

TR 15

Facts

A wholly owned subsidiary of a foreign company which is itself part of a multinational group engaged in importing and distributing clothing for men, women and children in another country is incorporated in Mauritius and holds a Freeport Licence.

The subsidiary company will assist the holding company in procuring the stocks of garments and its role will include obtaining prices, pre-production and production information from factories/suppliers, carrying out quality inspections and following up orders to ensure that goods are exported on time. The subsidiary company will have an office in Mauritius and will employ the necessary staff, including expatriates, to carry out its functions.

Point at issue

Whether payments by the holding company for running the subsidiary's office in Mauritius on a cost recovery basis is acceptable to the Income Tax Department.

Ruling

The net income of the subsidiary will be determined by the Income Tax Department in accordance with arm's length principles.

Further, the activities of the subsidiary are considered to be carried out outside the Freeport Zone and the income derived from such activities will be subject to tax in accordance with Section 49(2) of the Income Tax Act 1995.

The above ruling would not be different if the subsidiary were a Mauritian offshore company.