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Facts

T is registered as a foundation under the Foundations Act 2012 and is licensed as a private pension scheme under the Private Pensions Act 2012.

The Foundation has been established to provide retirement benefits to individual beneficiaries who are:-

(i) personally resident in Mauritius; or

(ii) not personally resident in Mauritius; and

(iii) either employed or self-employed.

The Foundation is a defined contributions scheme which expects to receive contributions from employers, employees and self-employed individuals who can be either resident or non-resident of Mauritius.

It is understood that the Foundation is not a superannuation fund as defined in the Income Tax Act. Consequently, employers' contributions will not be tax deductible under the Act while same will be taxable as a benefit in the hands of the relevant employees.

Points at issue

1. Confirmation that contributions to the Foundation made by an employer for the benefit of its employees are not tax-deductible under section 22 of the Income Tax Act ("the Act").
2. Following the repeal of sections 29 and 32 of the Act, confirmation that contributions to the Foundation made by an individual beneficiary are not tax-deductible.
3. Whether the benefits provided by the Foundation as a licensed private pension scheme in respect of employees who are current or former employees will be treated as pensions or lump sums or annuities, within section 10(1)(a)(ii) of the Act.
4. The tax treatment under the Act of the pension benefits provided by the Foundation to the beneficiaries.

Rulings

1. As the Foundation is not a superannuation fund as defined in the Act, the contributions made by the employer to the Foundation are not tax-deductible under section 22 of the Act.
2. The Act does not provide for the deductibility of contributions made by an individual beneficiary to the Foundation.
3. Benefits provided by the Foundation in respect of employees who are current or former employees will be treated as pension benefits (pensions or lump sum or annuities) under section 10(1)(a)(ii) of the Act.
4. As a general rule , pension benefits payable to former employees who are **residents** as well as pension benefits payable to former **non-resident** employees **from a source in Mauritius** , will be subject to Mauritius taxation as gross income derived under section 10(1)(a)(ii) of the Act. The Pensions/Pension and Annuities article of any applicable Mauritius DTAA will apply to pension benefits payable to non-residents.