

## **TR 208**

### **Facts**

C was incorporated with the aim of offering services such as consultancy and supply of labour internationally by employing skilled and specialised Mauritians and /or foreigners (**the “Employees”**) to perform work abroad under a contract of employment of determinate and indeterminate duration. The Employees working abroad will be officially hired under a first contract of employment with C and seconded for duty to its overseas corporate clients.

The Employees will initially live and work mainly in Madagascar with a full-fledged work/residence permit. They will be engaged in the manufacturing and /or distribution of biscuits, yoghurt and other consumer goods.

The Clients will apply for work/residence permits of the Employees in their host countries respectively. C will pay the salaries of the Employees. C will then invoice the Clients for consultancy services. The Employees will receive a living allowance and a housing allowance directly from the Clients under a second contract in Madagascar.

The salaries of the Mauritian employees seconded abroad under the first contract of employment will be banked in their respective bank accounts held in Mauritius. The salaries of the non-Mauritian employees will be banked in their respective bank accounts held abroad.

### **Points at issue**

1. Whether the income of the Mauritian and non-Mauritian employees of C performing work abroad will be subject to PAYE in Mauritius?
2. Whether the Employees of C will be entitled claim an income exemption threshold under section 27 of the Income Tax Act?
3. Whether C will have any obligation to register as an employer with the MRA?
4. Whether C will have to declare information and particulars of the non-Mauritian employees for the purpose of the Return of Employees (“ROE”)?
5. Whether the salaries paid by C to the the Employees working abroad will be allowed as a deductible expense?

## **Ruling**

On the basis of the facts mentioned above, we are of the view that -

1. The salaries remitted in Mauritius by the Mauritian employees under the first contract of employment will constitute income derived from Mauritius. Therefore, the income of the Mauritian employees performing work abroad will be taxable in Mauritius and subject to PAYE. The Mauritian employees will have to submit an annual return of income and where income tax has been paid on the income in the country where the duties have been performed, they may claim credit in respect thereof.

As the salaries of the non-Mauritian employees performing duty abroad will not be remitted in Mauritius, such salaries will not be taxable in Mauritius and therefore not subject to PAYE in Mauritius.

2. The Mauritian employees having their permanent place of abode in Mauritius will qualify as resident and will be entitled to income exemption threshold. The question of income exemption threshold to the non-Mauritian employees does not arise.
3. As a person responsible for the payment of the emoluments of its employees, C will have an obligation to register as employer with MRA.
4. C will have to declare information and particulars of the non-Mauritian employees in its annual Return of Employees (ROE).
5. The salaries paid by C to the employees working abroad comprised in the claim for consultancy services invoiced to the clients will be allowed as deductible expenses.