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### Facts

A is incorporated in Mauritius as a private domestic company since 10 May 2022. It forms part of B Group which was founded in 2007 in France. B Group is engaged in the building, promotion, sale and operation of real estate projects in France, Mauritius and other countries around the world. A's principal activity is property management.

B Group's most recent real estate development project in Mauritius is the Phase 2 of C project (the "Project"), which is being carried out in Tamarin, Riviere Noire under the Property Development Scheme ("PDS").

The Project comprises the development of 52 residential properties (i.e private villas, apartments and penthouses) on the slopes of mountain D, as well as a restaurant G, restaurant H, club house, kid's corner, spa, fitness centre and concierge.

Post the completion of the Project, the residential properties will be sold to clients. Since the Project is being carried out under the PDS Scheme, both Mauritian citizens and non-citizen buyers will have the possibility to become owners of such residential property. The owners will have the option to put their respective residential properties under the management of A. The latter will offer accommodation packages including hotel-related services (such as board and lodging) to clients who book such residential properties. The income derived by A from such accommodation packages will be the main source of revenue.

As regards, restaurant G, restaurant H, club house, kid's corner, spa, fitness centre and concierge, they will be housed in a commercial building which will be owned by a specific buyer ("Owner") but managed by A. As part of such management functions, A will operate the said businesses, earn business income therefrom and also be responsible for the maintenance, marketing and other related aspects pertaining to the businesses.

The Owner is a private domestic company incorporated in Mauritius since 8 June 2022 and its principal activity is property/ investment holding.

A will enter into a commercial lease agreement with the Owner for the purposes of renting the commercial building and will be required to pay rental income to the Owner as per the following structure:

- (a) A fixed annual rental amount of Euro 345,000 payable in twelve monthly instalments of Euro 28,750 each ("**Fixed Rent**"), which remains payable irrespective of the level of profitability from the business operation; and
- (b) A variable rental amount ("**Variable Rent**") payable annually and calculated as a percentage of the profitability of the commercial operation. For the calculation of the Variable Rent, the percentage will vary in accordance with A's Earnings Before Interest, Taxes, Depreciation and Amortization ("**EBITDA**").

A and the Owner are owned by different distinct shareholders and therefore, they do not constitute related parties.

In addition, A may, subsequently, incorporate a new wholly-owned subsidiary in Mauritius to take-over the management functions of the commercial building and such substitution will be provided for in the commercial lease agreement. Nevertheless, this substitution will not alter the modus operandi of the contemplated transaction nor the rental structure elaborated above.

**Point at issue**

Whether the Fixed Rent and the Variable Rent under the commercial lease for the purpose of the restaurant G, restaurant H, club house, kid's corner, spa, fitness centre and concierge will both constitute tax-deductible expenses for the Company under section 57 of the Income Tax Act?

**Ruling**

On the basis of the facts provided, it is ruled that the Fixed Rent and the Variable Rent under the commercial lease for the purpose of restaurant G, restaurant H, club house, kid's corner, spa, fitness centre and concierge will both constitute tax-deductible expenses for A under section 57 of the Income Tax Act.