

Office of the Director
of Public Prosecutions
Mauritius

Tax Crimes:
Money Laundering
and International
Cooperation

‘In this world nothing can
be said to be certain except
death and taxes’

Benjamin Franklin

Introductory Remarks

- Taxes paid by most of us
- Tax Evasion - Hiding of income and claiming of tax relief not entitled to
- Not a stand-alone crime
- Need to deter, detect and prosecute
- Money Laundering – attracted to jurisdictions with weak and ineffective controls
- IMF and OCDE – tougher rules

Legislative Framework in Mauritius

- Economic Crime and Anti-Money Laundering Act
- Financial Intelligence and Anti-Money Laundering Act ('FIAMLA')
- Prevention of Corruption Act
- Prevention of Terrorism Act
- Income Tax Act
- Asset Recovery Act

FIAMLA

- Submission of suspicious transaction reports to the FIU
- Form to be filled in
- Definition of suspicious transaction – duty on every operator in the sector

FIAMLA (cont...)

A suspicious transaction is defined as a transaction which:

- (a) gives rise to a reasonable suspicion that it may involve:
 - (i) the laundering of money or the proceeds of any crime; or
 - (ii) funds linked or related to, or to be used for, terrorism or acts of terrorism or by proscribed organizations, whether or not the funds represent the proceeds of a crime.
- (b) is made in circumstances of unusual or unjustified complexity;
- (c) appears to have no economic justification or lawful objective;
- (d) is made by or on behalf of a person whose identity has not been established to the satisfaction of the person with whom the transaction is made; or
- (e) gives rise to suspicion for any other reason.

FIAMLA (cont...)

- Director of FIU entitled to request further information
- Breach of confidentiality
- S16 – Immunity from suit for reports made in good faith
- S3(1) – Definition of ‘Money Laundering’
- S3(2) – Duty of bank and others
- S18(2) – Duty of financial institutions

Prevention of Corruption Act 2002

- Definition of corruption
- Duty of ICAC to detect and investigate conduct of any public official in relation to money laundering offences

Income tax Act 1995

- Failure to comply with national income tax laws as one of most prevalent crimes
- Distinction between tax evasion and tax avoidance
- Tax evasion – Not a victimless crime
- Erodes credibility of democratic institutions
- Tax Information Exchange Agreement
- Director of MRA vested with powers to compound offences

Asset Recovery Act

- Came into operation in February 2012
- Asset Recovery Unit created
- DPP mandated to act as Enforcement Authority
- Recovery on 2 different regimes – confiscation based and civil asset recovery
- Compensation to victims
- Wide tools of investigation to the Investigative Agency
- Key Partners

Concluding Observations

- Financial crimes not a monolithic block
- Tax evasion closely related to money laundering
- Global effect
- Cooperation between national authorities
- Cooperation with national agencies
- Capacity building

THANK YOU