

TR 210

Facts

C, a company incorporated in Mauritius has received an order from D, a company based in Zimbabwe. Owing to foreign exchange controls in Zimbabwe, D has suggested that the order be channelled through M.

M currently holds a Category 1 Global Business Licence under the Financial Services Act and forms part of the same group of companies as D. M will report each transaction as a purchase of goods from C and a corresponding sale to D but the goods will not be subject to any process by M.

For purposes of the Bill of Lading, the shipper and the consignee will be C and D respectively. The terms of the shipment will be Free on Board. The goods will leave the warehouse of C and will be loaded directly to a ship such that M will not take any physical possession of the goods. However, on the Customs declaration, M will appear as the exporter and D will be the importer.

C will receive cash from M and the trade debt of M will be settled by its holding company. D and M have certain financial arrangements whereby the trade debt of D from M will be settled over a period of time.

Point at issue

Whether the sales made by C to M will qualify for the 3% tax rate on export of goods?

Ruling

Based on the above facts, C will be selling goods to M, a company incorporated in Mauritius. Consequently, the sales to M will not be a transaction falling under Section 44B of the Income Tax Act and will be subject to tax at the rate of 15%.