

TR 224

Facts

V is engaged in the Oil and Gas industry and has operations in 14 countries across the world. V operates through entities based principally in Bahamas for both the exploration /production segment and the services segment. Within the services segment, an important proportion of the business relates to the bareboat leasing of maritime assets to other group entities in Africa. The maritime assets which are leased are as follows:

- (i) Barge
- (ii) Floating storage offloading
- (iii) Anchor handling tug supply
- (iv) Multicat ; and
- (v) Jack-up drilling/Self elevating platform

V intends to set up new entities in Mauritius (W). Each W will hold a Global Business Licence (“**GBL**”) issued by the Financial Services Commission. The maritime assets will be transferred to the entities in Mauritius. W will thus be engaged in bareboat leasing of the maritime assets to other group entities. The assets will not be registered in Mauritius.

Points at issue

- (i) Whether the five types of maritime assets will qualify as ‘*ship*’ for the purposes of application of the provisions set out in the Mauritius Income Tax Act?
- (ii) Whether the W will be eligible to claim an 80% exemption on bareboat leasing income to be derived from the leasing of the five types of maritime assets pursuant to item 42 of Sub-Part C of Part II of the Second Schedule to the Income Tax Act, subject to satisfaction of substance requirements?

Ruling

On the basis of facts mentioned above, it is confirmed that:

1. The five maritime assets and the activity mentioned above will qualify as ‘*ship*’ and will be considered as “ship leasing” respectively.
2. In accordance with item 42 of Sub-Part C of Part II of the Second Schedule to the Income Tax Act, W will be subject to 80% partial exemption provided that they satisfy the conditions as prescribed in Regulation 23D of the Income Tax Regulations 1996, which reads as follows:

“The exemption shall, for the purpose of item, 42(b),..... of Sub-part C of Part II of the Second Schedule to the Act, be granted provided the company -

- (i) carries out its core income generating activities in Mauritius;*
- (ii) employs, directly or indirectly, an adequate number of suitably qualified persons to conduct its core income generating activities; and*
- (iii) incurs a minimum expenditure proportionate to its level of activities.”*