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Facts

D Private Limited (the Company) is incorporated in Mauritius and holds a Category 1 Global Business Licence. The company is engaged in investment holding and shipping activities. It has acquired vessels (tugboats and barges) which have been registered under Mauritian flag. The vessels are rented out to foreign companies and ply in the Indian coastline, Persian Gulf and South East Asia and will not sail in Mauritian waters. The company will appoint nationals / citizens of Philippines, Indonesia, Singapore and India as crew members on a contractual basis and none of the crew members will perform any part of their duties from Mauritius.

Point of Issue

- a) Whether the crew members will be considered as resident for income tax purposes in Mauritius?
- b) Whether the crew members employed by the company will be subject to tax (PAYE) in Mauritius on the income they will receive from the company?
- c) Whether the company will have to be registered as an employer for PAYE purposes in Mauritius?

Ruling

- a) In accordance with the provisions of Section 73(a) of the Income Tax Act 1995, the crew members will be non-residents for income tax purposes.
- b) The crew members employed by the company, being non residents, will not be subject to tax in Mauritius on income derived from any employment, the duties of which are performed wholly or mainly outside Mauritius.
- c) In case the company employs residents of Mauritius, it will have to be registered as an employer for PAYE purposes.