

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.

A Mauritius Foundation can be used for the benefit of specific persons and/or to carry out a specific purpose, which can be charitable and/or commercial.

A distinguishing feature is that a Mauritius Foundation can apply for a Global Business Category One ("GBC1") licence, entitling it to the benefits of GBC1 status, including access to Mauritius's extensive network of Double Tax Treaties. Mauritius has also signed numerous Investment Promotion and Protection Agreements which apply to any entity formed in Mauritius.

Uses of a Foundation

Foundations generally combine features of both a Trust and a Company. A foundation has legal personality (and can therefore sue and be sued). Foundations may be used for wealth management, succession and inheritance planning and general asset-holding purposes. 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)

Legislation Summary

- A Mauritius Foundation may be established by an individual, an entity, or by will (in which case it is established by the testator).
- The Founder endows the Foundation with its initial assets. Once transferred to it, the Foundation holds title over these assets.

- A Foundation can apply for a Global Business Category One ("GBC1") Licence, entitling it to all requirements and benefits of a GBC1, including access to Double Tax Treaties.

- Foundations are exempt from income tax in Mauritius when:

- the Founder is a non-resident or holds a GBC1 Licence; and
- the Beneficiary/Beneficiaries is non-resident or holds a GBC1 Licence.

- A Mauritius Foundation is set up under the Foundations Act and is governed by its Charter and Articles, which are private documents.

- The identity of the Founder need not be disclosed in the Charter. Reservation of rights and powers of the Founder may be provided for in the Charter.

- The Charter sets out how the Foundation's assets will be administered and its objectives achieved.

- The objectives of a Foundation may be:

- charitable or commercial, or both (many jurisdictions do not permit foundations with commercial objectives); and
- for the benefit of a person or a class of persons, or to carry out a specific purpose, or both.

- Every Foundation must have a Council, which administers the assets of the Foundation and carries out its objectives.

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- The Council can delegate functions to officers it appoints in accordance with the Charter.
- The Council must have at least one member who is ordinarily resident in Mauritius. Trident Trust Mauritius can provide this Council member.
- A Foundation is required to have a Secretary, which can be either a management company or individual in Mauritius. It also requires a Registered Office in Mauritius at which its statutory and financial records must be maintained. Trident Trust Mauritius provides Registered Office and Secretary services.
- A Foundation requires at least one Beneficiary, whose appointment and removal is governed by the Charter.
- The Foundation has a legal personality from the date a certificate of registration is issued and as such can sue or be sued and enter into contracts in its own name.
- A Foundation cannot own property located in Mauritius.
- A Foundation's name must end in the word "Foundation" or an equivalent translation in a language other than English.
- Existing Foundations established in other jurisdictions can redomicile to Mauritius and a Mauritius Foundation can redomicile elsewhere.
- the purpose(s) and objectives of the Foundation;
- the name and address, in Mauritius, of the Founder for the purpose of service documents;
- details of the beneficiary or the manner in which the Beneficiary may appointed and removed;
- name and address of the Secretary;
- name and address of the first members of the Council;
- the address of the Registered Office;
- the details of any initial endowment;
- the period, if any, for which the Foundation is established;
- a list of the names and addresses of the first officers of the Foundation; and
- A written declaration by a legal practitioner, consultant or law firm regarding compliance with all the relevant requirements of the Foundations Act.

Registration of a Mauritius Foundation

The Foundation is registered with the Registrar of Companies. The application for registration, accompanied by the relevant registration fee, must contain:

- the name of the Foundation;
- date of the Charter and Articles and any amendments made to them prior to their submission to the Registrar;

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