KPMG

Tax Alert

September 2019

Income Tax Measures

Following the publication of the Finance Act 2019, some clarifications were pending and have been released on 20 August 2019. These measures are as follows and are effective as from 01 July 2019:

1) Eligibility for 80% Partial Exemption

The partial tax exemption of 80% was introduced in 2018. To avail of this exemption, companies were required, amongst others, to:

— Carry out their Core Income Generating Activities ("CIGA") in Mauritius;

— Employ, directly or indirectly, an adequate number of suitably qualified persons to conduct their CIGA; and

— Incur a minimum expenditure proportionate to their level of activities.

Clarifications have been brought as to what constitute CIGA and how global business clients may outsource their activities in Mauritius. This is on case by case basis and depends on the business activity. CIGA for a company generating interest income could for example include; agreeing funding terms and monitoring financing agreements.

2) Controlled Foreign Company ("CFC") rules

CFC rules were introduced through the Finance Act 2019. A CFC generally includes:

— A foreign company in which more than 50% of its total participation rights are held directly or indirectly by a Mauritian-resident entity ("MCo"); and

— Can also include a permanent establishment of a MCo.

CFC rules are anti-deferral rules whereby non-distributed income (of non-residents) arising from non-genuine arrangements are attributed to Mco and are taxed at the Mauritius' level, before dividends are distributed to the MCo. Clarifications brought to the CFC rules are as follows:

— Income to be taxed at Mauritius' level will be limited to amounts generated through assets and risks which are linked to significant people functions carried out by the MCo;

— Attribution of the CFC's income will be in line with arm's length principle;

— The income to be included in the chargeable income of MCo shall be calculated in proportion to its participation in the CFC;

— The income shall be included in the tax return of MCo in respect of the income year in which the tax year of the CFC ends;

— Undistributed income taxed at the level of Mauritius (through CFC rules) shall be deducted from the chargeable income of MCo when actual distribution is made; and

— Tax credit for foreign tax suffered by the CFC shall be allowed against tax liability in Mauritius, subject to partial exemption conditions.

3) Freeport operator and private Freeport developer

Income of freeport operator or private freeport developer engaged in manufacturing activities in freeport zone will be taxable at 3% provided they:

— Employ a minimum of 5 staff; and

— Incur an annual expenditure exceeding MUR 3.5 million.

It is worth noting that companies issued with a freeport certificate on or prior to 14 June 2018 are grandfathered until 30 June 2021, i.e, exempted from tax except for local sales, which are taxable at 15%.

4) Monitoring mechanism for substance

An updated tax return will be used for all filings relating to Year of Assessment 2019/20, i.e. filing of tax return between the period 01 July 2019 to 30 June 2020. The new tax return will provide the Mauritius Revenue Authority information which would assist in determining whether the newly introduced substance requirements are satisfied. The main amendments made to the tax return are as follows:

- Number of hours of work dedicated to manage the activities of a company;
- Confirmation as to whether the CIGA are outsourced;
- Whether the substance of the outsourcing provider (employees, expenditure and premises) is used multiple times by multiple primary entities that outsource to the same service provider; and
- Specify if the entity is a member of group with total consolidated annual revenues exceeding EUR 750million or more.

How can we help?

We would be pleased to advise you on any impact the newly enacted laws may have on your business.

Relevant areas we would comment on would be as follows:

- Analysing the income streams of your business and assessing whether the corresponding CIGA to satisfy substance requirements;
- Whether outsourcing your business activities could have any adverse impact on satisfying the Mauritius substance requirements; and
- How newly enacted CFC rules could impact your Mauritius tax obligations.

Contact Us

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