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The COVID-19 (Miscellaneous Provisions) Bill 2020

12 May 2020

On 9 May 2020 the government published the COVID-19 (Miscellaneous Provisions) Bill 2020 which has the objective to amend a number of legislations as Mauritius prepares for partial deconfinement as from 15 May 2020, with the national lockdown expected to end on 1 June 2020. The COVID-19 Bill has also brought more clarifications as well as the conditions that must be satisfied in order to benefit from the various measures introduced so far, as the country continues to respond to the COVID-19 crisis. Please refer to our previous [alert](#) which summarised the key economic, tax and other fiscal stimulus measures previously announced.

This Bill contains some notable measures such as introduction of a COVID-19 levy which will be applicable to employers benefitting from financial support under the Wage Assistance Scheme ("**WAS**"). Some important amendments to the Workers Right Act include additional powers to the redundancy board to safeguard employment and prevent unjustified dismissal or reduction of workforce during this period of economic downturn. The COVID-19 period has been defined as the period starting on 23 March 2020 and ending on 1 June 2020 or such later date as may be prescribed.

The COVID-19 Bill will be debated in the parliament on 13 May 2020 and will have to be voted and receive the Presidential assent for the measures to have legislative effect.

COVID-19 Levy

Introduction of a COVID-19 levy payable by certain employers who have obtained financial support under the Wage Assistance Scheme. Employers shall include individuals, resident sociétés and companies.

Charge to COVID-19 Levy

- COVID-19 levy to be paid by employers shall be the lower of total amount paid to them under WAS or 15% of their chargeable income as prescribed
- Chargeable income for the purpose of the COVID-19 levy to exclude any unrelieved loss brought forward from previous years. In addition for individual employers, chargeable income to also exclude dividend, interest, charges, annuity or pension
- Levy shall not apply to employers not liable to income tax in the relevant year of assessment and any category of employers as may be prescribed

Timeline for payment

| Category of employer | Income year end: | Payment to be made in return for YOA: |
|--------------------------------|---|---------------------------------------|
| Individuals, Resident sociétés | 30 June 2020 | YOA 2020/2021 |
| Companies | During period starting on 1 May 2020 and ending 31 December 2020 | YOA 2020/2021 |
| | During period starting on 1 January 2021 and ending 30 April 2021 | YOA 2021/2022 |

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
- MRA empowered to claim any unpaid levy within a period of 3 years from the payment due date
- Any offence in terms of false/misleading statement or declaration may attract a fine not exceeding MUR 1 million and imprisonment for up to 2 years

Anti-avoidance provisions

- The anti-avoidance provisions of the Income Tax Act to apply in all respect to the levy payable

Wage Assistance Scheme ("WAS") and Self-Employed Assistance Scheme ("SEAS")

Additional clarifications and conditions provided on the recently introduced schemes as follows:-

Wage Assistance Scheme

- Allowance under WAS extended to cover basic salary for the month of May 2020 with the maximum allowance capped at MUR 25,000
- Electronic application for WAS to be made with required details, within 3 months from month end to which it relates or 2 months from date the COVID-19 period lapses, whichever is earlier
- No allowance to be granted in subsequent month where employer terminated employment of an eligible employee in the month of March, April and May 2020
- Refund of allowance to the Mauritius Revenue Authority ("MRA") where employer failed to pay or reduce the basic wage or salary of eligible employee in the month of March, April and May 2020 and no entitlement to allowance in subsequent month(s)
- MRA may request, no later than one year after payment of allowance, information from employer to ascertain correctness of information
- MRA empowered to recover allowance claimed in excess of entitlement
- Employers making false declaration or failing to give information may be subject, on conviction, to a fine not exceeding MUR 50,000 and imprisonment for a term not exceeding 2 years

Self-Employed Assistance Scheme

- Self-employed person clarified to exclude an individual who:
 - derives exclusively passive income;
 - was not carrying out any income earning activity prior to the start of the COVID-19 period;
 - falls under such category as may be prescribed.
- Passive income defined as income derived from rent, dividends, interests and such other income as may be prescribed

Worker's Rights Act

Work From Home

- Employers are required to provide their employees with at least 48 hours' notice for any request to work from home

Annual Leaves

- Employers authorised to deduct up to 15 days (or such other number as may be prescribed) of the annual leave accruing to a worker as from 1 January 2020 during the 18 months period following expiry of COVID-19 period
- Deduction not to exceed 50 percent of the 15 days (or such other number as may be prescribed) for workers performing work during COVID-19 period (excluding 15 May 2020 to 1 June 2020)

Termination of Employment Agreement

- No employment to be terminated during any month in which the employer has received allowance under the Wage Assistance Scheme or other financial assistance paid by the government

Extension of deadlines

A number of deadlines under different legislations, as listed below, have been extended with effect from 23 March 2020:

Companies Act 2001

- Time limit extended for the following:
 - Holding of annual meeting of shareholders, extended from 6 months to 9 months after balance sheet date or as determined by Registrar, after the COVID-19 period lapses
 - Deadline for Board of every company to prepare financial statements and signed by Directors, extended from 6 months to 9 months or as determined by Registrar, after the COVID-19 period lapses
 - Submission of copies of financial statements/audited financial statements, extended from 28 days to 3 months or as determined by Registrar, after the COVID-19 period lapses

Mauritius Revenue Authority Act 2004

- Any statutory delay relating to proceedings before the Assessment Review Committee which expires/falls during –
 - the COVID-19 period shall be suspended and shall start from the day following the last day of the COVID-19 period
 - a period of 21 days after the COVID-19 period lapses, shall be suspended and shall start from the day following the last day of the 21 days' period
- Any time limit imposed to make an assessment, a decision, a determination, a notice or a claim, which expires/falls due during –
 - the COVID-19 period, shall be extended to 2 months after the COVID-19 period lapses
 - a period of 30 days after the COVID-19 period lapses, shall be extended to 2 months after the period of 30 days lapses
- Where the time limit to make any payment expires, or falls due during –
 - the COVID-19 period, the payment shall be made by 25 June 2020
 - the period ending 30 June 2020, the payment shall be made by 26 June 2020
- Deadline for making application for review of assessments under the Expedient Dispute Resolution Tax Scheme extended from 30 June 2020 to 31 August 2020

Income Tax Act 1995

- The time limit to make application and payment under the Voluntary Disclosure of Income Scheme – Foreign Assets has been extended from 31 March 2020 to 26 June 2020

Amendments to Companies Act/Insolvency Act

- The following undertakings under the Insolvency Act 2009, made during the COVID-19 period or during a period not exceeding 3 months after the COVID-19 period lapses, shall be void:
 - Approval for winding-up of a company, other than holder of a Global Business License under the Financial Services Act, through:
 - Resolution for voluntary winding up
 - Creditors' resolution passed at a watershed meeting
- Appointment of receiver or receiver manager, other than by court, during the COVID-19 period shall be of no effect and void
- Directors of companies not meeting solvency test during the COVID-19 period not required to call for a meeting of the board to appoint a liquidator or administrator and shall not be liable for losses suffered by creditors of the company as a result of the company continuing to trade

Landlord and Tenant Act

- Non-payment of rent in respect of premises for the months of March 2020 to August 2020 (or any other month as may be prescribed) shall not constitute a breach of a tenancy agreement, provided that unpaid rentals are fully paid by 31 December 2021 or such other date as may be prescribed
- No possession order shall be made or given by a Court in Mauritius provided the above repayment condition is satisfied

Mobility/Quarantine

- Permanent residence permits, residence permits and visas which have expired during the COVID-19 period will remain valid for a period of 30 days after the COVID-19 period lapses or for such other period as may be prescribed
- The 30-days extension is also applicable for permanent residence permits, residence permits and visas which will expire during the 21-day period following the COVID-19 period

Contacts

If you would like to discuss the impact of these changes on your business and how you can leverage the opportunities that they offer, please reach out to us:



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