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MAURITIUS
FOUNDATION

MITCO
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Foundation

Foundation in Mauritius are governed by the Mauritius Foundations Act 2012 (the 'Foundations Act') and managed by the Foundation Council which carries out the objectives and purposes of a Foundation.

A Foundation is a legal entity without shareholder and member but with beneficiaries. A Foundation has some common features with a Trust and a Corporate entity. It can have varied objectives; charitable, estate planning or commercial.

"A Foundation is a Legal entity"

A Foundation is generally established to reflect the wishes of a Founder(s), who may be an individual or a legal entity. The management of its investments and assets are handled by its Council.

Key features of a Mauritius Foundation

1. Types of Foundation

A Foundation could be set-up to benefit persons, class of persons or to carry out a purpose which may be charitable, non-charitable or both combined.

2. Name of a Foundation

The name of a Foundation should end with the word "Foundation".

3. Creation of a Foundation

A Foundation may be created inter-vivos or by a will. It will have a legal personality upon registration with the Registrar of Companies, which also act as the Registrar of Foundations.

4. Protector

It is permissible for a Foundation to appoint a protector or a committee of protectors in accordance with and having such powers,

duties, functions and remuneration as may be specified in the Charter.

5. Beneficiaries

A Foundation can have one or more "beneficiary(ies)".

A beneficiary means a person or a class of persons, who is/are entitled to benefit under a Foundation; in whose favor a power to distribute any Foundation property may be exercised.

6. Management and Administration

A Foundation's affairs in carrying out its objectives is handled by its Council, which should comprise of at least one member ordinarily resident in Mauritius.

It will require a secretary in Mauritius duly licensed by the Financial Services Commission (FSC) and having its registered office in Mauritius.

The records of the Foundation need to be kept at its Registered office in Mauritius.

7. Financial Statements

The Foundation has to keep proper books of accounts and records at its registered office in Mauritius with no requirement for audited financial statements.

8. Foundation assets

The following provide some examples of assets that can be held in a Mauritius Foundation (but not limited to):

- Real Estate properties
- Insurance policies
- Shares and stocks in both listed and private companies
- Bank deposits
- Intellectual property
- Investments
- Other types of assets

9. Taxation

In the Mauritius Income Tax Act 1995, there is a distinction between a resident Foundation and a non-resident Foundation. A Foundation is considered to be non-resident where the founder and all the beneficiaries appointed under the terms of a charter or a will are, throughout an income year, non-resident of Mauritius. A non-resident Foundation is exempt from taxation in Mauritius.

To qualify as per the exemption specified above, a Foundation has to file a declaration of non-residence for any income year with the Mauritius Revenue Authority (MRA) within 3 months from the end of the income year.

Winding up

A Foundation can be wound up voluntarily or by an order of the Court.

Migration of Foundation

A Foundation established under the law of another State may be redomiciled in Mauritius.

Advantages of a Mauritius Foundation

- Can be used to carry on or undertake any business or activity or enter into any transaction.
- Can be used to hold a wide variety of assets such as real estate, tangible assets (art, jewelry), intangible assets (copyrights, intellectual property).
- Can be used for charitable purposes (relief of poverty, advancement of education/ religion/ human rights, protection environment)
- It is an effective financial planning tool for clients who wish to maintain control of the assets.
- The founder of a Mauritian Foundation has the assurance of a long-term wealth management solution and structured succession planning.

- The assets of the family are preserved over generations with maximum tax efficiency with reference to succession laws and forced heirship rules.
- Separate legal personality so that it may enter into contracts in its own rights.

Other key benefits

- Regulatory framework – Mauritius is a well-regulated jurisdiction which fully supports international initiatives to prevent the country from being used for money laundering and terrorist financing.
- Investment protection – Mauritius has signed various Investment Promotion and Protection Agreements (IPPAs).

The main features to consider when considering the set up a Foundation:

- *The setup of a body with a legal entity*
- *When you want to retain control*
- *For a structure which is non-residence but has substance in Mauritius*
- *For protection of assets*

Mauritius Foundation versus Mauritius Trust and Private Company

	Foundation ¹	Trust	Company Limited by Shares
Registration with the Registrar of Companies/ other Registries	Yes	Not applicable	Yes
Separate legal personality	Yes	Not applicable	Yes
Registered office in Mauritius	Yes	Not applicable	Yes
Secretary	Yes	Not applicable	Yes
Asset Ownership	Owns asset directly	Ownership vested with trustee	Owns asset directly
Management of Assets	By Council	By Trustee	By the Board
Duration	Perpetual	Maximum of 99 years (other than a purpose trust)	Perpetual
Application for GBC1 Licence	Yes	Yes	Yes
Commercial, Trading, Services and miscellaneous activities	Yes	Not applicable	Yes

“Mauritius Foundation Act has special features enabling foundations to provide commercial activities. As such a Foundation could be used as substitute to a Company Limited by shares.”

HOW CAN MITCO HELP?

- Advisory services in structuring of a Foundation
- Assistance with the establishment and maintenance of a Foundation
- Preparation of a Charter
- Provision of a Foundation Secretary
- Provision of resident Council Members to act on the Foundation Council
- Provision of corporate secretarial and administration services
- Provision of accounting and tax compliance services
- Maintenance of all records and updating of legal documents and registers

Contact details

For more information, please contact:

The Business Development Team by email bd@mitcoworld.com or phone them on + 230 404 8000.

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¹ Following the amendments in the Finance Act 2018, a GBC 2 Licence will be abolished. In this respect a Foundation could be a substitute based on the activities which need to be reviewed beforehand by MITCO.

