

FOUNDATIONS



LC ABELHEIM

A Foundation is a hybrid legal entity combining the features of a Trust and a Company. Like a company, it is a separate legal person capable of owning assets. Like a trust, it has a founder who endows property.

A Foundation is a legal entity and holds assets in its own name, meaning once a Founder endows assets, they no longer belong to him, and are therefore not subject to creditors, insolvency, marriage or divorce.

The Foundations Act 2012, which governs Foundations in Mauritius, contains provisions aimed at preventing a Foundation from being attacked on the basis of succession rights or forced heirship. And because it has a separate legal personality, it cannot give rise to sham issues.

A Foundation has the capacity to undertake any business activity within or outside Mauritius, and can enter into transactions. It can also hold a Global Business Licence.

Like companies, Foundations can be established in Mauritius, or other jurisdictions.

MAURITIUS FOUNDATIONS AND TAX

Foundations are liable to 15% income tax in Mauritius on its chargeable income; but may be subject to an effective income tax rate of 3% when they hold a GBL.

Where a Founder and all Beneficiaries are non-resident in Mauritius throughout an income year, a Foundation will be exempt from income tax in respect of that year.

A Foundation whose **exclusive** purposes or objects are of a charitable nature will be exempt from tax in Mauritius.

A Mauritius Foundation is exempt from inheritance and estate tax.

REASONS TO ESTABLISH A FOUNDATION

Foundations can be used for:

- Charitable or commercial causes;
- Estate and succession planning;
- Asset Protection;
- Private wealth management;
- Tax planning;
- Asset holding (such as real estate; shares in companies, funds, unit trusts, investments, and insurance policies).

KEY FEATURES

- A Foundation can be charitable or non-charitable, or both.
- A Foundation is for the benefit of a person, or class of persons, or to carry out a specified purpose, or both.
- A Foundation can hold property, investments, art,
- A Founder can also be a Beneficiary.
- A Foundation can be established in life, or by means of a Will.
- A Foundation must have a Charter.
- A Foundation must be registered and issued with a certificate of registration in order to be legal.
- A Foundation requires a Mauritian Secretary and Registered Office (LCA).
- A Foundation requires a Council - one member of which must reside in Mauritius (LCA).

FOUNDATIONS

FOUNDER

Founders can be beneficiaries and council members (thereby directly involved with the daily management and all decision-making). Once assets are endowed to the Foundation, they no longer belong to the Founder and are therefore not subject to any claims against the Founder.

COUNCIL

A Foundation is governed by a Council, similar to the board of a company. At least one member must be resident in Mauritius. The council members have the power to control and manage the Foundation in line with its Charter. One of their main duties is to ensure proper execution of the succession plan. Council members are not generally liable for loss caused to the Foundation unless in cases of gross negligence.

SECRETARY

Every Foundation must appoint a Secretary resident in Mauritius and duly regulated by the FSC. The secretary is assumed to have duties and powers identical to that of a company secretary.

FOUNDER CONTROL

The Founder is permitted to appoint to his close aides to the Council and thus retain full control over the Foundation's assets. A Foundation can also employ family members of the Founder.

PROTECTORS

The Founder has the option to appoint a protector with powers to oversee the Council and ensure the fulfilment of the Foundation's purpose.

The Protector can be one or more persons or legal entities.

FORCED HEIRSHIP

The Foundations Act 2012 contains provisions aimed at preventing a Foundation from being attacked on the basis of succession rights or forced heirship.

DURATION OF A FOUNDATION

A Mauritius Foundation has no time limitation - meaning it can hold and pass on the family wealth for many generations.

CONFIDENTIALITY

Records maintained by the Registrar are not publicly available, so confidentiality is maintained. However, the concept of absolute confidentiality does not really exist anymore due to bi-lateral and multi-lateral treaties that have been signed.

“IF YOU WANT TO DO SOMETHING FOR YOUR CHILDREN AND SHOW HOW MUCH YOU LOVE THEM, THE SINGLE BEST THING—BY FAR—IS TO SUPPORT ORGANIZATIONS THAT WILL CREATE A BETTER WORLD FOR THEM AND THEIR CHILDREN.”

- MICHAEL BLOOMBERG

CHARITABLE FOUNDATION

A Foundation shall be considered charitable where it has as its exclusive purpose or object:

- the relief of poverty;
- the advancement of education;
- the advancement of religion;
- the ongoing protection of the environment;
- the advancement of freedoms and rights;
- any other purpose beneficial to the public in general.

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A
Foundation
can be one
or the other,
or a
combination
of both.
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NON-CHARITABLE FOUNDATION

It can have any lawful purpose, similar to a company:

- Hold assets in any country (owned by the Foundation, not the Founder)
- Hold investments
- Conduct commercial business within, or outside, Mauritius, with or without a Global Business Licence in Mauritius.

REGULATED BY THE FINANCIAL SERVICES COMMISSION OF MAURITIUS

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