enter into securities transactions; Manage or hold himself out to manage, under a mandate, whether discretionary or not, portfolio of securities; Give advice on corporate finance advisory matters concerning securities transactions.

**Table 2**

<b>Category</b>	<b>Sub- Category</b>	<b>Minimum Annual Expenditure (USD)</b>	<b>Minimum Employment in Mauritius (Direct or Indirect)</b>
<b>Non-Financial</b>	Investment Holding (excluding IP rights) <sup>1</sup>	12,000	No minimum employment specified
	Non- Investment Holding	15,000	If annual turnover is: <ul style="list-style-type: none"> <li>• Less than USD 100m: minimum 1</li> <li>• More than USD 100m: minimum 2</li> </ul>
<b>Financial</b>	CIS Manager/ Asset Manager	30,000	If asset under management are: <ul style="list-style-type: none"> <li>• Less than USD 100m: minimum 1</li> <li>• Between USD 100m and USD 500m : minimum 2</li> <li>• More than USD 500m: minimum 3</li> </ul>
	Institutions <sup>2</sup>	100,000	If annual turnover is: <ul style="list-style-type: none"> <li>• Less than USD 50m: minimum 1</li> <li>• Between USD 50m and USD 100m: minimum 2</li> <li>• More than USD 100m: minimum 3</li> </ul> For insurers: <ul style="list-style-type: none"> <li>• If annual gross premium is: <ul style="list-style-type: none"> <li>• Less than USD 50m: minimum 1</li> <li>• Between USD 50m and USD 100m: minimum 2</li> <li>• More than USD 100m: minimum 3</li> </ul> </li> </ul>
	Intermediaries <sup>3</sup>	30,000	1
	Others	25,000	1

- 1. GBCs holding IP Rights will be required to demonstrate that they have incurred expenditure in Mauritius which is proportionate to the research and development of the relevant IP Rights**
- 2. E.g. Insurance, Leasing, Credit Finance**
- 3. E.g. Investment Advisor, Insurance Broker, Insurance Agent**

*Source: Circular Letter, FSC*

## Income Tax Amendments

### Exempt Income

Items of exempt income, as provided in the Income Tax Act 1995, have been amended as follows:

**Table 3**

Item	Existing Provision	Amendments	Remarks
<b>Dividend paid by a GBC to another GBC</b>	Exempt	Exemption removed	<ul style="list-style-type: none"> <li>Exemption grandfathered up to 30 June 2021 if paid by GBCs set up on or before 16 October 2017</li> <li>Dividend paid by resident companies to remain exempt</li> </ul>
<b>Interest Income</b>	Interest income from local bank exempt for GBCs	Exemption removed	<ul style="list-style-type: none"> <li>Exemption grandfathered up to 30 June 2021 if received by GBCs set up on or before 16 October 2017</li> </ul>
	80% partial exemption on overseas interest for companies	Partial exemption now available on interest income from all sources derived by companies	<ul style="list-style-type: none"> <li>80% partial exemption to apply on interest income from local source (including interest from Banks) as well as foreign source, subject to satisfying prescribed conditions (<a href="#">Table 4</a>)</li> </ul>
<b>Royalties to non-residents</b>	Exemption on payment by: <ul style="list-style-type: none"> <li>GBCs and banks out of foreign source income; and</li> <li>Trusts</li> </ul>	Exemption extended to all types of companies for payments out of foreign source income	<ul style="list-style-type: none"> <li>Payment to resident person to continue being subject to withholding tax</li> </ul>
<b>Capital Gain on sale of units, securities or debt obligations</b>	Exemption on gains by companies other than GBC1, subject to minimum holding period of 6 months	Minimum holding period requirement removed	

## Income Tax Amendments

### Conditions for eligibility to 80% partial exemption

Partial exemption shall be granted to companies subject to satisfying conditions relating to the substance of their relevant activities, as specified below:

**Table 4**

Items	Conditions
Foreign dividend	<ul style="list-style-type: none"><li>• Compliance with filing obligations under Companies Act and Financial Services Act</li><li>• Having adequate resources for holding and managing share participations</li></ul>
Interest derived by companies other than banks	<ul style="list-style-type: none"><li>• "Core income generating activities<sup>1</sup>" carried out in Mauritius</li><li>• Employs directly or indirectly adequate number of suitably qualified persons to conduct its core income generating activities <a href="#">(Table 2)</a></li><li>• Incurs minimum expenditure proportionate to its level of activities <a href="#">(Table 2)</a></li></ul>
Income derived from ship and aircraft leasing	

1. **"Core income generating activities"** now defined to include agreeing funding terms, identifying and acquiring assets to be leased, setting terms and duration of any financing/leasing, monitoring and revising any agreements, and managing any risks.

### 80% Deemed Foreign Tax Credit ("DFTC")

DFTC will be abolished as from 1 January 2019 with the following grandfathering provisions:

#### GBC1

DFTC to continue to apply up to 30 June 2021 for GBCs set up on or before 16 October 2017, except on:

- Intellectual property assets acquired from related party after 16 October 2017
- Intellectual property assets acquired from unrelated party or newly created intellectual property assets after 30 June 2018
- Income derived from such specific assets acquired/projects started after 31 December 2018 as the Director-General may determine

**"Intellectual property assets"** now defined to cover any copyright of literary, artistic or scientific work, any patent, trade mark, design or model, plan and any secret formula or process.

#### Segment B operations for Banks

DFTC to continue to apply up to year of assessment commencing on 1 July 2020 for companies with a banking license issued on or before 16 October 2017.

## Contacts



**Twaleb Butonkee**  
Senior Partner  
Deloitte  
[tbutonkee@deloitte.com](mailto:tbutonkee@deloitte.com)  
+230 403 58 70



**Roopesh Dabeesingh**  
Tax Partner  
Deloitte  
[rdabeesingh@deloitte.com](mailto:rdabeesingh@deloitte.com)  
+230 403 58 19



**Kavi Udhin**  
Senior Manager  
Deloitte  
[kudhin@deloitte.com](mailto:kudhin@deloitte.com)  
+230 403 58 17

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