

## **COMMUNIQUE**

### **Taxation of gains from sale of shares or other securities**

The attention of the public is hereby drawn to the following :

1. There is no capital gains tax in our tax legislation and therefore capital gains derived from the sale of shares and other securities are outside the scope of Income Tax. On the other hand, income derived from the sale of shares and securities which have been held in the course of business of trading in such instruments represents profits and are taxable except gains derived by companies holding a Category 1 Global Business Licence which are exempt under the law.
2. In order to simplify taxation of gains from sale of shares and securities, the MRA issued a Practice Note dated 30 October 2006 to clarify as follows:
  - i. any gains derived from sale of shares and other securities by an individual resident in Mauritius are considered as capital gains and therefore not subject to income tax;
  - ii. any gains derived by a company resident in Mauritius from sale of shares and other securities held for a period of at least 6 months prior to the sale by the company are considered as tax exempt capital gains. The taxation of gains derived by the company from the sale of shares and other securities held for a period of less than 6 months will depend on the nature of business the company is involved in. Where shares or other securities are held by the company as fixed assets, gains from sale of such assets are treated as capital gains;
  - iii. any gains derived by a non-resident from sale of securities in Mauritius are treated as not taxable as non-residents from treaty partners do not generally have a permanent establishment in Mauritius to trade in shares in Mauritius. They rather deal in securities from their own country of residence.
3. In order to give certainty to investors the Income Tax (Amendment of schedule) Regulations 2015 made on 20 January 2015 incorporated the terms of the Practice Note and also extended its scope to gains or profits derived from sale of gold, silver or platinum.

4. There has thus been no change in the taxation of gains or profits derived by any person from the sale of shares and other securities except that the practice of not taxing income derived from sale of shares and other securities held for at least 6 months has been incorporated in the Income Tax Regulations.
5. The tax treatment of income derived from the sale of shares and other securities held for less than 6 months or gains derived by a non-resident from sale of shares and other securities will continue to be governed by the Practice Note issued by MRA in October 2006.