

TR 287

Facts

M is a private company, limited by shares and incorporated in Mauritius in 2007. M is a holder of a Global Business License ("GBL"). The principal activity of M is that of investment holding and it accordingly holds investments in subsidiaries in Country S and Country T respectively.

M currently holds a 99% equity stake in N, its subsidiary in Country T, from which it expects to derive dividend income. N is engaged in the business of providing information technology and e-commerce marketing services.

N's operations prior to 1 June 2019

In 2010, N was granted rights and privileges as a promoted industry under the Investment Promotion Act in Country T and to be a Regional Operating Headquarters ("ROH"). N was registered to provide managerial, technical and support services to its associates and benefited from a reduction and exemption from revenue taxes. Amongst other tax incentives, the ROH regime carried a reduction in the corporate income tax rate to 10% of the net profits of ROH, an exemption from withholding tax ("WHT") on dividends paid to foreign enterprises and an exemption of income tax on dividends received from associated enterprises. In 2012, ROH applied for an exemption from corporate income tax for 10 years, starting on 1 January 2013.

Based on the above preferential ROH tax regime under which N operated prior to 1 June 2019, M applied for and obtained a favourable tax ruling (Tax Ruling 180) from the Mauritius Revenue Authority ("MRA") regarding its eligibility for tax sparing credit claim in Mauritius on dividend income derived from N.

N's operations post 1 June 2019

In March 2019, the ROH regime was abolished by Country T's Cabinet and replaced by the International Business Center ("IBC") regime which has similar policy objectives. An IBC is a company that provides services to its associated companies in overseas countries and/or in Country T, including international trade.

N was able to apply and become an IBC. Under the IBC scheme, N continues to provide managerial, technical and support services as well as enjoy the following tax privileges, including but not limited to:

- a reduced rate of corporate income tax on income derived from managerial, technical and support services;
- an exemption of income tax on dividend income from associated companies; and
- an exemption from WHT on dividends paid by N to foreign enterprises.

Based on the above, the ROH regime and IBC regime have essentially the same characteristics and confer similar tax benefits.

Point at issue

Whether, by virtue of Section 77 of the Income Tax Act and Section 9 of the Income Tax (Foreign Tax Credit) Regulations 1996 ("ITR"), M is eligible to claim tax sparing credit on dividend paid out of profits from N's business operations under the IBC scheme?

Ruling

On the basis of the facts provided, it is ruled that M is entitled to claim tax sparing credit in respect of dividend receivable from N in Mauritius in accordance with provisions 9 of the Income Tax (Foreign Tax Credit) Regulations 1996 to be offset against that income.