TR 212

Facts

C is a company incorporated in Mauritius and is engaged in the BPO/ICT sector by providing computer consultancy and computer facility management.

In the United States and Canada, C is listed on the stock exchange and all employees in different geographies can buy shares at a discounted price under the "Employee Stock Purchase Plan" whereas Management are granted shares as part of their remuneration under the "Gift Stock Purchase Plan".

Points at issue

i. Whether under the Employee Stock Purchase Plan, the taxable amount in the hands of the employees is the value of the discount they have benefitted on acquisition of the shares or the difference between the price paid for the share and the price the share was disposed of?

ii. Whether under the Gift Stock Purchase Plan, the taxable amount in the hands of the management staff is the value of the share at the time it was granted to them or the value the share was disposed of?

Ruling

On the basis of facts mentioned above,

i. The employees will be taxed under the Employee Stock Purchase Plan on the amount of discount they have benefitted at the time they purchased the shares. Any gain between the market value of the share at time of acquisition and the market value at time of disposal will be capital in nature and therefore will not be subject to income tax.

ii. The management staff will be taxed under the Gift Stock Purchase Plan on the value of the shares at the time they accepted the shares. Any gain between the market value of the share at time of acceptance and the market value at time of disposal will be capital in nature and therefore will not be subject to income tax.