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<u>Facts</u>

F is a private company incorporated in Mauritius with liability limited by shares and holds a management licence issued by the Financial Services Commission ("FSC").

F was acquired on 1 January 2017 by S. The acquisition of F was effected through a newly incorporated wholly owned subsidiary of S, M which is registered in Mauritius as a private company. The business activity of M is to act as the parent company of F and F Trustees, a related company.

The agreement for the sale and purchase of the entire issued share capital of F and its trustees makes mention of sale of shares only. However in accordance with IFRS 3, the consideration paid for the acquisition of F is broken down in the accounts of M into three components, namely -

(i) The Net Assets Value of F;

(ii) Contract and Customer Intangibles; and

(iii) Goodwill.

Hence each identifiable asset forming part of the purchase consideration has been recorded separately in the books of M. According to IAS 38, identifiable assets having a finite life are subject to amortisation. The "*contract and customer intangibles*" have been assessed with a finite life of 6 years.

It is proposed to merge F and M where F will be the surviving company for the following reasons -

(i) the "*contract and customer intangibles*" are recorded in the books of M and the income generated by that asset is recorded in F ;

(ii) because the asset is recorded in one company and the income in another company, the transaction has given rise to a commercial and accounting mismatch which is against the matching concept; and

(iii) following the merger, F will amortise the "*contract and customer intangibles"* over its useful life.

<u>Point at issue</u>

Whether F will be entitled to claim annual allowance at the rate of 5% on the cost of the "*contract and customer intangibles*" under Section 24 of the Income Tax Act and Income Tax Regulations 1996?

<u>Ruling</u>

MRA is of the view that there is no commercial and accounting mismatch of assets and income in view of the following:

M has purchased the shares of the shareholders of F. F has continued as a going concern without any change in its operations. Only the shareholders have changed. F is providing management services to its customers. In exchange for the management services, F is entitled to receive a fee which is accounted as revenue in its Income Statement. The contracts are between F and the customers. The change in shareholders has changed nothing in the business of F. The customers will continue to transact with F and they have no contractual relationship with M.

M is receiving dividends in return for the shares purchased in F. It is entitled to amortise the component of the purchase consideration for the shares which is represented by "*contract and customer intangibles*" under normal accounting principles. However, since dividend is an exempt income, it will not be entitled to annual allowance by virtue of Sections 24 and 26 of the Income Tax Act.

The merger is, in our view, being used as a medium to transfer the intangible asset from M to F, the origin of which is in F itself and same could not previously be recognised in the books of F in accordance with paragraph 63 of IAS 38 which prohibits the recognition of internally generated intangible assets.

In the circumstances, F will not be entitled to claim annual allowance on the "*contract and customer intangibles"* under Section 24 of the Income Tax Act and the Income Tax Regulations.