



INTERCONTINENTAL TRUST

International Tax & Management Services

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FOUNDATIONS ACT 2012

The Foundations Act 2012 was published in the Mauritius Government Gazette on the 16 June 2012. The Introduction of Foundations further reinforces Mauritius as a platform for wealth management succession and estate planning.

Foundations have historically been used in Civil Law countries while Common Law countries have used Trusts. With its concept of legal personality, a Foundation is viewed as a combination of a Trust with certain characteristics of a regular company. “At a time where the need to diversify the use of our jurisdiction is being felt the most, the introduction of the Foundation Act allows operators in the financial services industry to also diversify their clients base and activities, (Board of Investment, Mauritius)”.

PART 1: WHAT IS A FOUNDATION?

A Foundation is a legal entity separate from its founder, officers and any beneficiaries. Basically, a foundation is established by a founder who endows assets to achieve the objects of the foundation. The Founder also describes in a charter how the assets of the Foundation will be dealt with, for what purpose or for whose benefit. The Foundation is managed by the Foundation Council of which the Founder may be a member.

Foundations are usually used for asset protection, inheritance planning, wealth management purposes and general asset holding purposes.

PART 2: KEY FEATURES OF THE MAURITIUS FOUNDATION

- Can be established by means of a will.
- Objects of a Foundation may be:
 - charitable or non-charitable or both.
 - for the benefit of a person or class of persons or to carry out a specified purpose or both.
- Shall have a registered office in Mauritius.
- Shall have a Council, with a minimum of one member resident in Mauritius.
- Can apply for a Category 1 Global Business (GBC1) licence.
- Name of a Foundation shall end with the word “Foundation” or a word in a foreign language which has the same meaning as the word “Foundation”. Application for the name reservation should be made with the Registrar.
- Shall keep its records incl. accounting records in Mauritius.
- Unlike many Civil Law jurisdictions, such as Panama and Curaçao, a Mauritius Foundation may engage actively in trade and commerce.

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Founder

- May be a beneficiary of the foundation and does not need to be resident in Mauritius.

Council

- The Foundation council shall have at least one member who shall be ordinarily resident in Mauritius.

Secretary

- Every Foundation shall have a secretary a licensed Management company or another person resident in Mauritius as may be authorised by the Financial Services Commission.

Taxation

- A Foundation is liable to income tax on its chargeable income at the rate of 15%.

- A Foundation of which
 - The Founder is a non-resident or holds a Category One Global Business Licence under the Financial Services Act; and
 - all the beneficiaries appointed under the terms of a charter or a will are throughout an income year non-resident or hold a Category One Global Business Licence under the Financial Services Act,

shall be exempt from income tax in respect of that year. For the purpose of this exemption, the said foundation shall deposit a declaration of non-residence for any income year with the Director-General within 3 months from the expiry of the income year.

- Any distribution to a beneficiary of a foundation shall be considered to be a dividend to the beneficiary. However, if the beneficiary is a non-resident or holds a Category One Global Business Licence, the distribution will be tax exempt in the hands of the beneficiary.

- A Charitable Foundation is tax exempt in Mauritius.

Mauritius Re-domiciliation

A Foundation established under the law of another country other than Mauritius may where it is so authorised by the law of that country, apply to the Registrar to be registered as, and continue as, a Foundation in Mauritius as if it has been set up in Mauritius.



PART 3: COMPARISON TABLE

Some features of the Mauritius Trusts and Foundations compared and contrasted.

	FOUNDATION	TRUST
Registration with the Registrar of Companies	Yes	No
Separate Legal personality	Yes	No
Confidentiality	Records not available for public inspection except upon authorisation by the secretary or FSC	Records disclosed upon Court order
Registered office in Mauritius	Yes	N/A
Secretary	Yes	No
Protector	Yes	Yes
Tax Status	Tax Exempt (if declaration of non-residence is made)	Tax Exempt (if declaration of non-residence is made)
Re-Domiciliation	Allowed	By change of Trustee and Proper Law
Asset Ownership	Owns asset directly	Ownership is vested in Trustee
Management of Assets	By Council and Officers	By Trustee
Duration	Perpetual	99 year duration Purpose Trust may have a perpetual duration
Application for GBC1 Licence	Yes	Yes

PART 4: HOW WE CAN HELP - OUR SERVICES

- Advice on structuring, Mauritian regulatory and taxation aspects.
- Drafting of the Foundation Charter and Articles.
- Establishment of Foundation.
- General Administration of the Foundation.
- Provision of Registered Office.
- Provision of resident Secretary.
- Provision of resident Foundation Council Member.
- Assistance with the opening and operation of bank accounts.
- Ensuring accounts/ accounting records are in place.



Intercontinental Trust Ltd is regulated by the Financial Services Commission in Mauritius.

For any additional information please contact us.

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