TR 23

Facts

A new unit trust scheme will be constituted. It will be managed by a company which has the status of "Approved Investment Institution". The company will transfer part of its locally quoted investment portfolio and all its overseas investment portfolio to the unit trust in exchange for an equal number of units of that unit trust. These units will then be distributed by the company to its shareholders by way of dividends in species on a pro-rata basis. However, as the reserves of the company are not sufficient to enable a distribution of such an amount of dividends, it will proceed to a reduction of its capital.

Point at issue

i. Whether existing shareholders of the company who will be allotted units in the unit trust will be entitled to investment relief under Section 36 of the Income Tax Act 1995.
ii. Whether a corporate shareholder of the company will be entitled to investment tax credit under Section 69 of the Income Tax Act 1995.

Ruling

Since the gain on revaluation of investments to be transferred to the unit trust is not realized and the company does not have sufficient reserves to pay the required amount of dividends which its shareholders could have used to finance the acquisition of the units in the unit trust, the distribution by the company to its shareholders of the units to be acquired by the unit trust cannot be considered as new investments being made by the shareholders (individual or corporate) and they will not therefore be entitled to investment relief thereon under Section 36 of Section 69 of the Income Tax Act 1995, as the case may be.