

Key Facts Foundations

Mauritius's Foundations Act 2012 ("the Foundations Act") added Foundations to the list of attractive wealth management structures offered by the jurisdiction, well-known for its stable economic and political environment and flexible business regime.

Foundations generally combine features of both a trust and a company. A foundation has legal personality (and can therefore sue and be sued). Foundations are established to reflect the wishes of the Founder(s), who may be an individual or a legal entity, and they can be set up to achieve both charitable and non-charitable objectives. They may be used for wealth management, succession and inheritance planning, and general asset-holding purposes, including holding shares in an underlying company. They are also used for owning private trust companies (often in the case of families whose members and business interests are located in both civil and common law jurisdictions).

Key Features

- Has a legal personality upon registration
- Must have a Foundation Secretary in Mauritius, which must be a management company or an individual licensed and authorised by the Financial Services Commission
- Migration from or to another jurisdiction is possible
- Existence is perpetual until formal dissolution
- Management is determined by the Foundation Charter and Foundation Council, which must have one member ordinarily resident in Mauritius
- Must keep accounting records at its registered office

- May apply for a Global Business Corporation (GBC) licence (in doing so it will need to comply with the requirements of the GBC, such as filing of audited accounts and two resident council members)
- Provides for the office of the Protector or committee of Protectors
- May have one or more beneficiaries or class of beneficiaries, who may benefit from distribution from the Foundation property
- May be created inter-vivos or by will

Advantages

- The Founder may be a council member
- Management flexibility through the Foundation Charter and Council
- A robust vehicle for inheritance planning
- Holding of assets can be passed from one generation to the next
- Can be used to hold a variety of assets such as real estate, and tangible and intangible assets such as copyrights and other intellectual property
- Can be used to undertake any business/activity in or outside Mauritius

Taxation

Tax efficiency is a prominent characteristic of a Foundation.

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The Mauritius Income Tax Act 1995 makes a clear distinction between a resident Foundation and a non-resident Foundation. A Foundation is non-resident if the Founder and all the beneficiaries appointed under the terms of the charter or by the will are non-resident of Mauritius throughout an income year.

A non-resident Foundation is exempt from taxation in Mauritius, similarly to a Charitable Foundation which has been duly authorised as such by the Mauritius Revenue Authority (MRA).

In order to benefit from this exemption, a non-resident Foundation must file with the Director General of the MRA a declaration of non-residence within three months of its income year.

Moreover, any distribution to a beneficiary of a Foundation shall be considered to be a dividend to the beneficiary.

In addition, a Foundation may apply to the Financial Services Commission for a GBC licence and may elect to be tax resident in Mauritius. The taxation rules for GBC licence companies will apply to the Foundation at this point.

How We Can Help

- Advisory services on the use and structuring of a Mauritius Foundation
- Assistance with establishment/registration and annual maintenance/day-to-day secretarial and administration services
- Provision of Foundation Charter in compliance with the Foundations Act
- Maintenance of register of Council members and other statutory records
- Provision of Foundation Secretary

- Provision of resident council members to act on the Foundation Council
- Provision of accounting and bank account opening services

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