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**B: Practical approaches
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Summary and conclusions

The corporate tax system in Mauritius operates on the principle of self-assessment, that is, the taxpayers are required to prepare and file their tax returns electronically based on the provisions of the Income Tax Act 1995 (“ITA 1995”) and its regulations. The fiscal year runs from 1 July to 30 June. A corporate taxpayer is required to file their tax return within 6 months from the end of the financial year.

The Mauritius Revenue Authority (“MRA”) may initiate a tax investigation for four years, that is, the current year of assessment and the three preceding years of assessment.

The MRA is an agent of State and, as such, the Ministry of Finance and Economic Development continues to have overall responsibility for the organisation and monitors its performance.

The MRA is responsible for collecting approximately 90% of all tax revenues and for enforcing tax laws in Mauritius.

In the context of the tax assessments and disputes, the MRA comprises of 5 separate departments such as the Fiscal Investigation Department (“FID”), the Medium and Small Taxpayer Department (“MSTD”), the Large Taxpayers Department (“LTD”), the Objection, Appeals and Dispute Resolution Department (“OADR”), the Alternative Tax Dispute Resolution (“ATDR”) and the Legal Services Department (“LSD”).

The role of the FID comprising of an Intelligence Unit, is to undertake thorough examination where tax fraud is suspected to have been occurred. The MSTD investigates companies with annual turnover not exceeding Mur 100 million. On the other hand, the LTD regulates the assessment of companies with turnover exceeding Mur 100 million and companies holding a Global Business License.

In the event an assessment has been raised by the MRA and the taxpayer is not agreeable, he may object electronically to the Director-General by submitting its detailed ground of objections against each item of assessment raised by the MRA within 28 days of the date of the notice of assessments and pay 10% of the assessed amount. The objection is independently dealt with by a separate team in the OADR.

The OADR team shall re-examine all the particulars submitted and may request additional information to be able to provide its determination of the assessment raised. However, a taxpayer may have recourse to an independent panel, the ATDR set up under

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the aegis of the Director-General to review the assessment provided he has fulfilled the requirements prescribed under section 21C of the MRA Act. After consultation with the taxpayer and review of the particulars submitted, the ATDR shall communicate its decision within 6 months from the date the case is referred from the Director-General.

Furthermore, where a Notice of Determination has been issued by the OADR under section 131B of the ITA 1995 and the taxpayer is aggrieved by such decision, he may lodge an appeal to the ARC within 28 days of the Notice of Determination. The ARC is an independent panel consisting of the Chairperson and/or Vice-Chairperson and two other members who shall review the Notice of Determination based on the particulars submitted by the taxpayer and the OADR. The timeframe within which a ruling is delivered by the ARC depends on the complexity of the case.

If the taxpayer is not agreeable to the ruling or decision issued by the ARC, he may lodge an appeal to the Supreme Court of Mauritius provided the conditions as prescribed in section 21 of the MRA Act. However, the appeal is made by way of Case Stated only.

In order to deter tax evasion, the MRA has set up the LSD. The LSD in collaboration with the Mauritian Police Force may prosecute taxpayers in case where it is suspected that the total income has deliberately not been disclosed or false information or tampered documents have been submitted to the MRA with the main intention of tax evasion.

In the event where there are grey areas, the taxpayer may have the option to request for ruling from the MRA, under the provisions of the Mauritius Revenue Act. Once the ruling is issued by the MRA, it is binding on them and may only be disputed through a judicial review at the Supreme Court of Mauritius.

Additionally, in case of doubt on the interpretation of tax laws and its regulations, the taxpayer may submit their corporate tax returns based on his interpretation of such law or treatment provided he informs the MRA by electing the required option in its corporate tax return and submits his own interpretation or treatment of the law in concern. In this way, the MRA shall not impose any penalties or interest in the event of an assessment.

Taxpayer-driven situations often lead to disputes. This includes requesting a refund or applying for a No Objection Certificate (“NOC”). An NOC is a certificate that is usually required when a company is about to close down. An application will be made to the MRA, which will usually then begin an investigation. A refund claim is made by the taxpayer if too much tax has been paid in the relevant assessment year.

MRA usually carries out minor investigative steps in connection with refunds before disbursing the amount. If fraud is discovered, it can lead to a comprehensive tax investigation.

Article 25 of the OECD Model Tax Convention (“MTC”) is often used in tax treaties that have been reached between Mauritius and other jurisdictions. Article 25 of the MTC offers a procedure for resolving conflicts that arise when the action of one or both of the contracting states will cause the taxpayer in question to be taxed in a way that is contrary to the DTAA’s terms. The Competent Authority of Mauritius shall attempt to resolve such issues by mutual agreement with the Competent Authority of the other contracting state, in accordance with the equivalent of article 25 of the MTC, within the applicable Mauritius DTAAs.

In case of a transfer pricing case regarding the arm’s length principle, the MRA will make use of the OECD Transfer Pricing Guidelines and the Commentary to the MTC.

Part One: Main features corporate compliance system

1.1. General legal framework

The operation of the corporate tax system in Mauritius is based on the principle of self-assessment, that is, the taxpayers are required to prepare and file their tax returns electronically based on the provisions of the Income Tax Act 1995 (“ITA 1995”) and its regulations. The fiscal year runs from 1 July to 30 June. A corporate taxpayer is required to file their tax return within 6 months from the end of the financial year.

The Mauritius Revenue Authority (“MRA”) may initiate a tax investigation for four years, that is, the current year of assessment and the three preceding years of assessment.

During the course of a tax litigation, the onus is on the taxpayer to provide documentary evidence as may be required by the MRA.

1.2. Organisation of Tax Administration

The MRA is a body corporate, set up to manage an effective and efficient revenue-raising system. It administers and collects taxes due in Mauritius within an integrated organisational structure.

The MRA is an agent of State and, as such, the Ministry of Finance and Economic Development continues to have overall responsibility for the organisation and monitors its performance.

The MRA is responsible for collecting approximately 90% of all tax revenues and for enforcing tax laws in Mauritius.

Among its various functions, the MRA also advises the Minister and other relevant organs of the state with regard to any matter relating to taxation or tax administration. The MRA is managed and administered by a board comprising of the following persons:

- (i) A chairperson who is nominated by the President of the Republic with prior consultation with the Prime Minister and the Leader of Operation;
- (ii) A representative from the Ministry of Finance, Economic Planning and Development (“Ministry of Finance”);
- (iii) The Director-General of the MRA; and
- (iv) 5 other persons having adequate experience in accountancy, economics, taxation law or business administration who are appointed by the Ministry of Finance.

In the context of the tax assessments and disputes, the MRA comprises of 5 separate departments such as the Fiscal Investigation Department (“FID”), the Medium and Small Taxpayer Department (“MSTD”), the Large Taxpayers Department (“LTD”), the Objection, Appeals and Dispute Resolution Department (“OADR”), the Alternative Tax Dispute Resolution (“ATDR”) and the Legal Services Department (“LSD”).

The FID was set up in accordance with section 3(4)(c) of the Mauritius Revenue Authority Act 2004 (“MRA Act”) and its role is to undertake a thorough examination where tax fraud is suspected to have been occurred. A specialised team commonly known as the Intelligence Unit in the FID gathers the required information to ascertain whether a tax fraud has taken place. They are also empowered to visit business premises and examine business records under section 126 of the ITA 1995.

The MSTD investigates companies with annual turnover not exceeding Mur 100 million.

On the other hand, the LTD regulates the assessment of companies with turnover exceeding Mur 100 million and companies holding a Global Business License (“GBL”). The LTD is also responsible for negotiating Double Taxation Avoidance Agreements, Tax Information Exchange Agreements and Competent Authority Agreements. It is also the representative of the tax authority regarding the exchange of correspondence with the OECD, EU, ATAF, and International Tax Justice among others.

In the event an assessment has been raised by the MRA and the taxpayer is not agreeable, he may object electronically to the Director-General by submitting its detailed ground of objections against each item of assessment raised by the MRA within 28 days of the date of the notice of assessments and pay 10% of the assessed amount. The objection is independently dealt with by a separate team in the OADR. The OADR team shall re-examine all the particulars submitted and may request additional information to be able to provide its determination of the assessment raised.

Consequent to an assessment raised by the MRA under section 129 or 129A of the Income Tax Act, section 37 of the Value Added Tax Act, section 119 of the Gambling Regulatory Authority Act, section 69 of the Environment Protection Act or duties and taxes under sections 15 and 24A of the Customs Act, a taxpayer may have recourse to an independent panel, the ATDR set up under the aegis of the Director-General to review the assessment provided he has fulfilled the requirements prescribed under Section 21C of the MRA Act.

In the event the MRA is of the opinion that a taxpayer has contravened the ITA from a criminal perspective, the taxpayer may be prosecuted. In order to deter tax evasion, the MRA has set up the LSD. The LSD in collaboration with the Mauritian Police Force may prosecute taxpayers in cases where it is suspected that the total income has been deliberately not disclosed or false information or tampered documents have been submitted to the MRA with the main intention of tax evasion.

1.3. Extent (number of treaty partners) of tax treaty network

As of 2024, Mauritius has concluded 46 Double Taxation Avoidance Agreements (“DTAA”) and has agreed Tax Information Exchange Agreements (“TIEA”) with 11 countries. The tax treaty network of Mauritius is well expanded between the Western, Middle Eastern and Asian countries. As Mauritius is the gateway to the African continent for business, around 15 of its tax treaties ratified are with the African countries.

1.4. Filing and assessment procedures and 1.5 Audit process

Under sections 116 and 116B of the ITA 1995, a taxpayer is required to submit its corporate tax returns within the prescribed timeframe. Under sections 126 and 126A, the MRA has the right to require and inspect computerised and non-computerised information from the taxpayer. However, the time limit to request such information shall not exceed 4 years from the year of assessment in which the return is filed. The mode of requesting the information may be made via an official letter for examination of returns, by an official email or via an in-person visit to the business premises of the taxpayer. The deadline to furnish the requested is determined by the MRA. Upon analysis of the available information, the MRA may issue a contemplation letter within which the MRA will inform the taxpayer of the anticipated

upward or downward amendments to be made by the MRA with respect to the tax liability or refund declared on the taxpayers' submitted tax return. The taxpayer will be given a timeframe to deliver the missing documents or provide the necessary clarification to nullify the amendments proposed by the MRA.

Then, the MRA may issue a Notice of Assessment detailing its basis of assessment on which the tax liability or refund or tax loss has been revised in accordance with section 129 of the ITA 1995. However, there is no time limit prescribed in the ITA 1995 regarding the period from which the examination of books and records starts and the time when the Notice of Assessment is issued.

Once the Notice of Assessment is issued, the taxpayer has 28 days to agree and pay the revised tax liability. In case where the taxpayer is not agreeable to the basis of assessment of the MRA, he may make an objection to the MRA within 28 days from the date the Notice of Assessment is issued under section 131A of the ITA 1995. The taxpayer shall specify each basis of assessment which he is not agreeable to in his detailed grounds of objection.

As summarised above, the grounds of objection are reviewed independently by the OADR taking into consideration the basis of assessment and particulars exchange during the assessing stage. Under section 131A (2), the taxpayer is required to submit its return under section 50B or section 116 under the ITA 1995 and pay the respective taxes in addition to the 10% of the assessed amount in case of non-submission of returns. The 10% payment may be made via cash, cheque, bank transfer or by way of bank guarantee as security. In the event the taxpayer fails to pay the 10%, the objection shall be determined as non-payment of 10%. Subsequently, the taxpayer has to lodge an appeal to the Assessment Review Committee ("ARC") and pay an additional 5%.

Upon settlement of the 10% and withdrawal of the case before the ARC, the OADR will consider the grounds of objection. Pursuant to section 131A, the objection shall be determined within 4 months from the date the objection is filed or the date from which the taxpayer has withdrawn its case before the ARC. Pursuant to section 131A, the OADR then issues the Notice of Determination of which the taxpayer is bound to settle the final tax determined.

In case the taxpayer is aggrieved by the decision of the OADR, he may lodge an appeal to the ARC within 28 days from the date the Notice of Determination is issued pursuant to section 134 of the ITA 1995 and section 19 of the MRA Act.

1.6. Administrative/ pre-litigation remedies

Post the analysis of the books and records, any amendments proposed by the MRA are communicated to the taxpayer via an official letter or email. As a general practice, the taxpayer will be given a deadline to provide an explanation with regard to the anomalies noted. Subsequently, the MRA will give consideration to those explanation and may provide a settlement procedure to the taxpayer. However, such powers remain with the Director-General on the mode and timeframe to settle the outstanding tax liability.

Alternatively, the MRA in collaboration with the Ministry of Finance has designed a Tax Arrears Settlement Scheme ("TASS") which enables taxpayers having outstanding taxes as at a certain prescribed date to benefit from a full waiver of penalties and interests where the taxes are settled before the set date. The taxpayer will only be eligible for this scheme if he has not been subject to any offences as specified under section 28(21)(b) of the MRA Act.

1.7. Court System

Furthermore, where a Notice of Determination has been issued by the OADR under Section 131B of the ITA 1995 and the taxpayer is aggrieved by such decision, he may lodge an appeal to the ARC within 28 days of the Notice of Determination. The ARC is an independent panel consisting of the Chairperson and/or Vice-Chairperson and two other members who shall review the Notice of Determination based on the particulars submitted by the taxpayer and the OADR. The timeframe within which a ruling is delivered by the ARC depends on the complexity of the case.

If the taxpayer is not agreeable to the ruling or decision issued by the ARC, he may lodge an appeal to the Supreme Court of Mauritius provided the conditions as prescribed in section 21 of the MRA Act. However, the appeal is made by way of Case Stated only.

Part Two: Pre-dispute phase

2.1. Purely domestic dispute prevention mechanism

2.1.1. Advance rulings and/or Advance Transfer Pricing Agreements

In the event where there are grey areas, the taxpayer may have the option to request for ruling from the MRA, under the provisions of the Mauritius Revenue Act. Once the ruling is issued by the MRA, it is binding on them and may only be disputed through a judicial review at the Supreme Court of Mauritius.

Additionally, in case of doubt on the interpretation of tax laws and its regulations, the taxpayer may submit corporate tax returns based on his interpretation of such law or treatment provided he informs the MRA by electing the required option in his corporate tax return and submits his own interpretation or treatment of the law in concern. In this way, the MRA shall not impose any penalties or interest in the event of an assessment.

Moreover, if the Director-General is satisfied that failure to comply with the provisions of the ITA 1995 and its regulations is purely attributable to a reasonable cause, they may waive part or whole of the penalties and interests.

There are no prevailing transfer pricing rules and regulations in Mauritius. However, the MRA uses the arm's length principle and the OECD guidelines.

2.1.2. Collaborative compliance systems

2.1.3. Alternative or Supplementary dispute prevention mechanisms

As stipulated above where an assessment issued by the MRA under section 129 or 129A of the Income Tax Act, section 37 of the Value Added Tax Act, section 119 of the Gambling Regulatory Authority Act, section 69 of the Environment Protection Act or duties and taxes under sections 15 and 24A of the Customs Act, a taxpayer may refer his case to the ATDR under section 21C of the MRA Act. The ATDR comprising of 3 independent members as follows:

- (i) A chairperson who shall not be an officer below the grade of a director and is appointed by the Director-General;
- (ii) A senior officer who is also appointed by the Director-General; and
- (iii) A person who is a law practitioner and has 5 years or more experience in the field. The latter is appointed by the Ministry of Finance.

On receipt of the application, the Director-General shall refer the case to the ATDR and inform the client accordingly within one month. During its review, the ATDR may request the taxpayer to submit additional particulars or information. During the process, the taxpayer will have the opportunity to discuss his case in person. However, the ATDR shall deliver its decision within 6 months from the date that the applicant has been informed that his application has been accepted.

2.2. International dispute prevention mechanism

DTAA's provisions take effect immediately upon ratification and publication in the Government Gazette, in accordance with section 76 of the Income Tax Act, just as if they had been incorporated into the Act itself. The Article 25 of the OECD Model Tax Convention ("MTC") is often used in tax treaties that have been reached between Mauritius and other jurisdictions. Article 25 of the MTC offers a procedure for resolving conflicts that arise when the action of one or both of the contracting states will cause the taxpayer in question to be taxed in a way that is contrary to the DTAA's terms. The competent authority of Mauritius shall attempt to resolve such issues by mutual agreement with the competent authority of the other contracting state, in accordance with the equivalent of article 25 of the MTC, within the applicable Mauritius DTAA's.

Regarding the actual implementation of the Mutual Agreement Procedure ("MAP"), the aforementioned article gives the relevant authorities the opportunity to speak with one another directly, without passing through the diplomatic route. The sharing of information for the purposes of this article's provisions is governed by the equivalent of article 26 of the MTC as contained in the Mauritian DTAA's. This guarantees the privacy of any information shared for MAP purposes.

The Director-General of the MRA is the person who has jurisdiction regarding MAP in Mauritius. In light of this, the Large Taxpayers Department has established a specialised section called the MAP Unit at the International Taxation Section.

The following cases are applicable for the MAP process:

1. Taxation not in accordance with the DTAA;
2. Dual residence;
3. Determination of the place of effective management;
4. Withholding taxes withheld not in accordance with the relevant tax treaty; and
5. Transfer pricing MAP cases.

The relevant tax treaty specifies the deadline for MAP requests to be filed. Article 25 of the OECD/UN Model Tax Convention is generally followed by Mauritius tax treaties, which stipulate that a request for MAP assistance must be made within three years (two years for the DTAA with Nepal) of the first notification of the action resulting in taxation that is not in accordance with the DTAA. The MRA shall not entertain map requests received after the prescribed time limit.

The following minimum information is required for a MAP request:

1. Date of the request;
2. Name, address and TAN of the taxpayer;
3. The provision of the specific article of the DTAA which the taxpayer considers is not being applied correctly by either one or both contracting states;
4. The relevant facts of the case including any documentation validating these facts, the period involved and the amounts involved;
5. An analysis of the issues involved supported by relevant documentation;
6. Where a request has also been made to the competent authority of the other contracting state, a copy of that submission with relevant documentation;
7. If the issue has been previously dealt with by some other means (such as an advance ruling, advance pricing agreement (APA) or settlement agreement), then a copy of any relevant ruling or agreement shall be submitted;
8. A statement indicating whether the taxpayer has filed a notice of objection, notice of appeal;
9. If the MAP request has been submitted to another authority under another instrument that provides for a mechanism to resolve treaty related disputes, then a copy of that submission (including all related documentation) unless the content of both MAP submissions is exactly the same;
10. A final statement confirming that all information provided in the MAP request is accurate and that additional information will be provided in a timely manner if required by the competent authority; and
11. A copy of any settlement or agreement reached with the other jurisdiction which may affect the MAP process.

However, further information may be requested by the MAP Unit of the MRA to validate the request of the taxpayer. If all relevant information has not been submitted, then the MAP request may be rejected by the MRA.

The MAP consultation between the MRA and other relevant authorities is a government process.

Taxpayer participation in mutual agreements is generally limited to expressing opinions and providing relevant information to the relevant authorities. Taxpayers are not involved in the actual consultations between the competent authorities.

However, taxpayers may be required to make presentations to the relevant authorities to ensure a common understanding of the facts of a particular case. Throughout the MAP process, taxpayers must ensure that each tax authority is provided with the same information at the same time. This applies to all information submitted by the taxpayer to the two tax authorities as part of the mutual agreement process. MRA will continue to update taxpayers on the status of their mutual agreement applications.

During the discussion period, MRA will endeavour to update the MAP's progress at least every 90 days to the taxpayer. Communications may occur through telephone, email, briefing notes, letters, teleconferences, in-person meetings, or other forms acceptable to both relevant authorities.

As per the terms of each relevant tax treaty, the MRA and the competent authority of the other state will endeavour to resolve MAP cases in accordance with the relevant provisions and in a timely manner. The time taken to resolve a MAP case may vary according to its complexity, but Competent Authorities will endeavour to reach a resolution on MAP cases within an average timeframe of 24 months.

If the competent authorities cannot reach an agreement through the MAP process or if the taxpayer rejects the agreement between the competent authorities, the taxpayer can then pursue any available domestic administrative or judicial remedies.

In case of a transfer pricing case regarding the arm's length principle, the MRA will make use of the OECD Transfer Pricing Guidelines and the Commentary to the MTC.

Part Three: Dispute Phase

3.1. Purely domestic dispute resolution mechanisms

3.1.1. *Administrative Review*

Following a tax investigation or tax audit on a taxpayer, which leads to a formal tax assessment, there are numerous albeit restricted steps before reaching litigation as practised by the MRA. To begin with, the Revenue Authority in Mauritius is empowered by the ITA 1995 to make an assessment in respect of unsatisfactory returns in respect of a taxpayer's income in the relevant years. A written notice is required to be issued by the MRA.

For income tax purposes, the relevant years may be requested to produce books and records, or the years open for assessment are defined under the ITA 1995 and are limited to a period restricted to 3 years of assessment preceding that year of assessment. The restriction may be lifted provided the company has made no returns or amended returns have been made or in case of fraud.

From a legislative perspective, once an assessment is issued, the taxpayer, if aggrieved, has the right to object against the assessment based on valid reasoning. Section 131A of the ITA 1995 provides for such objection and stipulates that "... where a person who has been assessed to income tax is dissatisfied with the assessment, he may, within 28 days of the date of the notice of assessment, object to the assessment in a form approved by the Director-General and sent to him by registered post or electronically through such computer system." As a general practice in Mauritius, the objection is done only electronically.

On making an objection, a taxpayer should specify in the form, in respect of each of the items in the notice of assessment, the detailed grounds of the objection. Along with the objection form, in case the return for the relevant income year has not been submitted to the MRA, the taxpayer is required to submit the return and pay the tax together with any interest and penalties. In the same wavelength, where the return has been submitted prior to the assessment and the tax due has not been paid accordingly, the taxpayer shall pay the outstanding tax on the return.

At the time of objecting against the assessment, a payment of 10 per cent of the tax claimed under the notice of assessment shall be paid. Where a taxpayer satisfies the Revenue Authority that he is unable to pay the 10 per cent of the tax assessed at the time of lodging an objection, he may give security by way of bank guarantee on such terms and conditions as may be determined by the Revenue Authority. The payment of 10 per cent is not required where the taxpayer objects exclusively to the amount of income assessed as emoluments or to the amount of personal reliefs and deductions disallowed in the Notice of Assessment.

Late objections can lead to refusal by the Revenue Authority. However, where a taxpayer proves to the satisfaction of the Director-General that he was unable to object within the

statutory delay of 28 days because of illness or other reasonable cause, the Director-General may consider the objection on such terms and conditions as he thinks fit. In a nutshell, it is left to the discretion of the MRA to accept or reject an objection after the statutory delay.

Upon compliance with the prescribed conditions above, the objections are required to be dealt with independently by an objection directorate set up by the Revenue Authority for that purpose. The Objections, Appeals & Dispute Resolutions Department (“OADRD”) will deal with the objection and being an independent directorate, all objections will be dealt with independently, objectively, fairly and in a transparent manner.

In dealing with the objection, there are numerous correspondences being shared between the objection directorate and the taxpayer, whereby the taxpayers are required to justify their grounds of objection in a way which is acceptable to the Revenue Authority within a defined time period. At this stage, only the taxpayers and tax advisors are involved in the process. There may also be physical meetings between taxpayers and their representatives and the MRA to discuss and support their grounds of objection or try to reach a settlement.

After having considered the grounds of objection, the assessment may be either (i) reviewed, (ii) may be disallowed or allowed in whole or in part, and (iii) where appropriate, may be amended to conform with their decision. The process of concluding on the objection is called determination. Where an objection is determined the Director-General shall, in respect of each ground of objection, specify the reasons for the determination. A notice of determination of objection will be issued within 4 months of the date on which the objection is lodged.

On the determination of the objection, the taxpayer has to pay, within 28 days of the date of the notice, the tax claimed together with any interest and penalties. Additional interest shall accrue in case payment is made after 28 days from the date of determination. The amount of 10 per cent paid is offset against the tax amount due. In case there is an excess any amount of tax paid in excess of the amount determined shall be refunded together with interest.

3.1.2. Judicial review

In the event a taxpayer or the MRA is not satisfied with the decision of the ARC and considers the ruling given to be erroneous in law, he may lodge an appeal to the Registry of the Supreme Court within 21 days of the date of the ruling delivered by the ARC. The applicant shall also send a written application to the ARC requesting the latter to state and sign a case for the opinion of the Supreme Court.

In addition to the above, the taxpayer is required to pay or be refunded any tax in accordance with the decision of the ARC. In case the MRA or taxpayer is not satisfied with the judgement of the Supreme Court on a point of law, an appeal may be lodged to the Judicial Committee of the Privy Council.

3.1.3. Alternative or Supplementary dispute resolution mechanisms

Mauritius fiscal laws provide for two main alternative dispute resolution mechanisms, namely (i) the referral of disputes to the ATDR panel, or (ii) the resolution of disputes by way of mediation.

The ATDR panel was set up as a fast-track system to deal with applications for review made by taxpayers who have objected to an assessment or lodged a case before the ARC, Supreme Court or Judicial Committee of the Privy Council.

If the taxpayer would like to settle the tax dispute with the MRA, it may apply to the ATDR panel (provided certain requirements are met). While an appeal is pending before the ARC, an application to the ADTR panel may be made; in that case, the appeal is typically suspended while the application is considered by the ATDR panel. Although the MRA has taken the position that a taxpayer may only apply to the ATDR panel once, it should be noted that an application to the ATDR may also be made at the objection stage or where there is an appeal pending before the Supreme Court or Judicial Committee of the Privy Council.

Within a month of receiving the taxpayer's application, the case is referred to the ATDR panel. After a case is referred to the ATDR panel, the panel must make a decision within six months, and the MRA must either maintain or modify the assessment to comply with the panel's ruling.

The ATDR panel is a useful route in cases where taxpayers wish to find an agreeable settlement to the tax dispute. It is not a forum for the case to be heard on its merits and/or to present arguments in law. In practice, the ATDR panel would usually expect some tax to be payable – often no less than a certain percentage of the amount that has already been paid by the taxpayer when lodging their objections or representations with the OADR department or the ARC.

The ATDR panel consists of a director of one of the departments at the MRA serving as Chairperson, a senior officer of the MRA chosen by the DG and a law practitioner appointed by the Ministry Of Finance; all three must not have been previously involved in the dispute.

The ATDR panel typically examines the application along with any supporting documentation from the applicant's case at the ARC, Supreme Court, or Judicial Committee of the Privy Council, but the taxpayer may be asked for more information if necessary. In reality, rather than evaluating the case's merits in and of itself, talks before the ATDR panel tend to focus on negotiating the assessed amount in order to resolve the claim.

Any settlement agreement that is drafted must address every point of contention and include the terms and conditions of the tax liability settlement. Both parties must abide by the settlement agreement, which is a complete and final resolution of the relevant tax dispute. It cannot, however, set a precedent for other situations. The objection or appeal is withdrawn before the OADR department, ARC, or other courts (as the case may be) in the event that a settlement is reached before the ATDR panel.

As mentioned above, certain conditions must be complied with so that a taxpayer can make an application to the ADTR. Taxpayers who have lodged objections or filed representations at the ARC or appealed to the Supreme Court or the Privy Council in relation to cases of income tax, value-added tax, environment protection fees, certain customs cases or gambling tax are eligible for review by the ATDR panel.

The amount of tax payable under dispute should exceed Mur 5 million and the applicant is precluded from having been convicted of any criminal offence under the Dangerous Drugs Act 2000, the Financial Intelligence and Anti-Money Laundering Act 2002, the Prevention of Terrorism Act 2002 and the Prevention of Corruption Act 2002. It should also be noted that the grounds specified in the application should not be different from those in the notice of objection or appeal.

The taxpayer shall be informed of the decision of the ATDR panel within six months of the date that the case was referred to the ATDR panel.

Other than the Mur 5 million eligibility threshold, there is no set maximum on the number of claims that can be settled through the ATDR panel in Mauritius. The taxpayer may choose to proceed with their objection or appeal (as the case may be) in light of the ATDR panel's decision not being legally binding.

Alternatively, a taxpayer can consider the mediation route. In an effort to promote mutual agreements, the tax laws of Mauritius have recently included the mediation of tax disputes. The ARC Chairperson and the parties' consent are required before a case is referred for mediation.

In a tax mediation, the parties work together to resolve the conflict with the support of the ARC Chairperson or Vice-Chairperson acting as mediator, usually in the course of a single sitting. In the event that a settlement is reached, it will address all issues in contention as well as the conditions of the tax liability settlement. The settlement agreement, which must be signed by both parties in front of the mediator and submitted to the ARC, is final and binding on them. After that, the statements will be removed. In the event that no consensus is reached, the representations will be heard by the Chairperson or Vice-Chairperson of the ARC.

Taxpayer representations must have been filed at the ARC in order to be eligible for mediation. There is no time limit or restriction on the kind or value of claims under Mauritius tax law when it comes to the mediation process.

Any settlement that is reached will be final, enforceable against both parties, and not subject to appeal. The Chairperson or Vice-Chairperson of the ARC will be the sole mediator working with the parties. The statutory authority to establish guidelines for the mediation meeting's behaviour belongs to the chairperson. The foundation of mediation "decisions" on strict law is not required by statute. The terms of a settlement agreement will not be regarded as legally binding in subsequent cases.

3.1.4. *Other*

The relevant dispute resolution mechanism has been covered in the above sections.

3.2. International dispute resolution mechanisms

3.2.1. *Mutual Agreement Procedure under tax treaties*

Article 25, Mutual Agreement Procedure ("MAP"), is included in tax treaties signed by Mauritius. Generally speaking, the MAP mechanism established by the applicable double tax treaty is used to resolve cases of double taxation; however, there have been a few instances in which taxpayers involved in litigation with the MRA have invoked the MAP. Generally speaking, taxpayers find it challenging to use domestic litigation to obtain relief from double taxation unless specific domestic legislation allows for it, such as when claiming credit for foreign tax paid. The modality has been covered in the above sections.

3.2.2. *Arbitration in tax treaties*

Arbitration in tax treaties is included in Mauritius, however, the same is yet to be invoked in disputes. Given the rapidly evolving trend of tax litigation in Mauritius, it is currently difficult to anticipate how the MRA will apply those amendments in practice.

3.2.3. *Alternative or Supplementary dispute resolution mechanisms applied under tax treaties*

Mauritius has specific and general anti-avoidance provisions under certain revenue laws (including the Income Tax Act and the Value Added Tax Act). There is limited jurisprudence on those provisions generally, and even less so in relation to cross-border situations covered by bilateral tax treaties.

The existence of bilateral tax treaties has not prevented the MRA from applying GAAR provisions.

3.2.4. *Dispute resolution under EU tax law*

This section is not relevant for Mauritius as we are a non-EU jurisdiction.

3.2.5. *Any other dispute resolution procedure as may be applied under international investment agreements.*

The relevant dispute resolution mechanism has been covered in the above sections.

Part Four: Other mechanisms and features which may trigger disputes

4.1. Mechanisms used by Tax Authorities

4.1.1. Risk assessment

Numerous mechanisms and automated “Control-checks” are put in place by the MRA in a view to target high-risk taxpayers more efficiently.

The MRA has a general system whereby assessments are triggered on companies based on an automated selection based on the turnover of companies, starting from small and medium enterprises to large companies.

Some general self-declaration questions, in the form of a series of basic questions, are included in the corporate tax returns such as confirmation of whether transactions are at arm’s length, or whether the taxpayer has any doubt in interpreting sections of the laws applicable in the returns.

Control-Checks are internal processes carried out by the MRA. One example could be the comparison between the turnover declared in the VAT returns and corporate tax returns. Major discrepancies are flagged and could trigger an investigation. For individuals,

it is a requirement for individuals owning assets of more than Mur 50 million to make a declaration in terms of a Statement of Assets and Liabilities on an annual basis.

In addition to the above measures, the MRA works in collaboration with banking institutions, the Financial Services Commission (“FSC”), the Financial Intelligence Unit (“FIU”) and others in a view of detecting any unusual cash transaction hence triggering a tax investigation.

4.1.2. Audit manuals and other compliance training

The MRA also have a specific department dealing with complaints from the public which may end up in a full investigation/ tax audit.

Moreover, the system of the MRA also monitors for the rate of compliance in respect of monthly, or quarterly, or annual returns. Major inconsistencies could usually lead to tax audits.

4.1.3. Cross-functional consultations and progress reporting

Forming part of the Inclusive Framework, Mauritius usually sought training whenever required on specific issues. One example is Transfer Pricing, whereby MRA officers were sent on training and consultations were sought from OECD consultants in relation to transfer pricing.

Whenever required during a dispute process, the MRA, as the case may be, request a professional opinion on the possible outcome. This is usually done by the Attorney General or with external tax advisors.

4.1.4. Other

The procedures are specified in the above sections.

4.2. Mechanisms used by taxpayers

4.2.1. Risk mitigation structures

The risk mitigation process from a taxpayer perspective is more tedious and costly. This includes conducting tax health checks on the tax years open for assessment. Usually, the health check is done by tax advisors rather than authority. Therefore, the health check is also a result and based on the interpretation of the law from their perspective. This may represent a risk as there may be a difference of opinion, hence leading to potential tax liability.

Tax health checks could also include a review of the process involved in data collection and calculation of tax. This can also be noted during an internal audit process.

Moreover, it is a common practice in the industry whereby taxpayer seeks professional tax advice from a tax advisor before structuring investments. This is usually in the form of written advice and involves examination of the tax implications of a structure.

Another common way includes seeking an advance tax ruling. This method includes seeking MRA's opinion on a technical issue for the purpose of certainty. This is debatably a safer way of proceeding.

4.2.2. Public reporting requirements

There are a number of reporting requirements applicable in Mauritius in a view to avoid any disputes with the tax authority. This includes the Country-by Country Reporting and Foreign Account Tax Compliance Act ("FATCA") and Common Reporting Standard ("CRS"), where relevant. The conditions for each of the reporting requirements is prescribed and not all companies qualify under the same.

4.2.3. Other

The mechanism is covered in the above sections.

4.3. Features which may trigger disputes

There are often circumstances, triggered by the taxpayer, which can end up in disputes. These include a claim for a refund or a request for a No Objection Certificate ("NOC"). A claim for refund is made by a taxpayer where excess tax has been paid in the relevant year of assessment. The MRA usually proceed with a high-level investigation process relating to the refund before disbursing the amount. In case they have a suspicion, this can lead to a full tax investigation. The NOC is a certificate usually required when the company is planning to wind up. The request is made to the MRA, following which, it is usual practice to start an investigation.



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