TR 272

Facts

A is 58 years old and is a United States of America citizen.

As per USA law, A retains USA tax residency indefinitely, pays USA income tax and files USA tax returns.

A is a long-time resident of Saudi Arabia for most of the past 29 years and is a long-time employee of a Saudi Arabian company, for the past 18 years.

A will be retiring from his work in Saudi Arabia and will be relocating to Mauritius on a retirement permit in July 2024.

Upon retirement, A will receive a lump-sum pension in August 2024, derived from working for the Saudi Arabian company, and the value is anticipated to be in excess of USD 1 million (approx. MUR 45 million).

The lump-sum pension funds are held in a plan sponsored by a USA-based subsidiary of the Saudi Arabian company and the pension account of A is managed by a USA-based pension company.

The pension plan is a qualified plan under section 401(a) of the US Internal Revenue Code of 1986, as amended.

The pension plan funds are USA tax-protected and therefore A is neither taxed on the funds while he is still working nor taxed on the funds if he "rolls" them over to another qualified plan upon retirement.

Upon retirement, A will elect a USA-based pension company, to do a lump-sum "roll-over" transfer of the funds from his pension account into another qualified USA tax-protected retirement account based in the USA.

A anticipates being physically present in Mauritius when this transaction will take place in August 2024 as well as being physically present for the entirety of the Mauritius income tax year 2024-2025.

Upon retirement, A will also receive distribution withdrawals from his USA tax-protected individual retirement account into his bank account in Mauritius from which he would draw funds to cover his living expenses in Mauritius.

As per USA law, distribution withdrawals from the individual retirement account are reportable income on A USA tax returns.

Points at issue

(1) Whether A, being a resident in Mauritius, will be liable to tax in Mauritius when transferring the lump-sum pension from the pension account into another qualified USA tax-protected retirement account?

(2) Whether the lump-sum pension transfer will benefit from any tax relief in Mauritius in case of tax liability in Mauritius?

(3) Whether the retirement funds transferred into his bank account in Mauritius for living purposes will be subject to tax in Mauritius?

(4) Whether A will benefit from any tax relief if the retirement funds transferred to the Mauritius bank account are taxable in Mauritius?

Ruling

On the basis of the facts mentioned above, it is ruled that –

(1) Pursuant to Section (5) of the Income Tax Act, A will not be liable to tax in Mauritius when transferring the lump-sum pension from the current pension account into another USA tax-protected qualified retirement plan.

(2) As the lump-sum is not taxable in Mauritius, the question of exemption on the first MUR 2.5 million of the lump-sum does not arise.

(3) According to Section 10 of the Income Tax Act, the distribution withdrawals transferred into A's Mauritian bank account for covering living expenses in Mauritius will be subject to tax in Mauritius.

(4) A will be allowed to take as credit against income tax payable in Mauritius the amount of foreign tax paid in respect of the distribution withdrawals transferred to Mauritius provided that the credit for actual tax suffered does not exceed the amount of Mauritian income tax payable on all the foreign source of income in accordance with section 77 of the Income Tax Act and as laid down by regulation 6(1) of the Income Tax (Foreign Tax Credit) Regulations 1996.

(Rec. No. 21/377932)