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**Standard Operating Procedures
(SOP)
For
Compliance Departments**

December 2012

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INTRODUCTION

1. Mauritius has a self assessment system whereby the taxpayer has to compute his tax liability, submit his return and pay the tax accordingly. The role of the compliance departments is to verify the accuracy of the returns and to ensure that everybody pays his fair share of tax.

2. These Standard Operating Procedures (SOP) relate to the functions carried out in relation to income tax, VAT and gaming taxes by the three compliance departments of the MRA, namely:
 - (a) The Large Taxpayers Department (LTD);
 - (b) The Medium & Small Taxpayers Department (MSTD); and
 - (c) The Fiscal Investigations Department (FID)

3. The aim of this document is to provide to all stakeholders an insight into the various procedures put in place at the MRA to ensure that taxpayers comply with their fiscal obligations. It also highlights the rights of taxpayers as provided in the revenue laws i.e. the Income Tax Act, the VAT Act and the Gambling Regulatory Authority Act (GRA Act).

CHAPTER 1

FUNCTIONS OF COMPLIANCE DEPARTMENTS

1.1 THE LARGE TAXPAYERS DEPARTMENT (LTD) DEALS WITH -

- (a) Examination & Audit
- (b) Objection
- (c) Appeal
- (d) Repayment of VAT
- (e) Refund of tax deducted at source relating to companies with turnover exceeding Rs100 million (known as large taxpayers)
- (f) Issue of Tax Residence Certificates (TRC) to companies
- (g) Exchange of information with countries with which Mauritius has concluded a Double Taxation Agreement.
- (h) Queries relating to International Taxation issues.

1.2 THE MEDIUM & SMALL TAXPAYERS DEPARTMENT (MSTD) DEALS WITH -

- (a) Examination & Audit
- (b) Objection
- (c) Appeal
- (d) Repayment of VAT
- (e) Refund of tax deducted at Source
- (f) PAYE refunds
- (g) Queries on Income Tax and VAT issues
- (h) Approval of charitable institutions, superannuation funds and medical schemes for income tax purposes
- (i) Processing applications for rulings
- (j) Issue of Tax Clearance Certificates (TCC) to companies
- (k) Other matters relating to individuals, sociétés/successions and all other companies.

1.3 THE FISCAL INVESTIGATIONS DEPARTMENT (FID) DEALS WITH -

- (a) Investigation in cases of tax fraud and evasion, and in particular, cases where there are suspicions of--
 - (i) concealment of income;
 - (ii) suppression of receipts and fraudulent deductions;
 - (iii) falsification of documents or other attempts to deliberately disguise the nature of a transaction;
 - (iv) collusion between taxpayers;
 - (v) tax evasion involving among others prominent members of society, government officials and officers of other law enforcing agencies;
- (b) Objection
- (c) Appeal
- (d) Prosecution

CHAPTER 2

EXAMINATION & AUDIT

2.1 DESK AUDIT

- (a) Once a case is selected for examination, the MRA may request a taxpayer or a third party to provide in writing information which it considers necessary or relevant for the purpose of ascertaining compliance with revenue laws.
- (b) Except for banks which are required to submit information relating to interest, every other person has an obligation to provide information that may be demanded of him by the MRA and pertaining to himself or to any other person.
- (c) Request for information and other particulars usually relates to in-date years -
 - i.e. request should be made within -
 - a period of 4 years of assessment preceding the year of assessment in which the request is made for income tax
 - a period of 5 years immediately following the last date of the taxable period in which any related transactions took place for VAT and taxes falling under the GRA Act
- (d) Reasons shall be provided by the MRA where request is made for information relating to a period beyond, as provided by law.
- (e) The taxpayer may make representations to the Assessment Review Committee (ARC), if he is aggrieved by the decision of the MRA to request information outside the statutory time limit.

2.2 INTERVIEWS

- (a) An interview is an important feature of the examination process.
- (b) A written notice may in some cases be served under Section 15(f) of the MRA Act to any person who has to be interviewed in connection with the examination of his return.
- (c) The taxpayer may be accompanied by his authorised representative.
- (d) Interviews are conducted so as -
 - (i) To have an insight into the operation of the business;

- (ii) To discuss with and enable taxpayer to provide clarifications, explanations and any documentary evidence in support thereof.;
- (iii) To inform taxpayer:-
 - (A) about decisions reached by MRA and any adjustments to be made under the respective revenue laws ;and
 - (B) about the basis on which assessments will be raised.

2.3 FIELD AUDIT

- (a) Prior to a field audit, the taxpayer is usually given written notice and informed in advance of the documents and records needed for the purposes of examination.
- (b) Any officer carrying out a field audit should present his MRA ID Card.
- (c) Field audit is carried out by the officer examining the case so as to ascertain compliance with revenue laws. This exercise includes the following activities
 - (i) ascertaining the accounting system
 - (ii) assessing the internal control system
 - (iii) carrying out any additional controls deemed necessary including the following-
 - Stock-count
 - Mark up exercise
 - Cash count
 - Examination of banking transactions
 - Cash and bank reconciliation
 - Examination of manufacturing records
 - Examination of transactions between related parties
 - (iv) examination of the books, records and documents;
 - (v) obtaining relevant information from all electronic storage media with the assistance of representatives of the taxpayer;
 - (vi) interviewing and taking statements from the taxpayer and relevant persons;
 - (vii) providing reasonable time to the taxpayer to collate documents, records and papers to assist in the examination;

- (viii) Taking possession of relevant documents. If photocopies of documents are taken, they need to be certified by the taxpayer.

2.4 POST AUDIT

Following the audit, the taxpayer is informed of any discrepancies in the accounts and weaknesses noted in the accounting system and invited to submit his comments, supported by evidence, if need be.

If no discrepancies are noted in the accounts or all satisfactory explanations are provided in respect of discrepancies identified during the audit not warranting any adjustments to net income or tax declared, the taxpayer should be informed that the examination of the case has been closed.

2.5 ASSESSMENT

(a) Under the Income Tax Act

An assessment is raised where the MRA -

- (i) is not satisfied with the return submitted by a person, (e.g. in case no satisfactory explanations have been provided in respect of discrepancies noted following the examination of the accounts or a field audit) or with the adequacy or correctness of the records kept by the person; or
- (ii) has reason to believe that a person who has not submitted a return of income has tax to pay.

Where a taxpayer persistently fails to comply with a request, the MRA may make a best of judgment assessment upon him on the basis of information already in the possession of the MRA.

(b) Under the VAT Act

An assessment may be made -

- (i) where a person:-
 - (A) fails to submit a VAT return/statement;
 - (B) fails to keep proper records;
 - (C) fails to produce information, books and records required by the MRA;
 - (D) fails to apply for registration in spite of his being a taxable person;
 - (E) benefits from an erroneous repayment;
 - (F) fails to remit to the MRA any VAT charged on any supply made by him.
- (ii) where the MRA is not satisfied with the return or statement submitted or with the adequacy or correctness of the records kept.

(c) Under the GRA Act

An assessment is made where the MRA is of the opinion that a licensee has not paid any tax by reason of -

- (i) his failure or delay to submit a return;
- (ii) the incorrectness or inadequacy of his return;
- (iii) his failure to keep proper books, records, accounts or documents;
- (iv) the incorrectness or inadequacy of books, records, accounts or documents or

2.6 TIME LIMIT TO MAKE AN ASSESSMENT

(a) INCOME TAX

An assessment will not be made in respect of a period beyond 4 years of assessment proceeding the year of assessment in which a return is made.

(b) VAT

An assessment will not be made after 5 years immediately following the last day of the taxable period in which the liability to pay VAT arose.

(c) GAMING TAXES

An assessment will not be made after 5 years immediately following the last day of the period in which the liability to pay duty the tax arose.

2.7 CIRCUMSTANCES IN WHICH AN ASSESSMENT MAY BE MADE OUTSIDE THE STATUTORY TIME LIMIT

In spite of the time limit imposed by law to make an assessment (as stated in paragraph 2.6), an assessment may still be made outside that time limit under the following circumstances -

(a) INCOME TAX

- (i) where the taxpayer is suspected to have tax to pay, but has not made a return of income; or
- (ii) where the taxpayer is suspected not to have paid the correct amount of tax for a particular year due to his being involved in fraud, evasion or willful neglect.

(b) VAT

where the taxpayer is suspected not to have paid the correct amount of tax for a particular taxable period due to his being involved in fraud, evasion or willful neglect.

(c) GAMING TAXES

- (i) where the taxpayer is suspected to have tax to pay, but has not made a return of income; or
- (ii) where the taxpayer is suspected not to have paid the correct amount of tax for a particular year due to his being involved in fraud, evasion or willful neglect.

2.8 DUE DATE FOR PAYMENT OF TAX CLAIMED IN THE NOTICE OF ASSESSMENT

In case the taxpayer does not dispute the amount of tax claimed in a Notice of Assessment, he should effect payment of the tax within 28 days of the date of the notice.

The due date for payment of tax is clearly indicated in the Notice of Assessment sent to the taxpayer.

2.9 PENALTY AND INTEREST FOR NON-COMPLIANCE

The revenue laws provide for the payment of penalty and interest for non-compliance with any of the fiscal obligations imposed under those laws. The various provisions are given in the Annex.

Where tax claimed in a Notice of Assessment is not paid by the due date, the taxpayer is liable to pay a penalty of 5% of the amount of the tax.

In addition the taxpayer is required to pay interest at the rate of 1% per month or part of the month during which the tax remains unpaid.

The penalty and interest apply to income tax, VAT and gaming taxes.

The revenue laws also give power to the Director-General of the MRA to waive the whole or part of any penalty or interest imposed under the relevant law where he is satisfied that failure to comply with the law was attributable to a just or reasonable cause.

An application for the waiving of penalty or interest should clearly spell out the reasons/s why the taxpayer was unable to comply with the law. The Director General will approve the application only if he is satisfied that failure to comply with the law was due to a just or reasonable cause.

CHAPTER 3

FISCAL INVESTIGATIONS

3.1 FISCAL INVESTIGATIONS ARE CARRIED OUT BY VIRTUE OF SECTION 15 OF THE MRA ACT.

Where a fiscal investigation is carried out, officers assigned to the Investigation may, at any reasonable time, enter any premises where the business of the entity being investigated is carried out.

During the visit, the investigating officers have to -

- introduce themselves and show the MRA Identification Card;
- explain the purpose of the visit and the legal provisions under which they are acting;
- inform the taxpayer of the scope and period of investigation and the information, documents and records needed for the purposes of investigation;
- outline the rights and responsibilities of taxpayer.

The officers are entitled to-

- Make a tour of the business premises
- Examine books
- Interview persons on the premises
- Obtain relevant documents
- Access computer records
- Take possession of the records they consider necessary for the purpose of the investigation.

Before taking possession of records and documents, officers have to provide reasonable time to the person being visited to collate them and provide acknowledgement of receipt of same.

3.2 **REQUEST FOR INFORMATION/INTERVIEW**

In the course of the investigation, the person being investigated may also be requested to provide information in writing and call at office for the purpose of giving further clarification.

3.3 **CONCLUSION OF INVESTIGATION**

Where an investigation reveals that tax has been under-declared, the investigation will be concluded as follows -

- (a) where no offence of tax fraud or evasion through wilful neglect under the revenue laws is suspected but tax underpaid (excluding penalty) does not exceed Rs2,000,000 or 50% of the total tax (declared + additional), whichever is the higher, for the period investigated, by raising assessments;
- (b) where an offence of tax fraud or evasion through wilful neglect is suspected or where other tax offences are suspected under the revenue laws and the tax underpaid (excluding penalty) exceeds Rs2,000,000 or 50% of the total tax (declared + additional), whichever is the higher, by accepting a pecuniary settlement in lieu of prosecution, in case taxpayer makes an offer to have the offence compounded;
- (c) where any offence is suspected under the revenue laws but the taxpayer makes no offer for compounding or where the Compounding Committee refuses to compound the offence, by raising assessments and referring the case for prosecution.

CHAPTER 4

OBJECTION AGAINST ASSESSMENT

4.1 GENERAL

In case the taxpayer does not agree to the tax payable he may, within 28 days of the date of the Notice of Assessment, object to the assessment by letter sent to the MRA.

The taxpayer may also object against -

- (a) the quantum of losses available for set-off or carried forward (*for income tax*); or
- (b) the excess amount of input tax to be carried forward (for VAT), as determined by the MRA.

4.2 VALIDITY OF OBJECTION

An objection is valid if-

- (a) the objection is made within the statutory delay of 28 days;
- (b) the grounds of objection are clearly stated in the letter of objection;
- (c) the return for the relevant year of assessment has been submitted to the MRA;
- (d) tax specified in the relevant return or statement has been duly paid; and
- (e) 30% of the tax assessed has been paid, as required by the law.

Regarding the requirement to pay 30% of the tax assessed at the time of lodging an objection, the taxpayer may give security by way of bank guarantee if he satisfies the MRA that he is unable to pay the 30% in cash. There is also no need to pay the 30% where the taxpayer objects exclusively to the amount of income assessed as emoluments or to the amount of personal reliefs and deductions allowed in the Notice of Assessment pertaining to income tax.

4.3 LATE OBJECTION

In case a person lodges an objection outside the delay of 28 days, the law allows the MRA to consider the objection as valid on condition that the person proves to the satisfaction of the MRA that he was unable to object in time because of illness or other reasonable cause.

Where the MRA refuses to allow a late objection, the taxpayer should be given a notice of refusal within 28 days of the date of the receipt of the letter of objection.

4.4 BANK GUARANTEE

Where the taxpayer proposes to furnish a bank guarantee in lieu of payment of 30%, he should prove to the satisfaction of the MRA that he is unable to pay the 30% on reasonable grounds - e.g. where he is facing financial constraint.

The bank guarantee should be in a form approved by the MRA.

Where a bank guarantee is furnished, the taxpayer should undertake to effect the cash payment within two months as from the date tax was payable under the assessment, failing which the bank guarantee is enforced.

In exceptional cases where the taxpayer cannot effect payment, the bank guarantee may be renewed with the prior approval of the MRA.

4.5 DETERMINATION OF OBJECTION

An objection is dealt with independently by an objection unit. The officer who has raised the assessment is in no way involved in the handling of the objection.

For the purposes of considering an objection and reviewing an assessment, the MRA may require a person to submit information and documents within a specified time.

After dealing with the objection, the assessment may be maintained, revised to a lower amount or even revised to nil.

Where a taxpayer fails to furnish information and documents as requested, the assessment is maintained.

The reasons justifying any decision should be given by the MRA.

When an objection is finalised, a Notice of determination of objection is issued to the taxpayer by the MRA.

Any tax payable specified in the notice of determination together with penalty / interest should be paid within 28 days of the date of determination.

The penalty and interest shall be calculated as from the date on which the additional tax was due until the date of payment.

The objection should be determined within 4 months as from the date it was lodged, otherwise the objection is deemed to have been allowed by MRA.

Additional interest accrues if payment is not made by the due date, as specified in the notice of determination.

If the taxpayer is aggrieved by the determination, he may, within 28 days of the date of the notice of determination lodge written representations with the Secretary, Assessment Review Committee.

4.6 REFUND OF 30% DEPOSIT

Where the objection is upheld in whole or in part, any amount of tax paid in excess of the amount determined to be properly payable should be refunded together with interest at the prevailing Bank rate from the date the payment was received by the MRA to the date it is refunded.

Where, on determination of an objection, the full amount or part of the 30% deposit paid at the time of lodging the objection has to be refunded to the taxpayer, any arrears of tax due by the taxpayer (whether for the same type of tax or not) is set-off against the tax overpaid and any balance overpaid is repaid with interest at the prevailing Bank rate from the date the 30% payment was made to the date the set-off or refund is effected.

CHAPTER 5

APPEAL

5.1 REPRESENTATIONS TO THE ASSESSMENT REVIEW COMMITTEE (ARC)

Any person who is aggrieved by a decision, determination, notice or claim of the MRA may within 28 days of the date of the decision, determination, notice or claim, as the case may be, lodge with the Clerk to the Assessment Review Committee (ARC), written representations specifying the reasons for asking for a review of the decision, determination, notice or claim, as the case may be.

In relation to income tax, the taxpayer may make representations to the ARC with regard to any of the following issues -

- (a) Decision as to whether an amount is emoluments;
- (b) Request to submit returns in respect of a period beyond the time limit of 4 years;
- (c) Request to furnish information or to produce books and records relating to a period beyond the time limit of 4 years;
- (d) Request to submit bank accounts or deposit details of persons suspected of dealings in dangerous drugs or dangerous weapons;
- (e) Where an objection is deemed to have lapsed or where the MRA refuses to consider an objection;
- (f) Where a taxpayer is dissatisfied with the determination of an assessment or the determination of the amount of losses available for set-off or carry forward.

With regard to VAT, the representations may relate to -

- (a) Decision as to whether or not a supply of goods or services is a taxable supply;
- (b) Decision relating to the registration or cancellation of registration;
- (c) Where an objection is deemed to have lapsed or where the MRA refuses to consider an objection;

- (d) Where taxpayer is dissatisfied with the determination of an assessment;- Under the VAT Act the revision of the amount of excess to be carried forward is considered as an assessment;
- (e) Where a person is notified to pay tax which has been erroneously refunded, exempted or reduced.

5.2 PAYMENT OF TAX UNDER APPEAL AT THE ARC

Where representations have been made at the ARC, the payment of tax determined on objection is suspended. However, interest on any outstanding tax keeps on accruing until payment.

5.3 HEARING OF REPRESENTATIONS

The aggrieved person and the MRA are entitled to take part in the hearing.

A panel may conduct a hearing or part of it in camera where it considers that publicity would prejudice the interests of justice or that it is necessary or expedient to do so for the protection of the privacy of persons concerned in the proceedings.

The ARC is required to give its decision on the representations heard by it not later than 8 weeks after the start of the hearing.

The appellant and the MRA may with the approval of the ARC negotiate and settle the dispute. In such a case, the revised tax computation is filed at the ARC.

After the case is heard, the decision is communicated to the taxpayer and the MRA by the ARC. Any tax outstanding is claimed with interest.

5.4 APPEAL TO SUPREME COURT

Any party who is dissatisfied with the decision of the ARC on a point of law may lodge an appeal with the Supreme Court.

The aggrieved party should, within 21 days of the date of the decision of the ARC, lodge a written application requiring the ARC to state and sign a case for the opinion of the Supreme Court on the grounds specified in the case.

A copy of the appeal should at the same time be forwarded to the other party

5.5 PAYMENT OF TAX UNDER APPEAL AT THE SUPREME COURT

Irrespective of whether or not an appeal is made to the Supreme Court against the determination of the ARC, the tax determined by the ARC should be paid or refunded, as the case may be.

5.6 APPEAL TO THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Where the taxpayer or the MRA is dissatisfied 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.

CHAPTER 6

COMPOUNDING OF OFFENCES & PROSECUTION

6.1 OFFENCES UNDER THE REVENUE ACTS

Various acts or omissions on the part of persons liable to tax constitute offences under the revenue acts. The offences are listed in-

- (a) Part XII of the Income Tax Act
- (b) Part XI of the VAT Act
- (c) Section 148 of the Gambling Regulatory Authority Act

Some of the important offences are listed below-

(i) Income Tax

- Failure to pay amount of PAYE withheld
- Submission of false CPS statement
- Failure to pay income tax deducted at source
- Failure to pay property tax
- Submission of false returns of income or false information
- Production of false books, records or documents

(ii) VAT

- Failure to register for VAT
- Failure to submit VAT return and pay tax
- Failure to keep records or to issue VAT invoice
- Submission of incorrect return or information
- Submission of false return or fabrication of books, records or VAT invoice.
- Submission of false claim for repayment

(iii) GAMING TAXES

- Failure to submit return
- Failure to pay duty and tax
- Failure to produce books and records ▪

Evasion of duty and tax payable

Any person suspected to have committed any of the offences is liable to prosecution under the revenue acts and on conviction, the person is liable to penalty and to imprisonment.

6.2 COMPOUNDING OF OFFENCES

Where an offence has been committed under the revenue laws, the Director-General has the power to accept a pecuniary settlement in lieu of referring the case for prosecution, thereby compounding the offence.

Where a defaulter wishes to have the offence compounded, he has to make a request in writing, offering to pay the tax involved and an appropriate penalty.

The request of the taxpayer is dealt with by the Compounding Committee of the MRA.

After the terms of compounding are approved by the Compounding Committee, an agreement under the appropriate revenue act is made in writing under the hand of the Director-General and the taxpayer and witnessed by an officer. The agreement must also specify the terms and conditions attached for the payment of the tax remaining outstanding.

The agreement is final and conclusive and a copy thereof is delivered to the taxpayer.

6.3. PROSECUTION FOR OFFENCES

Where the MRA establishes that a serious offence has been committed and the offence is not compounded under the appropriate revenue act, the case should be referred for prosecution.

Serious offences include:-

- (a) concealment of income or wilful under declaration of taxable supplies;
- (b) submission of false claims for repayment;
- (c) tampering with / falsifying documents;
- (d) submission of materially false documents during an enquiry;
- (e) continued tax evasion notwithstanding a previous offence which was concluded by the imposition of a penalty following compounding proceeding or a criminal conviction.

CHAPTER 7

VAT REPAYMENT

7.1 PERSONS ELIGIBLE FOR VAT REPAYMENT

A VAT registered person may make a claim for repayment of VAT where -

- (a) He incurs certain capital expenditure in respect of which allowable input tax amounts to Rs100,000 or more;
- (b) He makes zero-rated supplies; or
- (c) His VAT return shows any excess amount, which is unlikely to be set off against subsequent output tax.

7.2 REPAYMENT CLAIM

Capital goods

A claim for repayment may be made when a return is made under section 22 and the excess amount includes input tax amounting to more than Rs100, 000 on buildings, plant, machinery and equipment of a capital nature. The amount to be claimed should be in respect of allowable input tax in respect of those capital goods

Other goods

In addition, a claim may also include that part of the excess amount in respect of other goods, which corresponds to the proportion of the value of zero-rated supplies to the total value of taxable supplies in that taxable period

Persons mainly engaged in making zero-rated supplies

Where a person is mainly engaged in making zero-rated supplies and his return shows an excess amount, he may make a claim for repayment of the whole or part of the excess amount.

Excess amount not likely to be set off

Where a person has an excess amount in his VAT return and that the excess amount is unlikely to be set off against subsequent output tax, he may make a claim:

- (a) for the whole or part of the excess amount to be repaid; or
- (b) for the excess amount to be carried forward onto the return for the following taxable period.

7.3 HOW TO MAKE A REPAYMENT CLAIM

VAT-registered persons filing either electronic or manual returns have to make the claim on the VAT return itself.

Where a claim for repayment is made for a particular taxable period, the amount claimed shall not be carried forward onto the return for the following period.

7.4 TIME LIMIT FOR EFFECTING REPAYMENT

Where the MRA is satisfied with a claim for repayment, the repayment will be made within 45 days of the date of receipt of the claim.

Where the repayment is made after the prescribed time limit, the repayment shall carry interest at the prevailing Bank rate.

A fast track system is adopted to deal expeditiously with repayment claims of companies in the export sector. Repayments of all claims submitted electronically by such companies are effected within 7 days from the date the returns are furnished.

7.5 PENALTY FOR REPAYMENT OF VAT OVERCLAIMED

Where it is found that a person has overclaimed an amount, a penalty representing 20% of the amount overclaimed but not exceeding Rs200,000 is charged to the taxpayer and it becomes payable within 28 days of the date of notification.

Any such penalty may be set off against any amount of tax repayable to the registered person.

Any penalty not exceeding Rs250, will not be claimed.

7.6 REPAYMENT OF VAT

A repayment of VAT paid at importation may be made to a person other than a taxable person, within 3 years of the date of the payment of the tax.

A person claiming a repayment of VAT has to make an application to the MRA in an approved form, where -

- (a) the tax was paid in error;
- (b) the goods are found to be defective and are subsequently exported under customs control; or
- (c) the person subsequently benefits from a duty remission.

The amount to be repaid must not be less than Rs250.

CHAPTER 8

REFUND OF INCOME TAX

8.1 GENERAL

Where, in respect of an income year, an employee whose gross income consists exclusively of emoluments, has under PAYE, suffered tax of an amount in excess of the income tax liability on his chargeable income, he may claim a refund of the tax so paid or suffered or of the excess amount, as the case may be, by submitting a return of income for that income year.

No refund under this section shall be made where the amount claimed does not exceed 25 rupees.

8.2 TIME LIMIT TO EFFECT PAYE REFUND

A refund shall be made within 3 months of the date of submission of the return of income, provided that the claim is supported by all relevant receipts and documents. Where the return is incomplete, the time limit of 3 months will apply as from the date all relevant receipts and documents are submitted to the MRA.

Where the refund is made after 3 months from the date a valid claim has been made, the refund shall carry interest, free of income tax, at the prevailing Bank rate.

8.3 TIME LIMIT TO EFFECT OTHER TAX REFUND

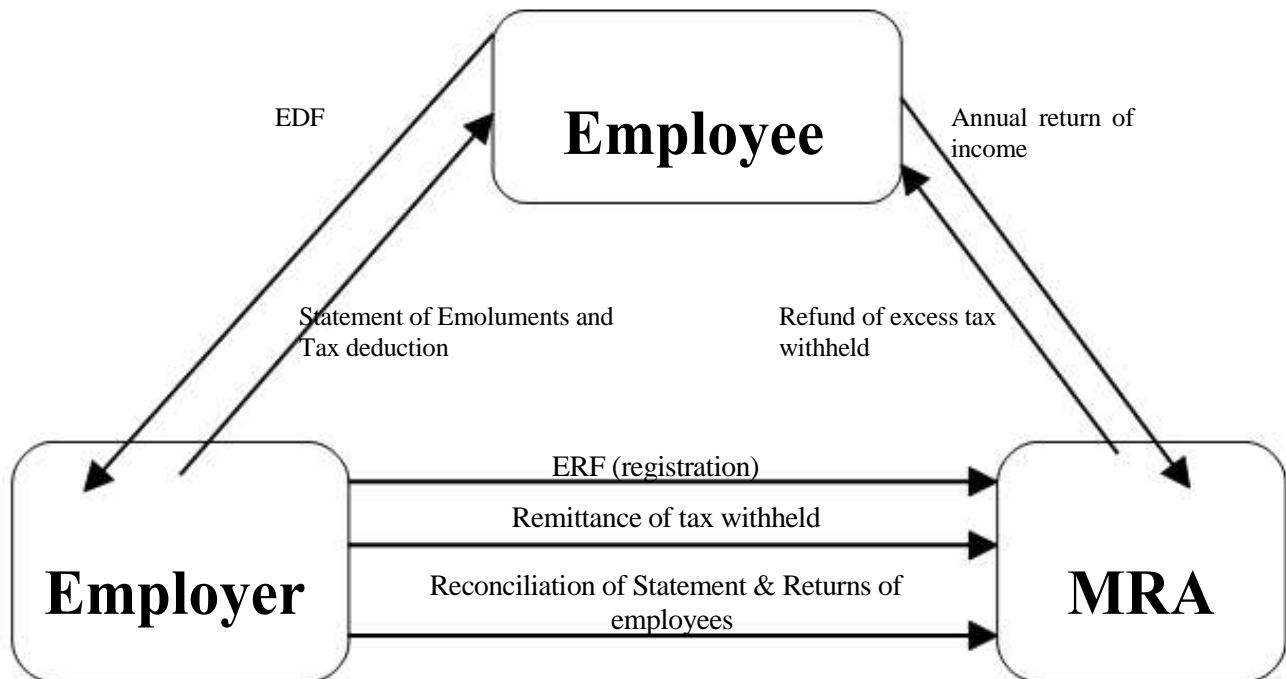
Any person may make a claim to the Director General for a refund of any tax paid in excess within 4 years after the end of the year of assessment in respect of which the tax was overpaid.

CHAPTER 9

PAY AS YOU EARN (PAYE)

9.1 PAYE SYSTEM

The operation of the PAYE system may be illustrated as follows: -



9.2 EMPLOYEE

- Δ At the start of each income year, the employee furnishes to the employer an Employee Declaration Form (EDF) where he claims the Income Exemption Threshold to which he is entitled.
- Δ At any time in the income year, the employee may furnish to the employer a fresh EDF to claim a new Category of Income Exemption Threshold to which he has become entitled.
- Δ Where the employee leaves his employment and takes up another employment he should furnish an EDF to his new employer.
- Δ Where the employee has more than one employer at any one time, he should furnish his EDF to only one of his employers.

△ At the end of the income year, the employee should submit his annual return of income to the MRA by the 31 March. He should provide to the MRA the original of the Statement of Emoluments and Tax Deduction supplied to him by his employer.

He should pay the balance of any tax remaining payable after deducting tax withheld from his emoluments.

Any tax withheld in excess will be refunded by the MRA.

9.3 EMPLOYER

△ Every person who becomes an employer should within 14 days of his becoming an employer, register with the MRA as an employer for PAYE purposes by submitting an Employer Registration form (EDF) duly filled in by him.

△ Where a person ceases to be an employer, he should, within 7 days notify the MRA.

△ The employer should calculate the chargeable income of each employee in respect of each pay period and should withhold tax, if any, from the emoluments of the employee.

△ The employer should remit any tax withheld to the MRA within 20 days from the end of the month in which the tax was withheld. Where the employer remits tax electronically, he has a month to remit the tax to the MRA.

△ The employer incurs a penalty of 5% in case he fails to remit tax withheld to the MRA by the due date.

△ The employer should, not later than 15 February in every year, give to each employee a Statement of Emoluments and Tax Deduction in duplicate.

△ The employer should, not later than 15 February in every year, submit to the MRA a reconciliation statement and a return of employees.

9.4 MRA

Δ After the annual return of the employee is processed to ascertain its correctness and accuracy, the MRA proceeds with PAYE refund.

The law allows the MRA 3 months after the submission of the return of income to effect a refund failing which the MRA will have to pay interest at the prevailing Bank rate

Δ The MRA is not required to make a refund where the amount claimed does not exceed Rs25.

Δ The MRA may carry out a PAYE audit to ensure that the employer operates the PAYE system properly in accordance with the law.

CHAPTER 10

CURRENT PAYMENT SYSTEM (CPS)

10.1 PERSONS COVERED

The Current Payment System (CPS) covers only individuals who derive business and professional income and rental income exceeding a certain amount. The CPS does not cover planters deriving income from the cultivation of sugarcane and from the growing of tobacco leaves.

10.2 STATEMENT OF INCOME

An individual who is covered by the CPS is required to submit a Statement of Income by the due date in respect of each CPS quarter and pay tax accordingly.

10.3 CALCULATION OF TAX

Tax payable in respect of a CPS quarter may be calculated on basis of -

- (a) either 25% of the profit for the previous year, uplifted by 10%; or
- (b) actual profit for the current quarter,

taking also into account 25% of the Income Exemption Threshold to which the taxpayer is entitled.

10.4 RETURN OF INCOME AT END OF YEAR

Any tax paid under the CPS should be taken into account in the annual return of income submitted by the individual.

Any balance of tax payable should be paid to the MRA by the due date while any tax paid in excess under the CPS is refundable to the individual.

10.5 PENALTY AND INTEREST FOR NON-PAYMENT OF TAX

The law provides for a penalty of Rs2000 per month or part of the month for failure to submit a Statement of Income by the due date. The penalty should not exceed Rs6000.

Where the tax is not paid in time, there is an additional penalty of 5% of the amount of tax remaining unpaid.

The taxpayer is also required to pay interest at the rate of 1% per month or part of the month during which the tax remains unpaid.

Further details on the application of penalty and interest are given in Chapter 3.

CHAPTER 11

ADVANCE PAYMENT SYSTEM (APS)

11.1 PERSONS COVERED

The Advance Payment System (APS) covers companies, unit trust schemes, collective investment schemes, certain trusts, non-resident sociétés and taxable sociétés holding a Category I Global Business Licence.

All these persons are hereinafter referred to as “companies” in this chapter.

11.2 APS STATEMENT

Every company is required to submit an APS Statement by the due date in respect of each APS quarter and pay tax accordingly.

11.3 CALCULATION OF TAX

Tax payable in respect of each APS quarter may be calculated on basis of -

- (a) either 25% of the profit for the previous year; or
- (b) actual profit for the current quarter.

Where a company has paid the Alternative Minimum Tax for the previous year, the tax payable for an APS quarter may be -

- (a) either 25% of the tax paid for the previous year; or
- (b) the tax computed on basis of the profit for the current quarter.

11.4 RETURN OF INCOME AT END OF YEAR

Any tax paid under the APS should be taken into account in the annual return of income submitted by the company.

Any balance of tax payable should be paid to the MRA by the due date while any tax paid in excess under the APS is refundable to the company.

11.5 PENALTY AND INTEREST FOR NON-PAYMENT OF APS

Where a company fails to pay tax under the APS by the due date, the company incurs a penalty of 5% of the amount of tax remaining unpaid. In addition, the company is required to pay interest at the rate of 1% per month or part of the month during which the amount of APS remains unpaid.

CHAPTER 12

TAX DEDUCTED AT SOURCE (TDS)

12.1 GENERAL

Under the system of Tax Deduction at Source (TDS), the payer is required to deduct tax at the time the payment is made to or credited to the account of the payee.

The following types of payments are subject to tax deduction at source:

- (a) Interest;
- (b) Royalties;
- (c) Rent;
- (d) Any sum paid to architects, engineers, land surveyors, project managers in construction industry, property valuers and quantity surveyors as consideration for services rendered by them;
- (e) Payments to contractors and sub-contractors.

12.2 WITHHOLDING RATES

The rate of tax deduction at source for different types of payments is:-

Nature of payment	Rate of tax
Interest	15%
Royalties	10%
Rent	5%
Payments to providers of services	3%
Payments to contractors and sub-contractors	0.75%

12.3 INTEREST

The interest payments made to individuals (including minors and joint account holders with other individuals), sociétés and successions and which are subject to tax deduction at source include the following:

- (i) bank interest;
- (ii) interest on deposits issued by non banking institutions;
- (iii) interest on debentures or any other loan instrument;
- (iv) interest on treasury bills and other loan instruments issued by the Bank of Mauritius.

Tax is deducted at source only if the aggregate amount of deposits held by the depositor in a financial institution including its branches exceeds 2,000,000 rupees at any time in an income year.

Interest payments made to the following are not subject to tax deduction at source-

- (a) non-resident individual;
- (b) non-resident société;
- (c) A société holding Category 1 Global Business Licence;
- (d) A société exempt from the payment of Income Tax.

12.4 ROYALTIES

Royalty means payment of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work. Such works would include cinematographic films, any patent, trademark, design or model, plan, secret formula or process.

Royalty would also include payment for information concerning industrial, commercial or scientific experience.

Companies and sociétés other than companies holding a Category 1 Global Business Licence are required to deduct tax at source on royalty payments.

12.5 RENT

Rent means any payment, made for the use of any land or building together with furniture, fittings and the land appurtenant thereto, whether or not such building is owned by the payee.

Rent also includes any premium or other consideration for a lease.

All persons excluding individuals who are making rental payments are required to deduct tax at source

All persons except a body of persons exempt from the payment of Income tax are subject to tax deducted at source.

12.6 PAYMENTS TO CONTRACTORS AND SUB-CONTRACTORS

Types of contracts subject to tax deduction at source are:

- (a) Civil construction work including construction or repair of any building, road or other structure;
- (b) Execution of any works contract ancillary to civil construction or repair;
- (c) Supply of labour for carrying out works in respect of civil construction.

All persons excluding individuals, who make payments to contractors or sub-contractors are required to deduct tax at source.

12.7 PAYMENTS TO PROVIDERS OF SERVICES

All persons excluding individuals are required to deduct tax at source from payments made to providers of services.

Providers of services who are subject to tax deduction at source are architects, engineers, land surveyors, project managers in construction industry, property valuers and quantity surveyors.

12.8 REMITTANCE TO MRA

The tax should be deducted at source by the payer when the amount is paid to, or credited to the account of the payee, whichever is earlier.

In case of interest payments made during the first 15 days of a month, the tax deducted should be remitted to the MRA by the 22nd of the same month.

If payments are made after the 15th day of the month, the tax deducted should be remitted to the MRA by the 7th day of the next month.

In case of other payments subject to TDS, any tax deducted at source should be remitted by the 20th of the next month.

12.9 STATEMENT OF INCOME AND TAX DEDUCTED

The payer should issue a Statement of Income Received in duplicate in respect of the preceding income year, to the payee by 15 February every year showing -

- the total payment made to the payee; and
- the tax deducted therefrom.

The payer is also required to furnish to the MRA by 15 February every year, a Statement of Amount Paid and Tax Deducted giving -

- particulars of the payee,
- the amount made available to the payee; and
- the tax deducted therefrom.

As regards interest payments, the Statement of Income Received is required to be furnished by the payer (financial institution) if the aggregate amount of interest made available to the payee during the year exceeds Rs5,000, irrespective of whether any tax has been deducted or not.

12.10 PENALTY

If the payer fails to deduct tax at source in accordance with the provisions of the Income Tax Act, he is personally liable to pay the said tax to the MRA. However, he is still entitled to recover from the payee, the tax which he failed to deduct.

If the payer fails to pay in time the tax required to be deducted at source, he is personally liable to pay, in addition to the tax, a penalty equal to 5% of the amount of tax remaining unpaid.

If a person fails to pay any tax required to be deducted at source he is also liable to pay interest at the rate of 1% of tax remaining unpaid per month or part of the month during which the tax remains unpaid.

CHAPTER 13

NATIONAL RESIDENTIAL PROPERTY TAX (NRPT)

13.1 GENERAL

The National Residential Property Tax (NRPT) is payable by any person who, at any time during the income year, was the owner of a residential property in Mauritius.

An individual who is resident in Mauritius is liable to NRPT only if his total income exceeds Rs385,000 in an income year.

The total income of an individual who is resident in Mauritius includes the individual's net income (emoluments, business profits, rent, interest income etc.) and any dividends received from companies resident in Mauritius.

An individual resident in Mauritius is liable to NRPT to an amount not exceeding 5% of his total income.

Where both spouses are required to file an income tax return and the total income of each spouse exceeds Rs385,000, the NRPT is payable by both spouses in equal proportion unless they opt for the tax to be paid by one of them in full.

Where the income of one spouse exceeds Rs385,000, the NRPT is payable in full by that spouse.

A property owned by a minor is included in the property of the legal administrator and is subject to NRPT. In case there is no legal administrator, the legal guardian is liable to pay the property tax provided the total income of the minor exceeds Rs385,000 in that income year.

Where a residential property is owned jointly by two or more individuals, each coowner is liable to property tax on his share in the property provided his total income exceeds Rs385,000.

Where a property is acquired by inheritance or legacy and no division-in-kind has been effected among the heirs or legatees, each of the heirs/legatees is taxable on his share of property provided his total income exceeds Rs385,000.

A société owning a residential property is liable to NRPT and should pay the tax when submitting its annual return.

A company, a société or non-resident individual is liable to NRPT irrespective of the level of their income.

A body of persons (e.g. a charitable institution) which is exempt from payment of income tax is not liable to NRPT.

13.2 DEFINITION OF RESIDENTIAL PROPERTY

A residential property means any immovable property including any building, part of a building, apartment, flat, tenement, campement or bungalow, used or available for use as residence. It includes any tourist residence i.e. any premises which offers sleeping accommodation to tourists, with or without meals, for a fee but excludes a hotel or guest house and also any bare land.

13.3 DEFINITION OF OWNER

The owner of a residential property includes:

- (a) the owner of a freehold land and building.
- (b) the owner of a residential property on any leased land;
- (c) the person who receives or, if such residential property were to be let, would be entitled to receive, the rent, whether for his own benefit or that of any other person; or
- (d) where the owner cannot be found or ascertained, the occupier thereof.

13.4 CALCULATION OF NRPT

NRPT is calculated in the case of an apartment, flat or tenement with reference to its floor area as specified in the title deed or contract.

For any other residential property including campement or bungalow, the tax is to be calculated on basis of the surface area of the land.

Any tax paid under the Local Government Act in respect of the property may be deducted from NRPT.

The tax rate is:

- (a) Rs30 per square metre of floor area in case of apartment, flat or tenement and;
- (b) Rs10 per square metre of surface area of land in case of any other residential property. .

In case of a residential property located on a plot of land used for agriculture, the owner is liable to NRPT on the surface area of the land on which stands the building, garage and related structures as well as on the surface area of the backyard, grounds and garden, up to a maximum area of 1A 25 (0.5276 hectare).

Where a building is used both for business and residential purposes or where the residential part is located above the non-residential part, the owner is liable to pay NRPT on the whole surface area of the land.

13.5 CONVERSION TABLE

- △ One Toise is approximately equal to 3.8 square metres.
- △ One Perche is approximately equal to 42.21 square metres.
- △ 10.76 Square feet is approximately equal to 1 square metre

PUBLICATIONS

The MRA has published a number of guides on different taxation topics for the benefit of taxpayers and the general public.

The guides available are -

- Guide on Current Payment System (CPS) ●
- Guide on P.A.Y.E
- Guide on National Residential Property Tax (NRPT) •
- Questions & Answers Tax Deduction at Source (TDS) ●
- VAT Guide
 - VAT Repayment
 - FAQs on APS
- Guide on Income Tax and Employees taking up Employment for the first time ●
- Guide on Starting Business

For any further information or clarifications, the contact details are: -

Taxpayer Education & Communication Department

Tel: **207 6000 or 207 5933**

Hotline: **207 6010**

Fax: **211 8099 or 207 6033**

Email: **headoffice@mra.mu**

Website: **www.mra.mu**

PENALTY PROVISIONS

The penalty chargeable in accordance with the provisions of the legislation is as shown below:-

INCOME TAX

Section of Income Tax Act	Description	Penalty applicable	Effective Date
101	Late payment of Tax by employer	2% of tax (excluding all penalties) per month or part of month during which tax remains unpaid and limited to 100% of tax (excluding penalty)	
		5% of the tax remaining unpaid (excluding interest)	As from Y/A 2007/08
101A	Failure by employer to join electronic system	Rs5,000 per month or part of the month subject to a maximum of Rs50,000	As from Y/A 2007/08
109	Late submission of Statement of Income (CPS)	Rs5,000 per month or part of the month and limited to Rs50,000	
		Rs2,000 per month or part of the month and limited to Rs6,000 per statement of income	As from Y/A 2007/08
110	Late payment of tax under CPS [applicable where- (i) tax <u>declared</u> on CPS has remained unpaid on due date; and (ii) tax on statement is computed in accordance with S107(1)(a) and tax liability for previous years is revised]	25% of amount of tax remaining unpaid	
		5% of the amount of tax remaining unpaid	As from Y/A 2007/08
111 (3)	Where tax paid as per final return exceeds tax paid under CPS submitted in accordance with S107(1)(b) by more than 60% (35% for Y/A 2007/08 onwards)	25%[40% x tax payable - CPS tax declared]	
		25% [65% x tax payable - CPS tax declared]	As from Y/A 2007/08

121	Late submission of return of income	Rs5,000 per month or part of the month and limited to Rs50,000	
		Rs2,000 per month or part of the month and limited to Rs20,000	As from Y/A 2007/08
122	Penalty for late payment of tax	2% of tax (excluding all penalties) per month or part of the month during which the tax remains unpaid limited to 100% of tax (excluding penalties)	
		5% of the amount of tax (excluding penalties and interest)	As from Y/A 2007/08
122C	Failure to submit return of income electronically	20% of tax payable subject to a maximum of Rs100,000 or Rs5000 where there is no tax liability.	22-Aug-07
122D	Interest on unpaid tax	1% in addition to the tax and penalty under S101, 101A, 109, 110, 111, 121, 122 & 122C per month or part of the month during which the tax remains unpaid.	01/07/07 i.r.o Y/A 07/08 onwards
129 (1A)	Assessing penalty	Where an assessment is made, the amount of additional tax claimed, excluding penalty under S109, 110, 111, 121, 122 & 122C and interest under S 122D shall carry a penalty not exceeding 50% and such penalty shall be part of the tax claimed.	01/07/07 i.r.o Y/A 07/08 onwards
133	Non-payment of tax assessed	2% of tax payable under S129 or 131 per month or part of the month during which the tax remains unpaid excluding any penalty under S109, 110, 111 or 121. Penalty under S122 and S133 limited to 100% of tax remaining unpaid under S129 or S 131 (excluding penalty) Repealed. See provisions of new S122D	Up to Y/A 2006/07

VAT

Section of VAT Act	Description	Penalty applicable	Effective Date
15A	Penalty for failure to apply for Compulsory Registration	Rs5000 for every month or part of month up to Rs50,000	01.10.06
24 (9)	Penalty for Repayment overclaimed	20% of amount overclaimed	11.08.00
		Capped at Rs200,000	21.07.03
26	Surcharge / Penalty for Non-Submission of return by due date	- Rs5,000; or to Rs500 per day, whichever the higher	07.09.98
		- Rs2,000; or Rs200 per day, whichever the higher, subject to limit of Rs20,000	11.08.00
		- Rs2000 for every month or part of month up to Rs20,000	01.10.06
26A	Penalty for failure to join electronic system	Rs5,000 for every month or part of month from taxable period specified in notice up to taxable period in which return is submitted, subject to limit of Rs50,000	01.10.06
27	Penalty for late payment of tax	- 10% of tax excluding surcharge, for first month or part of month and 2% for subsequent month, up to maximum of 100%.	07.09.98
		- 5% of tax payable under section 21(7) , 22, 23, 37, 39 or 67, excluding penalty under Section 15A, 24(9), 26, 26A & 37A	01.10.06 i.r.o taxable period commencing 01/10/06 and subsequent taxable periods
27A	Interest on unpaid tax or amount paid or refunded in excess	1% per month or part of month on:	01.10.06 i.r.o taxable period commencing on 01.10.06 and subsequent taxable periods.
		- unpaid tax under Section 9 or 21(7)	
		- tax repaid in excess including interest paid thereon under Section 24	
		- tax refunded, exempted or reduced erroneously under Section 67	
		Penalty under Section 15A, 24(9), 26, 26A, 27 or 37A excluded	
37A	Penalty on amount claimed in assessment	Penalty of up to 50% on amount of tax claimed in an assessment excluding penalty under Section 15A, 24(9), 26A & 27 and interest under Section 27A	01.10.06 i.r.o taxable period commencing on 01.10.06 and subsequent taxable periods.

GAMING TAXES

Section of GRA Act	Description	Penalty applicable	Effective Date
116	Failure to submit return	Rs2,000 per month up to a maximum of Rs20,000	
117	Penalty for failure to join electronic system	Rs5000 for every month or part of month, provided tax total penalty does not exceed Rs50,000	6 December 2007
120	Penalty on amount claimed in assessment	Penalty not exceeding 50% of duty and tax claimed	6 December 2007
124	Penalty for late payment of tax	5% of amount of duty and tax	Returns for December 2007 onwards
125	Interest on unpaid tax	Interest of 1% per month or part of month during which duty & tax remain unpaid	6 December 2007