Budget 2016/2017

Our technical analysis

29 July 2016

Building a better working world

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Executive summary

This Budget Alert is based on the Budget Speech presented to the National Assembly by the Minister of Finance and Economic Development, the Hon. Pravind Kumar Jugnauth today.

This was the first Budget of the Minister under the present regime. This Budget does not have any significant fiscal changes. The Budget is structured on ten key strategies: such strategies stemmed from the realities and need of the Mauritian economy as well as international changes so that the resilient feature of the economy is reinforced. Shaping a dynamic and adaptable business environment is critical to enable the economy to cope with the increasingly international volatile environment.

So what did we get? Well, we didn't get any draconian measures. The Minister did not raise the standard rate of VAT, but instead removed VAT on a number of products. This can be viewed as a cut in the "standard" rate of VAT, although there are not many goods that would be subject to the VAT rate of 0%. The reduction and removal of customs duty on a number of products would also reduce the taxable value for VAT purposes, where the goods in question are standard rated.

We are disappointed to see that relief in the context of group of companies is still not possible for tax purposes. The existing law is not fair as losses cannot be carried back and group relief is only available in the case of losses incurred by manufacturing companies once they are taken over or combined. The group relief introduced by the Finance Act 2006 only applies in the context of the Land (Duties and Taxes) Act and the Registration Duty Act.

This is despite the repeated representations made in this area over the past years. Although we confined our request to genuine business restructuring exercises that have been approved by the relevant regulatory body, we do not understand the rationale for discarding such a proposal. The potential for double taxation is so palpable that one finds it hard to understand the basis for such a refusal. At this stage, we can only reiterate our plea for this proposal. We also wish to advise that this proposal can be implemented through regulations.

In summary, this is a Budget that emphasises on the widening circle of opportunities and recognising that investment into priority areas are required to make Mauritius globally competitive. Its success will depend on the extent to which the measures are improved and applied bearing in mind their underlying objectives.

Personal income tax

Interest relief

Resident individuals are currently able to claim relief for interest paid on qualifying loans secured by mortgage or fixed charge on immovable property. This relief is available only on loans taken on or after 1 July 2006. Only individuals whose income or that of their spouse does not exceed Rs 2 million in an income year are eligible for the relief. There is no cap to the amount of interest that may be claimed as relief.

As from the income year ending on 30 June 2017, the date on which the loan was taken is no longer relevant. Furthermore, the relief is being extended to individuals whose income or that of the spouse is up to Rs 4 million in an income year.

This measure will increase the disposable income of the relevant individuals. We presume that the relevant exempt interest and dividend income would be used to determine the Rs 4million threshold.

Reduction in annual tuition fees eligible for exemption

Currently, an exemption of Rs 135,000 may be claimed by a resident individual whose dependent child is pursuing an undergraduate course in Mauritius where the annual tuition fee exceeds Rs 44,500. The exemption is available to individuals whose income or that of their spouse does not exceed Rs 2 million in an income year. The exemption may not be claimed for more than 6 consecutive years in respect of the same dependent.

As from the year ending 30 June 2017, the criteria for eligibility to the exemption has been extended to instances where the annual tuition fee exceeds Rs 34,800 instead of Rs 44,500. Like interest relief, the exemption is extended to individuals whose income or that of the spouse is up to Rs 4 million in an income year.

This measure will increase the disposable income of the relevant individuals and at the same time confirms the Government's endeavor to broaden access to tertiary education.

Income exemption threshold

The Income Exemption Threshold ("IET") will be increased by Rs 10,000 for all the following categories as from the income year commencing 1 July 2016: the percentage increase is provided below:

	Current	Proposed	Percentage increase
Category of taxpayer	**Rs**		**%**
Category A	285,000	295,000	3.5
Category B	395,000	405,000	2.5
Category C	455,000	465,000	2.2
Category D	495,000	505,000	2.0
Category E	335,000	345,000	3.0
Category F	445,000	455,000	2.2

A resident individual having total income up to Rs 22,692 per month will be exempt from income tax provided that he does not have any other source of taxable income during the income year.

Exempt income

The following income will be exempt:

- Emoluments of a seafarer who is employed on a vessel registered in Mauritius or on a foreign vessel; and
- Income derived from non-sugar agricultural activities by a co-operative society.

Expenses on the exempt portion of the non-agricultural activities would not be allowable.

Statement of assets and liabilities for high net worth individuals

The MRA will be empowered to request an individual with a yearly net income of more than Rs15million or having assets of more than Rs 50million to submit a statement of assets and liabilities.

The request appears to be at the discretion of the MRA and it would be useful if the basis for such a request be defined so that the measure is applied in a transparent manner.

Clarification is required on the definition of net income for the purposes of determining the Rs15million threshold: exempt income may be included for this purpose.

The Rs 50million threshold appears to be on the assets of the individual without considering its liabilities.

Individuals may find it challenging to compile such a statement: for example the cost of acquisition of shares may not be available and the appropriate evidence may be impossible to retrieve. An estimate of the shares in question may defeat the purpose of the underlying rationale of the measure.

Documentation remains critical for the concerned individuals.

Clarification is required in the context of non-resident individuals.

Corporate tax

Small and Medium Enterprises

Currently, a small company qualifying under a scheme referred to in section 5A of the Small and Medium Enterprises Development Authority Act (“SMEDA Act”) is exempt from income tax as well as the obligations under the Deduction of Tax at Source mechanism for a maximum period of 8 consecutive years. To qualify for the exemption, the company should be registered with SMEDA on or after 2 June 2015.

The tax holiday of 8 years is being extended to new qualifying enterprises set up by individuals or co-operative societies registered with the SMEDA.

With a view to eliminate unfair competition against existing small companies, a tax holiday will apply to all existing enterprises registered with SMEDA with an annual turnover of less than Rs 10million. To benefit from the exemption, the enterprises should be engaged in the following qualifying activities under the scheme:

- ICT and other export services;
- Manufacturing;
- Bio-farming and other value added agri-business activities;
- Aqua-culture and other value added ocean economy related activities;
- Renewable and green energy;
- Handicrafts; and
- Other productive sectors that will create employment.

The tax holiday will start as from the year of assessment 2016/2017: it will apply for a maximum period of 4 years. It is believed that the corporate tax exemption will also apply to the Corporate Social Responsibility charge. Clarification is required as to the scope of business income: it is uncertain whether incidental income derived by the small enterprise in the course of its ordinary activities would be exempt from income tax.

The amending legislation should specify the treatment for any accumulated tax losses during the exemption period. The amending legislation should also provide for cases where the small company is currently in a tax loss position.

Tax holidays for Global Business Companies

- Companies with a Global Headquarters Administration licence issued by the Financial Services Commission ("FSC") will be exempt from corporate tax for a period of 8 years, subject to conditions relating to minimum employment and substance being met.
- Companies providing Treasury Management Centre services which are licensed by the FSC will be exempt from corporate tax for a period of 5 years, subject to conditions relating to minimum employment and substance being met.
- Asset and Fund Managers licensed by the FSC which manage a minimum asset base of USD 100 million will be exempt from personal income tax for a period of 5 years.
- Foreign Ultra High Net Worth Individuals who invest a minimum of USD 25 million in Mauritius will be exempt from personal income tax and corporate tax for a period of 5 years.
- Law firms which set up their regional offices in Mauritius to provide legal advisory and international arbitration services to global business clients will be exempt from corporate tax for a period of 5 years.

- Investment banks issued with an Investment Banking and Corporate Advisory Licence and regulated by the FSC will be exempt from corporate tax for a period of 5 years.
- Overseas Family Corporations licensed by the FSC will be exempt from corporate tax for a period of 5 years.

The above will seek to open up the Mauritian financial services industry: multinational companies will wish to take advantage of the above tax incentives by setting up companies engaged in the qualifying activities in Mauritius. The effectiveness of these tax incentives would depend to a large extent on their home country's tax system and any double tax agreement that Mauritius may have with the other country. The maximum rate of tax that will be spared on the companies' foreign source income will be 3%.

The existing substance requirements should be tightened to ensure that incentives are not inappropriately granted to brass plate companies. The interaction of Action 5 (Countering Harmful Tax Practices More Effectively Taking into Account Transparency and Substance) and Action 6 (Preventing the Granting of Treaty Benefits in Inappropriate Circumstances) of the OECD/G20 Base Erosion and Profit Shifting should be considered so that the proposal is also successful from an international perspective.

It is believed that the corporate tax exemption will apply to Mauritian sourced as well as foreign sourced income.

Industrial fishing companies

Industrial fishing companies will be exempt from corporate tax for a maximum period of 8 years.

The scope of the exemption should be clearly spelt out in the amending laws to achieve more certainty in the application of the measure.

Investment tax credit

With effect from financial year 2016/17, the current investment tax credit regime is being amended as follows:

- the minimum amount of investment of Rs 100 million in a year to qualify for the credit is being removed;
- the number of years any unrelieved investment tax credit may be carried forward is being extended;
- the investment window is being extended up to the financial year 2019/2020;

This measure is welcomed as it ensures that the size of the capital expenditure does not dictate the eligibility to the credit.

Under the existing provisions, any unutilised investment tax credit may be carried forward for a maximum period of 5 consecutive income years following the year in which the capital expenditure is incurred.

The proposed measure will ensure that the total investment tax credit is optimised in cases where the tax losses other than losses arising from annual allowances on assets acquired after 1 July 2006 exceed the five year time limit.

However, the amending laws should specify the number of years for which the investment tax credit may be carried forward. In addition, it should also clarify as to whether the tax credit will also apply in cases where the taxpayer does not deal exclusively in the production of the specified products.

The amending laws should also address the claw back provisions regarding the time at which the assets are sold.

The extension of the investment window implies that any capital expenditure incurred up to the year of assessment 2020/2021 would qualify for the investment tax credit. This will encourage companies to invest into new plant and machinery if appropriate from a commercial perspective.

In addition, a company engaged in the manufacturing of certain products will benefit from an enhanced rate of investment tax credit of 15 percent over 3 years as follows:

Company engaged in the production of	Maximum investment tax credit (%)
Electrical equipment	15
Furniture	15
Jewellery and bijouterie	15
Medical and dental instruments, devices and supplies	15
Pharmaceuticals or medicinal chemicals	45
Ships and boats	45
Textiles	45
Wearing apparels	45
Computers, electronic or optical products	45
Film	45

A company will be able to claim 45% of the total capital expenditure if it is assumed that it has sufficient tax payable over the period the investment tax credit may be carried forward.

Furthermore, the enhanced investment tax credit of 15 percent per annum over 3 years will also apply in respect of the investment made by a company in the share capital of a subsidiary company engaged primarily in the setting up and management of an accredited business incubator capped at Rs 20 million investment.

It would appear that the investment tax credit would be creditable against the tax liability arising from other income derived by the holding company as dividend received from a subsidiary resident in Mauritius is exempt from tax subject to certain conditions being met.

The amending laws should also provide a robust definition of "accredited business incubator".

Dormant companies

Domestic companies which are not in operation will no longer be required to submit a corporate tax return.

This is welcomed as most dormant companies currently incur cost in relation to their tax reporting obligations. It should be clarified as to what is meant by a company not being in operation: there might be cases where a company has not yet started trading but derives incidental interest income. This facility will not apply to companies holding a Category 1 Global Business Licence or trusts.

Corporate Social Responsibility

Following the repeal of the Corporate Social Responsibility ("CSR") guidelines, companies were able to allocate 2% of their chargeable income in accordance with their own CSR framework.

To ensure greater transparency in the application of the CSR funds, a National CSR Foundation ("National Foundation") will be set up: it will be managed jointly by the public and private sectors.

Companies will be required to contribute at least 50% of their CSR funds to the National Foundation. This will be increased to 75% in the following year. Companies may use the remaining balance to implement projects in accordance with their own CSR framework. Any unspent amount will be remitted to the National Foundation instead of the MRA.

The National Foundation will allocate the CSR funds to the following 6 priority areas:

- Poverty alleviation;
- Educational support;
- Social housing;
- Supporting persons with severe disabilities;
- Dealing with health problems resulting from substance abuse and poor sanitation; and
- Family protection.

It is left to the companies to decide how to spend their CSR funds: they can either choose to implement their own projects or through donations to Non Government Organisations or engage directly with the community through donations of money or in specie. Clear guidelines should be provided as to whether the value of the donation and the mechanisms where a company decides to donate its trading stock as part of its CSR programme.

In the context of group of companies which have established their own Foundation, flexibility should be provided to enable them to continue implementing projects consistent with their pre-defined strategies. Such strategies are generally consistent with the priority areas of the proposed National Foundation.

The amending laws should also clarify whether any unspent amount or excess contribution during a particular year can be carried forward to subsequent years.

The tax base for CSR purposes has not been amended: it is still based on the taxable profits of the preceding year.

Deduction of tax at source mechanism

The deduction of tax at source ("DTS") mechanism will be extended to services provided by accountants and tax advisers as well as management fees paid to individuals.

The rate of the DTS has not been announced and it is felt that an analysis of the level of chargeable income should be conducted to alleviate its administrative aspects for all the relevant stakeholders.

The service providers as well as the recipient of the services should ensure that they are able to implement this measure. In the long run, this measure may also assist in ascertaining the accuracy and completeness of the income of the same providers.

In the context of the DTS for non-resident entertainers and sportspersons, the DTS rate of 10% will be made final and an individual will also be required to apply DTS on any payment made to a non-resident entertainers and sportspersons.

The fact that the rate of 10% will be a final tax may imply that tax is being charged in a case where the non-resident has a tax loss.

Where the entertainer is resident in a tax treaty partner country, the measure is contrary to the Non-Discrimination principles of tax treaties. This is on the basis that Mauritian resident persons in a loss position would not be subject to the DTS rate of 10%.

The mechanism to collect the tax from individuals should also be defined and this measure implies that the compliance obligation for individuals will increase.

Tax administration

Time limit for submission of amended income tax returns

A time limit of two years is being introduced for the submission of amended tax returns for individuals and companies. The measure does not apply to arrears of emoluments.

The measure may also apply to trusts and partnerships and other persons who are required to submit tax returns.

With this measure, individuals and companies should ensure that any amended tax returns are promptly dealt with: otherwise they may end up with unjustified tax liabilities.

Filing of DTS and PAYE returns

The amount of PAYE withheld per employee together with his National Identity Number should be submitted on a monthly basis. The same principle will apply to DTS where the Business Registration Number will also be required for other persons. In the context of the annual PAYE return, the employer will also be required to provide emoluments of employees even though no PAYE has been withheld.

Businesses should ensure that their systems are able to generate the relevant information to be able to comply with this measure. The measure should reinforce the level of compliance from the perspective of both parties.

Penalties

A penalty will be introduced on losses or refund that has been overstated.

The reduced penalty provisions introduced by the Financial (Miscellaneous Provisions) Act 2015 will also apply to individuals who are not in business.

The penalty will thus be reduced from Rs 20,000 to Rs 5,000 for late submission of the tax return with the implementation of this measure. The penalty for late payment of tax will also be lowered from 5% to 2%.

It would be useful if the term "business" be defined. For example, rental income of an individual not in the course of business is not generally considered as business income.

A taxpayer will also be allowed to express doubt on the interpretation and application of the law in his tax return and he will be treated as having made a full and true disclosure. Such a disclosure is expected to grant the taxpayer protection from interests and penalties where a genuine doubt has been expresses.

Whilst this measure is a consistent with the principle of transparency, its success will depend on the way it is implemented and administered. The nature and complexity of the issue at hand should be considered in the application of this measure: this may prompt assessments for cases where the tax treatment is blurred.

Criminal offence

The non-remittance of taxes withheld from payments and Value Added Tax charged on supplies made to the MRA will constitute a criminal offence. It has been announced that the penalties will be strengthened.

The effective date of this measure has not been specified. It is believed that the measure is aimed at cases whereby taxes are collected from consumers, but are not remitted to the MRA. In our view, this measure does not target non-compliance as a result of an interpretation of the law. This measure will hopefully act as a deterrent to unethical practices and increase the level of compliance.

Collection of social security contributions by the MRA

Employers will be able to remit social security contributions and training levy to the Mauritius Revenue Authority ("MRA"). Currently, this facility is available only to employers who employ persons in the domestic service.

The implementation modalities should be discussed with the relevant stakeholders to ensure a smooth transition.

Value Added Tax

Time of supply

It has been clarified that a supply is deemed to have taken place even though no invoice has been issued or payment has been made to the registered person.

This measure implies that output tax has to be accounted even though the registered person has not issued any invoice or received any payment. Its practical application poses various challenges: particularly in the context of services where the time the services are performed is not readily ascertainable.

In the context of goods, the legal change in ownership may be used as a taxing point. The current measure implies that the registered person will have to fund the output tax and furthermore will lead to a timing mismatch on the basis that the recipient of the goods or services will not be able to deduct the corresponding input tax in the absence of a VAT invoice.

In essence this measure will lead to a cash flow issue and its interaction with the relevant accounting principle should be fully understood.

Clarification is required on the commencement date of this measure. At this stage it appears that it may apply with retrospective effect.

Reverse charge provision

Persons who are not registered for VAT will be required to apply the reverse charge provision. The measure is aimed at ensuring a level playing field between domestic and local service providers.

We agree with the principle that local and foreign-service providers should be treated on the same footing.

The measure will only have a VAT cost if the services provided by the non-resident relates to the exempt supplies made by the non-VAT registered persons.

Non-VAT registered persons should analyse their respective supplies into taxable, standard rated and zero rated supplies, where the services provided by the non-resident relates to all their supplies to be able to apply this measure in an accurate manner. The accounting system of the relevant persons may have to be reviewed so that the relevant analysis is provided.

The relevant taxable period for the application of the measure should be addressed in the amending laws so that at a minimum the reverse charge is applied in the same manner as it currently applies to registered persons.

The collecting mechanism of the VAT as well as the time it should be remitted to the MRA should be defined in the amending laws.

It appears that the measure will not apply to licensees under the Financial Services Act. This may be considered as a discriminatory policy and should be regularly reviewed.

Refund of VAT for the construction of residential house or the purchase of a new residence from a Property Developer

The total amount to be refunded will be subject to a cap based on floor area.

The VAT refund will also extend to cover tax charged on:

- The purchase of a house from a property developer; and
- The cost of construction of a residence or the purchase price of a residence for an increased amount of up to Rs 4 million;

The maximum total amount of the refund would be increased from Rs 300,000 to Rs 500,000.

The household income eligibility threshold for the refund will be raised from Rs 650,000 per annum to Rs 2 million per annum.

This measure is welcomed as it would enable a number of people to claim a refund for the construction costs of their residential house or apartments and will also increase the disposable income of the end consumers. However, care should be taken to administer such schemes so that it does not create unnecessary burdens.

Removal of VAT on certain products

The Minister announced that VAT would be removed on the following products:

- Breakfast cereals
- Photovoltaic inverters/batteries
- CCTV camera systems, including CCTV digital video recorders
- Burglar alarm systems and sensors
- 3D printer
- Locally manufactured bus bodies built on semi low-floor chassis
- Hospital beds with mechanical or electrical fittings
- Commode chairs with toilet bowls
- Briefs for incontinent persons

- Urinary and fecal incontinence bags
- Motor vehicles examination fee (fitness) for a period of one year
- Plant, machinery and equipment to be used in the exploration and mining of seabed minerals

It is not clear if the measure imply that they would be zero-rated or exempt for the purpose of the Value Added Tax Act. The classification is relevant as input tax on goods and services used to produce zero-rated supplies are creditable whilst input tax on goods and services used to produce exempt supplies cannot be claimed as a credit.

The effective date of this measure should also be specified.

VAT status of entrance fees

Entrance fee to an aquarium of international standard will be made zero-rated for VAT purposes for a defined period and subject to investment conditions.

VAT Refund Scheme

The list of equipment under the VAT Refund Scheme for small planters is being extended to include the following items:

- Fencing and poles;
- Insect/bird proof nets;
- Protective masks;
- PH meters and EC meters; and
- Bush cutters

The effective date of this measure has not been announced.

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