Government Notice No. 117 of 2011

THE INCOME TAX ACT

Regulations made by the Minister under section 76 of the Income Tax Act

1. These regulations may be cited as the Double Taxation Convention (United Kingdom) (Amendment) Regulations 2011.

2. In these regulations –
   “principal regulations” means the Double Taxation Convention (United Kingdom) Regulations 1981;
   “Protocol” means the Protocol between the Government of the Republic of Mauritius and the Government of the United Kingdom of Great Britain and Northern Ireland, signed at Port Louis on 10 January 2011, and set out in the Schedule to these regulations.

3. Regulation 2 of the principal regulations is amended by deleting the words “and set out in the First Schedule as amended by the Protocols set out in the Second and Third Schedules to these regulations” and replacing them by the words “and set out in the First Schedule as amended by the Protocols set out in the Second, Third and Fourth Schedules to these regulations”.

4. The principal regulations are amended by adding, immediately after the Third Schedule, the Schedule to these regulations.

5. The Protocol shall come into operation on such date as specified by the Minister in a notice published in the Government Gazette.

Made by the Minister on 12 May 2011.
SCHEDULE
[Regulation 4]

FOURTH SCHEDULE
[Regulation 2]


The Government of the Republic of Mauritius and the Government of the United Kingdom of Great Britain and Northern Ireland;

Desiring to conclude a further Protocol to amend the Convention between the Contracting Governments for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains, signed at London on 11 February 1981, as amended by the Protocols signed at Port Louis on 23 October 1986 and 27 March 2003 (hereinafter referred to as "the Convention");

Have agreed as follows:

ARTICLE 1

Article 28 of the Convention shall be deleted and replaced by the following:

"Article 28

Exchange of Information

(1) The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or
enforcement of the domestic laws of the Contracting States concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention, in particular, to prevent fraud and to facilitate the administration of statutory provisions against tax avoidance. The exchange of information is not restricted by Articles 1 and 2.

(2) Any information received under paragraph (1) of this Article by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to, the taxes referred to in paragraph (1) of this Article, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

(3) In no case shall the provisions of paragraphs (1) and (2) of this Article be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
(c) to supply information which would disclose any trade, business, industrial, commercial, or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

(4) If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph (3) of this Article but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

(5) In no case shall the provisions of paragraph (3) of this Article be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.”

Article 2

The Governments of the Contracting States shall notify one another, through diplomatic channels, of the completion of the procedures required by their laws for the bringing into force of this Protocol. This Protocol shall enter into force on the date of the later of these notifications and shall have effect from that date.

Article 3

This Protocol shall remain in force as long as the Convention remains in force.
In witness whereof the undersigned, duly authorized thereto by their respective Governments, have signed this Protocol.

Done in duplicate at Port Louis this 10th day of January 2011.

**Hon. Pravind Kumar JUGNAUTH**  
*Vice-Prime Minister, Minister of Finance and Economic Development*

For the Government of the Republic of Mauritius

**H. E. Nick LEAKE**  
*High Commissioner*

For the Government of the United Kingdom of Great Britain and Northern Ireland