



COVID-19 (Miscellaneous Provisions) Act

ALERT

May 2020

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COVID-19 Bill voted with amendments

The COVID-19 (Miscellaneous Provisions) Bill (the “Bill”) has been voted with amendments in Parliament on 15 May 2020. The Bill has now been enacted following President assent on 16 May 2020.

Our [previous alert](#) issued on 11 May 2020 covered a number of the measures under the Bill.

The main tax and regulatory changes brought to the Bill relate to measures under the Income Tax Act, the Companies Act, the Landlord and Tenant Act and the Workers’ Rights Act. Please refer to the following slides for a summary of these changes.

Disclaimer:

This document is a summary of amendments made to the selected tax and regulatory components of the COVID-19 (Miscellaneous Provisions) Bill (the “Bill”) covered in our alert issued on 11 May 2020 and is for information purposes only. The content herein is not a substitute for the official contents of the COVID-19 (Miscellaneous Provisions) Act (the “Act”). This document does not purport to address and interpret all amendments brought by the Act. Accordingly, this document should be read in conjunction with our alert issued on 11 May 2020 and with the COVID-19 (Miscellaneous Provisions) Act.



ALERT
May 11, 2020

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 maybe.



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Key Tax changes



Changes to the Income Tax Act

As a reminder, it was proposed that employers who have benefitted from the Government Wage Assistance Scheme (GWAS) will be liable to COVID-19 levy (hereinafter referred to as “levy”). Following changes made to the Bill, the levy shall now be payable over two consecutive years as follows:

Due date for payment of levy

(i) Individuals & Resident sociétés

Income Year end	Payment date (Year of Assessment)
30 June 2020 (Year 1)	YOA 2020/21 Payable by: 30 Sept 2020
30 June 2021 (Year 2)	YOA 2021/22 Payable by: 30 Sept 2021

(ii) Companies

Financial year-end falling between	Payment date (Year of Assessment)
31 May 2020 and 31 December 2020 (Year 1)	2020/21
31 May 2021 and 31 December 2021 (Year 2)	2021/22
1 Jan 2021 and 30 April 2021 (Year 1)	2021/22
1 Jan 2022 and 30 April 2022 (Year 2)	2022/23

Changes to the Income Tax Act (cont.)

Computation of levy

Year 1 (Y1)

Capped at the lower of financial support received (W) or 15% of the tax adjusted income¹ of the employer

Year 2 (Y2)

Capped at the lower of (W – levy paid in Y1) or 15% of tax adjusted income¹ in Y2

¹Tax adjusted income for individuals includes business income, rental income, royalty income, premium or other income derived from property, and any other income derived from any other source, after deduction of allowable expenses. Excludes: emoluments, dividend, interest, charges, annuity, pension income, and loss brought forward. Tax adjusted income for companies refers to chargeable income but excludes loss brought forward.



Changes to the Income Tax Act (cont.)

Computation of levy (cont.)

Example A: Individuals

Financial support received from the Government Wage Assistance Scheme (GWAS) amounting to MUR2 million in April and May 2020.

**Payment in Y1 – Year of Assessment 2020/21
(Income Year 30 June 2020)**
Payable by 30 September 2020

Net income from business activities	MUR4 million
Dividend income	MUR200,000

Levy payable in Y1: Lower of MUR2 million or MUR600,000 (15% of MUR 4 million).

Hence, levy payable in Y1 is MUR600,000.

**Payment in Y2 - Year of Assessment 2021/22
(Income Year 30 June 2021)**
Payable by 30 September 2021

Net income from business activities	MUR6 million
Dividend income	MUR400,000

Levy payable in Y2: Lower of MUR1.4 million (MUR2 million – MUR600,000) or MUR900,000 (15% of MUR6 million).

Hence levy payable in Y2 is MUR900,000.

Changes to the Income Tax Act (cont.)

Computation of levy (cont.)

Example B: Companies

A Company with financial year end 31 December has received financial support received from GWAS amounting to MUR10 million in April and May 2020.

Payment in Y1 - Year of Assessment 2020/21 (Financial Year 31 December 2020) Payable by 28 June 2021

Chargeable income excluding loss brought forward	MUR20 million
Loss brought forward	MUR5 million

Levy payable in Y1: Lower of MUR10 million or MUR3 million (15% of MUR20 million).

Hence, levy payable in Y1 is MUR 3 million.

Payment in Y2 - Year of Assessment 2021/22 (Financial Year 31 December 2021) Payable by 28 June 2022

Chargeable income excluding loss brought forward	MUR30 million
Loss brought forward	Nil

Levy payable in Y2: Lower of MUR7 million (MUR10 million – MUR3 million) or MUR4.5 million (15% of MUR30 million).

Hence levy payable in Y2 is MUR4.5 million.

Changes to the Income Tax Act (cont.)

Penalty, interest and offence relating to levy

- Failure to pay levy within due date will attract penalty of 10 percent and interest at the rate of 1 percent per month.
- The MRA may make a claim for any unpaid levy within a period of 3 years from the payment due date.
- False/misleading statement or declaration may attract a fine not exceeding MUR1 million and imprisonment for up to 2 years.

Anti-avoidance provisions

The anti-avoidance provisions under the Income Tax Act will also apply to levy.



Key Regulatory changes



Changes to the Companies Act & Landlord and Tenant Act

Companies Act

Under the Companies Act, it has been specified that the 9 months period applicable for the Board of Directors shall be as **from the balance sheet date** of the company.

Landlord and Tenant Act

With respect to the Landlord and Tenant Act, where 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; it has been confirmed that this shall **apply to both residential and business premises.**



Changes to the Workers' Rights Act

Workers' Rights Act

With respect to the Workers' Rights Act (WRA), in addition to the measures summarised in our previous alert, the following measures were updated:

- Section 3 of the WRA: Section 3 of the WRA has been amended to provide that only specific provisions of the WRA would apply to an employee who works from home.
- Section 45 of the WRA: As mentioned in our previous alert regarding the COVID-19 Bill, section 45 (Annual leave) of the WRA was proposed to be amended to provide that 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. These amendments have been enacted through the COVID-19 Act, but subject a new subsection(b) which does not allow such deductions for a worker who has, during the COVID-19 period (i.e. between 23 March and 1 June) performed work during such days as required by his employer.

Changes to the Workers' Rights Act (cont.)

Workers' Rights Act (cont.)

- Under the newly added section 72A which relates to "Reduction of workforce in certain enterprises in the services sector", employees may also be instructed to proceed on 'leave without pay' by the Redundancy Board, during which they shall be entitled to transition to unemployment benefits under section 84, subject to the employer and employee reaching a consent on this approach.
- A new subsection has been added under section 127, Savings and transitional provisions, in relation to gratuities and contribution for past services to be paid by the employer where an employee retires, dies, or resigns, or is terminated on or after 1 January 2020.
- Provisions made in relation to allowance to be paid to a worker working night shift does not have retrospective effect.



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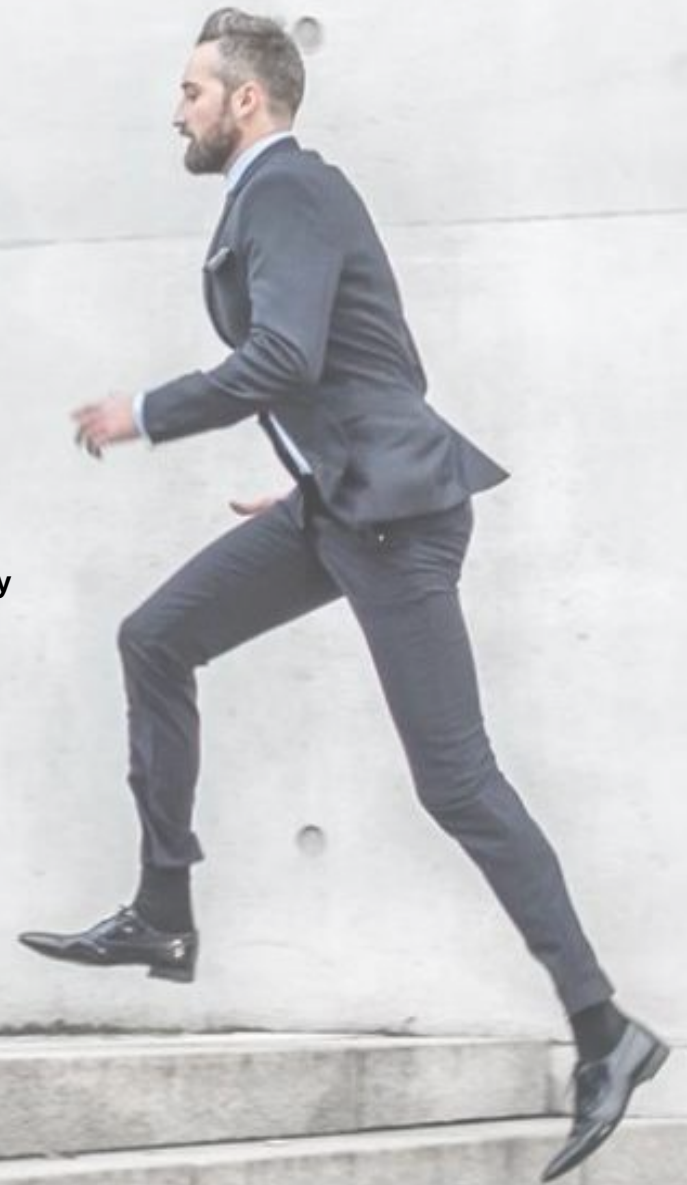
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