

Innovation Box Regime Mechanism

Background

The Mauritius Research and Innovation Council¹ (MRIC; <http://www.mric.mu>) has under S. 4(e) of the MRIC Act 2019, the object to "*promote commercial utilisation of the results of research and development and innovation, in the national interest*".

Further to the announcement of the budget measure regarding the "provision of an Innovation Box Regime for Intellectual Property assets developed in Mauritius to encourage innovation-driven activities by new companies" in the Budget Speech 2017 – 2018, a number of regulations were put in place to facilitate the process for a company to apply to the Mauritius Revenue Authority (MRA) for the grant of a tax holiday.

The provisions for tax exemption under Regulations 23E of the Income Tax Regulations GN78 of 1996 (Consolidated October 2020) are set up as follows:

- Newly set-up companies that are engaged in innovation-driven activities will be granted an eight-year tax holiday on income derived from their intellectual property (IP) assets developed in Mauritius.
- On or after 10 June 2019, existing companies will now benefit from the eight-year tax holiday on income derived from their IP assets developed in Mauritius.

It is also understood that for the purpose of item 34 of Sub-part C of Part II of the Second Schedule to the Income Tax Act 1995 (Consolidated up to Finance Act 2020):

“the exemption shall be available only to a company which carries out the research and development leading to the creation of the patent, copyrighted software or, only in relation to smaller companies, other intellectual property that is similar to an invention which could be patented”.

In this regulation: "other intellectual property" means intellectual property in the nature of assets that are certified by the Mauritius Research and Innovation Council as being novel, non-obvious and useful.²

In this line, the MRIC is collaborating with PLCJ Law Firm, assisted by Santarelli on all technical matters, to provide the expertise required for the evaluation and subsequent determination of IP assets in the context of Regulation 23E and item 34 as described above.

¹ Effective 1st September 2019, Mauritius Research Council has changed its name to Mauritius Research and Innovation Council.

² Intellectual property is also covered under the Industrial Property Act 2019 and the Copyright Act 2014.

Eligibility criteria

To qualify for the 8-year tax holiday under the Innovation Box Regime, the following criteria need to be met:

- The Company should be duly incorporated/registered in Mauritius with the Registrar of Companies (ROC);
- The Company should be engaged in innovation-driven activities in Mauritius;
- The Company should be conducting research and development which leads to the creation of a patent or copyrighted software;
- In the case of smaller company, it should be conducting research and development leading to the creation of other intellectual property that is similar to an invention which could be patented;
- The Company should be deriving income from its IP assets developed in Mauritius.

The process

The Innovation Box Regime Mechanism is a two stage process.

1) First Stage evaluation

Applicant submits an online form which goes directly to PLCJ and MRIC is notified of the application by email.

This stage will serve as a preliminary screening of a company's application to determine whether the IP assets developed by the company in Mauritius meets the criteria of novelty, non-obviousness and usefulness. I.e the law firm will sort out non-patentable inventions from those that are prima facie new and patentable in nature depending on the answers provided by the applicant in the form.

PLCJ will revert to the applicant with respect to payment of fees and payment modalities (i.e PLCJ will provide its bank details, its accepted modes of payment, and timeline.) Applicants will effect payment of the application fee amounting to EUR 1.000 excluding VAT³ directly to PLCJ. PLCJ will start working on the screening of the application form upon receipt of payment. This stage consists of 15 working days.

Once PLCJ has completed the preliminary screening, a report will be provided to the applicant.

A copy of the report will be provided to the MRIC.

In cases where PLCJ recommends that the applicant does not meet the criteria following the first screening, the Panel will examine the report and make recommendations to the Board of the MRIC.

In case where PLCJ recommends company to proceed to stage 2, it will indicate:

³Application fee for stage 1 amounts to EUR 1000 excluding VAT.

- i. Additional documents/information to be provided;
- ii. Estimation of the fees to be paid to PLCJ to undertake the second stage analysis.

2) Second Stage evaluation

If the recommendation following the first stage is that the company proceeds to the second stage, the applicant will provide information/documents to PLCJ together with the relevant fees. Fees for this service will range between EUR 2.200 and EUR 3.800 excluding VAT⁴ depending on the technical complexity of the application.

Applicants will effect payment of the relevant fees directly to PLCJ.

A detailed report of the final evaluation will be provided to the applicant within 20 working days from receipt of payment confirming that the applicant fully satisfies the criteria required for the 8-year tax holiday under the Innovation Box Regime.

A copy of the final evaluation report will be provided to the MRIC.

3) Panel

A panel comprising of representatives from the following institutions will examine the evaluation report and make recommendations to the Board of the MRIC, regarding the issue of a certificate.

- Representative from Industrial Property Office of Mauritius (IPOM)
- Representative from the Economic Development Board (EDB)
- Representative from Mauritius Research and Innovation Council (MRIC)

4) Board

The Board of the MRIC will give the final decision, following which the Council will issue a certificate to the applicant.

⁴ For stage 2, the fees will range between EUR 2,200 and EUR 3,800 excluding VAT depending on the technical complexity of the application.