TR 207

Facts

V is tax resident in Mauritius as from the income year ended 30 June 2019. Before her relocation to Mauritius in August 2018, she was residing in the United Kingdom. She holds dual citizenship in South Africa and United Kingdom.

V is the beneficiary of T, a trust established under the laws of Island of Guernsey and administered in Jersey. T is tax resident in Jersey. Its Trust Fund comprises of the following assets:

    (i)   investment in P, a company registered in the British Virgin Islands; and

    (ii)   loan receivable from P funded out of an initial settlement of the settlor of T

The Trust Fund is held in primary discretionary trusts as to both capital and income for the benefit of the beneficiaries.

The Trustees are in the process of liquidating T and as such the shares held in P will be disposed and the Loan will be repaid. Subsequently, V will receive a distribution from the capital account of T in her capacity as the beneficiary of T.

The distribution to the V will be made up of the following:

    (i)   the capital amount of the Loan receivable (representing the initial trust capital); and

    (ii)   the balance will represent the gain on liquidation of P.

Post distribution, T will be wound up. T will remit the distribution either in the Mauritian bank account of V or in her foreign bank account.

Point at issue

Whether the capital distribution received by V, in her capacity as the beneficiary, and remitted to Mauritius will be taxable in Mauritius?

Ruling

Based on the facts mentioned above, our rulings are as follows:

    (i)   the distributions made to V out of the capital amount of the Loan receivable from P will constitute a remittance of a capital nature into Mauritius. As there is no capital gains tax in Mauritius, the remittance will not be taxable in Mauritius.

    (ii)   any accumulated net profit of P forming part of the assets of T that will be distributed to V will not be a distribution of capital nature. Hence, the remittance of such accumulated net income will be taxable in Mauritius