

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 a separate legal personality and can hold 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 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.

Key Features

- Has a legal personality upon registration
- Must have a secretary in Mauritius that can be either a management company 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; 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 and not subject to OECD BEPS substance criteria or audit requirement
- The records maintained at the Registrar of Foundations are not publicly available; confidentiality is therefore maintained
- May apply for a Global Business Licence (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

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- 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 are exempt from tax in Mauritius
- A foundation shall be deemed to be tax resident in Mauritius 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 will be subject to tax on their worldwide income
- A foundation 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

- Any distribution to a beneficiary of a foundation shall be considered a dividend to the beneficiary
- A foundation may apply to the FSC for a GBL and may elect to be tax resident in Mauritius; the taxation rules for GBL companies will apply to the foundation from the time of application

How Trident Can Help

- Advisory services on the use and structuring of a Mauritius foundation
- Assistance with establishment, registration and annual maintenance, and day-to-day secretarial and administrative 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 registered office
- Provision of resident council members to act on the foundation council
- Provision of accounting and bank-account-opening services

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