

## COVID-19 Bill: Key Tax and Non-Tax Measures

On Saturday 9 May 2020, the COVID-19 (Miscellaneous Provisions) Bill (the "Bill") was released for consultation. The Bill will be introduced in the National Assembly on Wednesday 13 May 2020. The draft legislation contains measures including a number of amendments in legislations to cater for and mitigate the impact of COVID-19 in Mauritius, as well as to restore the economy.

Once approved by Parliament and the President of Mauritius, the legislation will come into force. This alert covers the key tax and non-tax measures contained in the Bill. Note, however, that the Bill may be subject to changes following parliamentary debates.



### Key Tax measures

#### Income Tax Act

##### 1. COVID-19 Levy

Employers (individuals, companies and societies) who have benefited from the Government Wage Assistance Scheme (GWAS) will be liable to a COVID-19 levy (Levy). The levy is payable when the employer files its tax return.

The levy payable will be capped at the lower of the financial support obtained under the GWAS or 15% of the chargeable income of the employer. An employer will not be subject to the levy if the employer is not liable to tax.

Failure to remit the levy to the Mauritius Revenue Authority (MRA) will be subject to penalty of 10% of Levy amount and interest of 1% per month or part of the month shall be imposed in addition to the Levy amount.

##### 2. Extension of the GWAS and Self-Employed Assistance Scheme (SEAS)

The GWAS has been extended to cover for the month of May 2020. Under the GWAS, employers are entitled to an allowance of 50% of the basic salary of an employee for the month of March 2020, capped at MUR12,500. For the month of April 2020 and May 2020, the allowance is equivalent to an employee's salary up, capped at MUR25,000. The GWAS does not apply to employees with monthly salary exceeding MUR50,000.

Similar to the GWAS, the Self-Employed Assistance Scheme (SEAS) has been extended to cover for the month May 2020. Self-employed people have been entitled to an amount of MUR5,100 for the one month period, 16 March 2020 to 15 April 2020, and MUR2,550 for the fortnight 16 April 2020 to 30 April 2020. Self-employed people will be entitled to an amount of MUR5,100 for the month of May 2020.

#### Income Tax Act (cont.)

##### 3. Contribution of COVID-19 Solidarity Fund

Contribution made by individuals and companies to the COVID-19 Solidarity Fund up to 30 June 2021 will be deducted from the net income of the individual or the company when calculating the tax liability. Any unutilized amount may be carried forward and deducted from the net income up to a maximum of 2 years.

#### Value Added Tax (VAT) Act

The following items, previously VAT-able at 15%, have been classified as zero-rated VAT products:

- Protective masks against dust and odours; and
- Other breathing appliances and gas masks.

#### Mauritius Revenue Authority Act

##### 1. Extension to pay taxes

Any tax payment due during the COVID-19 period must be made on or before 25 June 2020. Else, penalty and interest will apply.

##### 2. Written representation due during COVID-19 period

Taxpayers aggrieved by a decision under the Income Tax Act, Value Added Tax Act or Gambling Regulatory Authority Act, have 28 days to lodge a written representation with the Assessment Review Committee (ARC). Where the 28-day delay falls during or post 21 days after the COVID-19 period, the statutory delay of 28 days will be suspended. The statutory delay will resume as from the last day following the COVID-19 period, or 21 days post the COVID-19 period, as the case may be.

## Mauritius Revenue Authority Act (cont.)

### 3. Extension due to COVID-19

Where an assessment, a decision, a determination, a notice or a claim becomes due:

- during COVID-19 period, an extension of 2 months post the COVID-19 period will be granted; or
- 30 days post the COVID-19 period, an extension of 2 months post the 30 days will apply.

### 4. Expeditious Dispute Resolution Tax Scheme (EDRTS)

Where an assessment is raised by the MRA before 1 July 2016, a taxpayer has up to 30 June 2020 to make an application for the assessment to be reviewed under the EDRTS. The deadline of 30 June 2020 has now been extended to 31 August 2020. The EDRTS applies to tax assessment cases below MUR10 million.

The above measures, once enacted, will become into force as from 23 March 2020. Exceptionally for VAT, the date of entry into force is 24 March 2020, once the Bill is enacted.

## Customs Act

Goods entered between 1 November 2017 to 1 November 2019 could be warehoused for a period of 24 months, from the date of their entry for warehousing. Goods entered between 2 November 2019 and 31 December 2020 may be warehoused for a maximum period of 36 months as from their date of entry for warehousing.

Duty, excise duty and taxes payable by a Small Medium Enterprise (SME) or a VAT registered person in respect of a bill of entry, previously payable within 7 working days from the end of the month in which an item was cleared, will be extended to 16 working days.

## Land (Duties and Taxes) Act & Registration Duty Act

A number of deadlines which fall within and post the COVID-19 period have been extended. Please refer to appendix 1 for more details.



## Key non-tax measures

### Financial Services and Banking

- The Bank of Mauritius (BOM) may grant the Government an amount approved by the Board to assist it in its fiscal measures to stabilise the economy. This transfer to the Government can originate from the BOM's Special Reserve Fund.
- The Bill also provides the BOM with the ability to provide capital to or invest in any corporation or company set up for the purpose of facilitating economic development. The BOM may invest money from the official foreign reserves in certain corporations and companies.
- Board meetings for statutory bodies and companies governed by the Financial Services Act are legally allowed by means of audio, or audio and visual, communication by which all the members participating and constituting a quorum can simultaneously hear each other throughout the meeting.

### Business community

- In the **chemical fertilizer sector**, licencees storing or withholding the stock with the purpose of profiteering, shall be committing an offence. At all times, the Permanent Secretary of the relevant ministry or his representative can enter the licencee's premises and take the stock of the fertilizers. The punishment for such an offence is a fine not exceeding MUR10,000 and imprisonment for a term not exceeding 12 months.
- If a person commits an offence under the **Consumer Protection** (Price and Supplies Control) Act, a fixed penalty option payable within 21 days can be imposed at the option of the offender unless the offender opts for the matter to be reported with a view to proceedings being taken against him before a Court.

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## Business community (cont.)

- An **Environmental Impact Assessment (EIA)** licence that expires during the COVID-19 period is still temporarily valid for a period of 30 days after the COVID-19 period lapses. An EIA licence that expires during the period of 21 days after the COVID-19 period lapses is still valid for another 30 days after the initial 21 days.
- The manager of a **hotel, guest house or tourist residence** of more than 4 bedrooms shall not pay the relevant Environment Protection fees for the period starting 1 March 2020 and ending 30 December 2020.
- **Private freeport developers** during the COVID-19 period and a defined further period, are allowed to provide warehousing activities for the storage of goods which have been cleared from the Customs in a freeport zone to any person.
- **Gaming** licences can be extended by the Gambling Regulatory Board during the COVID-19 period. The GRA may direct any licensee to temporarily cease its operations during the COVID-19 period. In case a licensee ceases its operations, no licence fee shall be payable for the period of cessation of operation. Any licence fee already paid for that period shall be deducted from the licence fee payable in a subsequent year.
- In the **sugar cane sector**, under the Mauritius Cane Industry Authority Act, "crop year" has been amended to "the period extending from 16 January in a year to 15 January in the following year or such other period as the Minister may prescribe". However, under the Sugar Insurance Fund Act, the crop year shall start on 1 Feb 2020 to 28 Feb 2021.
- For **land transport** businesses, under the National Land transport Authority Act 2019, the Licensing Committee shall also be responsible for determining any application made for the variation of licences.
- Sale of locally manufactured **pharmaceutical** products on local market is allowed only if the seller is a licensed manufacturer and if the product is registered with the Pharmacy Board. Registration of locally manufactured pharmaceutical products must be made to the Pharmacy Board and together the Trade and Therapeutics Committee, will decide whether to grant or reject the application within a few days.
- **Public procurement** bid openings during the COVID-19 period can be made through technological means subject to Board-issued guidelines.

## Business community (cont.)

- No National **Sports** Federation shall, during the COVID-19 period, organise, or authorise organisation of, activities locally and participate in international events abroad. Sanitary measures will be prescribed and applied before resuming training and competition after the COVID-19 period lapses. Training and competition may resume behind closed doors for such period which will be described after the COVID-19 period lapses.

## Public Sector

- Penalties with respect to **offences committed under the Police Act** have increased from MUR10,000 to a maximum of MUR50,000 in fine and from 2 years to a maximum of 5 years in imprisonment respectively.
- **Public debt** will henceforth be calculated after net of cash and cash equivalents including cash equivalent investments held by the Government, the BOM and non-financial public bodies.
- Public Sector Debt Ceiling has been repealed.
- With respect to the management of **public sector debt**, an electronic monitoring system will be set up to record information relating to public sector debt received, from the general Government and public enterprises.
- Penalties for threatening and intimidating public officers have increased from MUR100,000 and 2 years maximum imprisonment time to MUR200,000 and 5 years imprisonment time. In the absence of force or violence, maximum penalty has increased from MUR3,000 to MUR50,000.
- **Fixed Penalty Notices (FPN)** and Photographic Enforcement Device Notice (PEDN) are to be paid not later than 28 days after the COVID-19 period lapses under the amended Road Traffic Act.
- With respect to the Transcription and Mortgage Act, there are **no fees payable for April 2020 in the Movable and Immovable Property Database (MIPD)** nor searches in the mortgage or transcription books.

## Families and Lower Income Groups

- Any **closure of educational institutions**, in case of infectious diseases occurring in epidemic forms, shall not be limited to the epidemic period but may extend to such further period, as the Minister may determine.

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## Families and Lower Income Groups (cont.)

- Distance education and online learning programmes along with broadcasting of lessons can be performed by educational institutions during their closure. Teaching staff and relevant personnel may be required to engage in developing these learning programmes while being monitored by their respective statutory bodies.
- The **Minister** has extended its **power to** make rules with respect to:
  - i. the cancellation and rescheduling of assessments and examinations; and
  - ii. the ability to review the allocation of public funds based on time tables and curricula.

## Individuals

- Extension for **declaration of birth** by 30 more days after the COVID-19 period, and prescribed post COVID-19 period.
- Most financial penalties in respect of **individual offences** have increased by 100% with respect to the Criminal Code while spitting in public spaces is now considered a third class contravention.
- A person who has been issued with an **immigration permit** may apply for an extension or variation of the permit whilst being in Mauritius. Where a permit issued under the Immigration Act expires during the COVID-19 period, the permit shall remain valid for a period of 30 days after the COVID-19 period lapses or for such further period as may be prescribed. Where a permit issued under the Immigration Act expires during a period of 21 days after the COVID-19 period lapses, the permit shall remain valid for a period of 30 days after the period of 21 days lapses or for such further period as may be prescribed.
- **Visas** expiring during the COVID-19 period or a period of 21 days after the COVID-19 period lapses will be extended for a period of 30 days after the aforementioned periods.
- Fines relating to any person **damaging light rail infrastructure** has been increased to a maximum of MUR1 million and the imprisonment term for the offense has been increased to a maximum term of 5 years.

## Individuals (cont.)

- Breach of Government imposed **sanitary measures through regulations relating to light rail infrastructure** shall be liable to a maximum fine of MUR50,000 and to imprisonment for a term not exceeding 2 years.
- Possibility of being more lenient when paying **pension benefits** during the COVID-19 period as medical questions might be referred to medical officers or a Medical Board **after** the COVID-19 period lapses.

## General Measures Involving Multiple Sectors

- **No surcharge** will be imposed on **electricity, water and waste water supply**, which will not be disconnected during the COVID-19 period or any subsequent prescribed period after the COVID-19 period lapses. All fees and bills payable will need to be paid not later than the prescribed period.
- The **Registrar of Companies** may issue Practice Directions, guidelines or such other instructions as may be necessary for the proper administration of the Companies Act during the COVID-19 period and a further period after the COVID-19 period lapses. The Practice Direction, guidelines or other instructions issued will be published in the Gazette and will remain in force unless amended or revoked by publication in the Gazette.
- A **Board of Directors** can call an annual meeting of shareholders to be held not later than 9 months (instead of 6 months) or such further period, as the Registrar may determine, after the COVID-19 period lapses.
- During the COVID-19 period and such further period, a **Board of Directors** shall **not** call an annual meeting of shareholders more than once in each year and not later than 15 months after the previous annual meeting apply.
- The **duties of Directors on insolvency will not be applicable** during the COVID-19 period and such further period, as the Registrar may determine, after the COVID-19 period lapses.

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## General Measures Involving Multiple Sectors (cont.)

- **Financial statements** for companies should be prepared within 9 months (instead of 6 months) after the year-end. The holding of the annual meeting of shareholders is also extended to 9 months (instead of 6 months).
- The Chief Justice may determine which **judicial services**, as he deems essential, shall be provided by any Court during the COVID-19 period. The Chief Justice may during such further period, as he deems necessary, after the COVID-19 period lapses, determine, in addition to the judicial services referred to above, that such further judicial services as he deems essential shall be provided by any Court.
- No exception to the **Data Protection Act** shall be allowed except where it constitutes a necessary and proportionate measure in a democratic society for the issue of any licence, permit or authorisation during the COVID-19 period.
- If a licence issued under the **Information and Communication Technologies Act** expires during the COVID-19 period or a period of 21 days after the COVID-19 period lapses, the licence shall remain valid for a period of 30 days after the COVID-19 period or a period of 21 days after the COVID-19 period lapses, as the case may be.
- In the area of **insolvency**, the threshold for seeking a bankruptcy order as part of creditor proceedings and statutory orders has been increased from MUR50,000 to MUR100,000. In addition, various other sections of the Insolvency Act concerning Creditors' Petition, Debtors' Petition, Voluntary winding-up and other statutory requirements have been modified.
- With respect to the Landlord and Tenant Act, **non-payment of rent** in respect of premises for the months of March 2020 - August 2020 and such other subsequent month as may be prescribed **shall not constitute a breach of a tenancy agreement** and a Court order under Section 16 of the Landlord and Tenant Act shall not be issued, provided that the rent for these months is fully paid, in instalments, by 31 December 2021 or such other date as may be prescribed.

## General Measures Involving Multiple Sectors (cont.)

- With respect to **Public Health**, contravention due to lack of prevention or mitigation of any epidemic, endemic, infectious or communicable disease has increased from **MUR500** to **MUR200,000** and imprisonment from 6 months to a maximum of 5 years. The Minister may make use of regulations to prevent resurgence and further spread of infectious diseases with a fine not exceeding MUR200,000 and imprisonment of maximum 5 years.
- Concerning the **Workers Rights Act**, the following key amendments were made:
  - A **48 hours' notice** from the employer is required to request the employee to work from home or on flexitime. Workers employed on shift work will not be entitled to any allowance for night shifts during COVID-19.
  - Under a new section (24A), workers from **blockmaking, construction, stone crushing** and related industries will be:
    - paid not less than twice the basic hourly rate on public holidays;
    - paid not less than one and a half times the basic hourly rate outside agreed working hours;
    - compensated with equivalent time-off if no monetary compensation is given; and
    - the granting and accumulation of time off is now allowable.
  - A new sub-section has been added to section 45 (Annual leave) whereby an employer may, during a period of 18 months following the expiry of the COVID-19 period, **withhold up to 15 days' annual leave**, or such other number of annual leave as may be prescribed, from the aggregate of the annual leave specified which accrues to a worker as from the beginning of the year of the COVID-19 period or such further period as may be prescribed. However, where a worker has performed work during the COVID-19 period, excluding the period starting from 15 May 2020 and ending on 1 June 2020, the employer shall not withhold **more than half of annual leave** previously specified.
  - A new sub-section has been added to section 64 (Protection against termination of agreement) concerning **protection of employees** working for employers benefiting from financial assistance from the Government.
  - A new section (72A) has been added concerning **reduction of work force** in certain enterprises in the services sector.

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## Appendix 1 - Land (Duties and Taxes) Act

1.

Current deadline under the Act	Extension if period expires during COVID-19 period	Extension if period expires after COVID-19 period
Notice sent by the Registrar-General following re-assessment of the value of property, within 7 months from the date of the registration of the deed	3 months after the COVID-19 period lapses	If expires within one month post COVID-19 period, 3 months after the period of one month lapses
Payment of any duty or tax specified in notice within 28 days of the notice	28 days after the COVID-19 period lapses	If expires within 21 days post COVID-19 period, 28 days after the period of 21 days lapses
Time limit to object to notice, within 28 days of the date of the notice	28 days after the COVID-19 period lapses	If expires within 21 days post COVID-19 period, 28 days after the period of 21 days lapses
Time limit to deal with an objection by an objection unit, within 4 months from the date on which the objection is made	2 months after the COVID-19 period lapses	If expires within a period of one month post COVID-19 period, 2 months after the period of one month lapses
Notice sent by the Registrar-General specifying the amount of duty or tax payable following agreement reached before the Assessment Review Committee, within 5 working days from the date of the receipt of the notice of agreement or decision	21 working days after the COVID-19 period lapses	If expires within a period of 10 days post COVID-19 period, 21 working days after the period of 10 days lapses
Payment of any duty or tax specified in notice within 28 days of the notice (where taxpayer has lodged a representation with the ARC and an agreement has been reached)	28 days after the COVID-19 period lapses	If expires within a period of 10 days post COVID-19 period, 28 days after the period of 10 days lapses

2.

Where the penalty and interest applicable on duty and taxes for undervalued property have remained unpaid as at 10 June 2019, penalty and interest shall be waived provided that the duty and taxes are paid not later than 30 June 2020 instead of 31 March 2020.

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## Appendix 2 - Registration Duty Act

1. Where a deed is not presented to the Registrar-General within the delay specified in the Sixth Schedule, the person shall be liable to pay, in addition to the administrative fee, a surcharge equal to 50% of the amount of the fee.

The Bill provides that where the delay expires, or falls wholly or partly, during:

- the COVID-19 period; or
- such period as may be specified in the Sixth Schedule after the COVID-19 period lapses,

no surcharge shall be payable provided that the deed is presented to the Registrar-General not later than such period as may be specified in the Sixth Schedule.

2.

Current deadline under the Act	Extension if period expires during COVID-19 period	Extension if period expires after COVID-19 period
Time limit for objection with the decision of the Receiver in relation to movable property, not later than 15 days after receiving notice of the Receiver's decision	30 days after the COVID-19 period lapses	If expires within a period of 10 days post COVID-19 period, 30 days after the period of 10 days lapses
Time limit to deal for an objection unit to deal with the objection is within 4 months from the date on which the objection is made	2 months after the COVID-19 period lapses	If expires within a period of one month post COVID-19 period, 2 months after the period of one month lapses

3. Where the time limit to register a document (as per the Sixth Schedule of the Registration Duty Act) expires, or falls wholly or partly, during:

- the COVID-19 period; or
- such period as may be specified in the Sixth Schedule after the COVID-19 period lapses,

no penalty shall be charged provided that the document is registered not later than such period as may be specified.

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This document is based on our interpretation of the current income tax law and international tax principles. These principles are subject to change occasioned by future legislative amendments and court decisions. You are therefore cautioned to keep abreast of such developments and are most welcome to consult us for this purpose.

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