

KEY FACTS FOUNDATIONS

THE FOUNDATIONS ACT 2012 (THE “FOUNDATIONS ACT”) ADDED FOUNDATIONS TO THE LIST OF ATTRACTIVE WEALTH MANAGEMENT STRUCTURES OFFERED BY MAURITIUS, WHICH IS WELL-KNOWN FOR ITS STABLE ECONOMIC AND POLITICAL ENVIRONMENT AND FLEXIBLE BUSINESS REGIME.

A foundation is a hybrid between a trust and a company. It has the option of having a separate legal personality and holding assets in its own name. 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/commercial objectives. They may be used for wealth management, succession and inheritance planning, and general asset-holding purposes, including holding shares in underlying companies. Foundations are popular for clients from civil law jurisdictions.

Provided that all the documents provided are in order, a foundation can be set up within three to five business days assuming that it does not apply for a Global Business License.

KEY FEATURES

- > Has the option of having a legal personality upon registration, at which time it will be issued a certificate of registration by the Registrar
- > The name of a Foundation registered in Mauritius must end with the word “Foundation” (or equivalent in foreign language)
- > Must have a Secretary in Mauritius that can be either a management company (like Trident Trust) or an individual licensed and authorised by the Financial Services Commission (FSC)
- > Must have a registered office in Mauritius
- > Must have at least one council member resident in Mauritius (subject to certain conditions); however, there’s no restriction on the number of council members
- > Migration from or to another jurisdiction is possible
- > Duration has no time limitation until formal dissolution
- > Must keep accounting records at its registered office
- > Not regulated by the Mauritius FSC if it does not hold a Global Business Licence (GBL)
- > The records maintained at the Registrar of Foundations are not publicly available; confidentiality is therefore maintained
- > May apply for a GBL; in doing so it will need to comply with the requirements of the GBL, such as filing of audited accounts and having 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 distributions from the foundation property
- > May be created inter vivos or by a will

ADVANTAGES

- > The founder may be a council member and a beneficiary
- > 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 of Mauritius

TAXATION

- > Tax efficiency is a prominent characteristic
- > Charitable foundations that are not tax resident in Mauritius and resident charitable foundations approved by the Mauritius Revenue Authority (MRA) are exempt from tax in Mauritius
- > A foundation established prior to 30 June 2021 shall be deemed to be tax resident in Mauritius up to its year of assessment 2024/2025 if:
 - > the founder is resident in Mauritius; and
 - > a majority of beneficiaries appointed under the terms of the charter or will are resident in Mauritius
- > Foundations that are resident in Mauritius (excluding resident charitable foundations approved by the MRA) will be subject to tax on their worldwide income
- > A foundation established as from 1 July 2021 shall be deemed non-resident in Mauritius if its central management and control takes place outside of Mauritius. The determining conditions for a foundation to be considered to have its central management and control outside of Mauritius include:
 - > the founder is not resident in Mauritius; and
 - > a majority of beneficiaries appointed under the terms of the charter or will are not resident in Mauritius
- > A foundation that throughout an income year is non-resident, shall be liable for tax solely on its Mauritian sourced income (if any); no tax will be applicable on foreign-sourced income for non-resident foundations
- > Both resident and non-resident foundations are required to submit an annual income tax return to the Mauritius Revenue Authority six month after its financial year end.
- > Any distribution to a beneficiary of a foundation shall be considered a dividend to the beneficiary
- > A resident foundation has the option to apply to the FSC for a GBL; the rules for GBL companies will apply to the foundation from the time of application

HOW TRIDENT CAN HELP

- > Assistance with structuring, establishment, registration and annual maintenance, and day-to-day secretarial and administrative services
- > Provision of a standard foundation charter in compliance with the Foundations Act
- > Maintenance of register of council members and other statutory records
- > Provision of foundation secretary
- > Provision of registered office
- > Provision of resident council members to act on the foundation council
- > Provision of accounting and bank-account-opening services

- ▶ PEOPLE LED
- ▶ TECH ENABLED
- ▶ GLOBAL COVERAGE
- ▶ TAILORED SERVICE

- ▶ 1,100 STAFF
- ▶ 25 JURISDICTIONS
- ▶ 47,000 ENTITIES
- ▶ \$177BN AUA

- ▶ FUNDS
- ▶ PRIVATE CLIENTS
- ▶ CORPORATE CLIENTS
- ▶ MARITIME

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