

TR 225

Facts

N is a South African tax resident individual and he is the effective settlor and principle beneficiary of a trust. The trust is originally established on 8 March 2011 in the Island of Jersey.

- The trust instrument was signed at the time N was tax resident in South Africa.
- The trust holds cash, listed investments and equity funds.
- The current trustees of the trust are tax resident in the Isle of Man and it is administered in the Isle of Man.
- N intends to leave South Africa and relocate to Mauritius permanently.
- Post his relocation to Mauritius, and on becoming a tax resident in Mauritius, N shall donate additional assets to the trust. These additional donations will be made from assets held by N in South Africa and other foreign jurisdictions.

Point at issue

Whether the trust shall be considered as tax resident in Mauritius once N becomes a tax resident in Mauritius, and he donates additional funds from his assets held in South Africa and other foreign jurisdictions to the trust?

Ruling

On the basis of facts mentioned above and in accordance with section 73(1)(2) of the Income Tax Act, the trust is not considered to be tax resident in Mauritius given that the settlor of N was not resident in Mauritius at the time the instrument creating the trust was executed.