

## Government Gazette of 09 April 2016

### TR 165

#### Facts

A and B, hereinafter collectively referred as AB, currently have on secondment from C (“the Employer”), four (4) international assignees (“IA”) who are foreign nationals.

The terms and conditions of employment of the IAs with the Employer remain unchanged while they are on secondment to the Mauritian entities

#### *a) Relocation : Shipment of personal effects*

As part of the IA benefits package, AB will cover the costs of the packing, shipping, associated temporary storage and in-transit insurance for moving the assignee's personal household effects from one country to another in connection with the assignment.

The costs relating to the shipment of personal effects and warehouse storage are either paid by AB or recharged to AB where the home country has incurred these costs.

#### *b) Relocation : Flights to and from Assignment*

AB meets the cost of one-way airfares and associated travel and hotel accommodation expenses for the IA and accompanying family members travelling to and from the host location at the commencement and completion of the assignment.

#### *c) International Medical Benefits*

ABC Group provides international medical insurance cover to all assignees, partners and dependent children. The above cover is provided under the ABC Group International Health Scheme. The Group International Health Scheme is underwritten by Z International and all premiums are paid by the ABC Group.

Currently, the premiums borne by the ABC Group are not recharged back to AB. Any refund for medical expenses to the IAs is handled directly by Z International and there is no involvement from AB.

IAs are entitled to benefits under the medical scheme irrespective of their performance in Mauritius, and the premiums paid are not claimed as a deduction by AB.

#### *d) Deferred Shares Awards*

ABC Group operates a Share Plan and a Cash Plan (collectively the “Plans”) which are umbrella plans under which conditional awards (typically restricted share units, “RSUs”) are granted to certain

employees. Awards made under the Plans most commonly include deferred bonuses or other discretionary deferred share awards (“Deferred Awards”).

Deferred Awards are typically structured as conditional awards of shares in ABC Holdings PLC, but may also be a deferred cash award or a cash-settled conditional share award. Whilst the Awards are granted on a particular date (for deferred bonuses the grant date will be shortly after the end of the relevant performance year), participants do not have any legal rights to the shares or to the cash payment until a later date when the Deferred Awards vest (the date when the participant is entitled to the shares or cash payment).

During the vesting period (i.e. between the time when the Awards are granted to the participants and when they vest) the participants do not have the right to vote, receive dividends or transfer the rights to the Awards. All Awards are subject to continued employment with ABC Group and can be subject to certain other performance conditions during the vesting period. The shares delivered following vesting may also be subject to a sale restriction for a period after the date the Awards vest, but they are generally no longer subject to any risk of forfeiture beyond the vest date. No amount of cash or shares are delivered to employees prior to the vest date.

Where employees move to or from Mauritius, AB will bear the costs of the awards on a pro-rata basis between grant and vest. If an employee leaves Mauritius prior to grant of a Deferred Award, AB will bear no costs in respect of that award.

### **Points at issue**

Confirmation that -

1. payment of the costs of the packing, shipping, associated temporary storage and in-transit insurance for moving the assignee's personal household effects from one country to another in connection with the assignment is not a taxable benefit in the hands of the IAs, and is not subject to PAYE.
2. payment of airfares and associated travel and hotel accommodation expenses for IAs and their accompanying family members at commencement and completion of the assignment is not a taxable benefit in the hands of the IAs.
3. insurance premiums paid by the ABC Group on behalf of the IAs are not taxable in the hands of the IAs in Mauritius and refund of medical expenses to the IAs under the International Health Scheme operated by Z International will not be taxed in the hands of the IAs.

4. where the participants have worked outside Mauritius during the vesting period of awards, the basis for taxing restricted shares in Mauritius should be sourced by reference to services rendered in Mauritius during the vesting period.
5. the basis for computing the taxable amount in respect of shares vested to ABC Group employees will be the closing price of the shares on public stock exchange on the date of vesting or the amount of cash payment made available to the IAs in lieu of shares.

### **Ruling**

On the basis of facts given above, it is confirmed that:

- 1) the relocation cost in connection with shipment of personal effects and flights to/ from Assignment is not considered as a taxable benefit in kind and therefore not subject to PAYE as it is not in return for services rendered in the course of the performance of the duties of the employment of the IAs in Mauritius.
- 2) the insurance premiums paid by the ABC Group on behalf of the IAs are taxable in the hands of the IAs in Mauritius whereas the refund of medical expenses to the IAs under the International Health Scheme operated by Z International will not be taxed in the hands of the IAs.
- 3) since the entitlement to the shares or the cash payment is conditional on continued employment with the ABC Group during the vesting period, and is based, at times, on performance criteria attained during the vesting period, the taxable amount in respect of the Awards will be pro-rated based on the period of employment in Mauritius.
- 4) the basis for computing the taxable amount in respect of shares vested to ABC Group employees will be either the closing price of the shares on public stock exchange on the date of vesting or the amount of cash payment made available to the IAs in lieu of shares.