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A Facts

A bank holding a Category 2 Banking Licence deals with companies holding Category 1 and 2 Global Business Licences, Freeport Companies and Trusts which carry out qualified global business. The bank provides services to clients from Mauritius in respect of activities carried out outside Mauritius.

Points at issue

- a) Whether the income from transactions with the entities as described above will be classified as foreign source income.
- b) Whether the 80% presumed foreign tax credit will be available.

Ruling (issued in September 2002)

Companies holding Category 1 and 2 Global Business Licences, Freeport Companies and Trusts carrying out qualified global business outside Mauritius are resident in Mauritius. Companies holding Category 2 Global Business Licence are resident in Mauritius by virtue of their being incorporated/registered here except that they are deemed not to be resident only for treaty purposes under Section 76 of the Income Tax Act.

Income derived by the bank from the loan/banking facilities and other services provided to the entities mentioned above are income derived from within Mauritius and not foreign source income. Accordingly, no presumed foreign tax credit will be available.

B Facts

A bank holds a Category 2 Banking Licence. As a result of certain international trading transactions regarding lendings and borrowings or buying and selling of foreign currencies, the bank made certain gains or losses, due to fluctuation in foreign currency rates.

Point at issue

Whether exchange gains or losses would be classified as capital gains/losses or income receipt/allowable expenses.

Ruling (issued in September 2002)

Exchange gains/losses arising on accounts that record a company's ordinary business transactions are taxable or deductible as the case may be. However exchange gains/losses in connection with transactions involving capital assets are not recognized for income tax purposes.

C Facts

A new tax regime applicable to Global Qualified Corporations has been introduced whereby all such entities would be taxable at the rate of 15% on their income as from the year of assessment starting 01 July 2003. The basis period for the assessment year 2003/2004 is normally 01 July 2002 to 30 June 2003. The financial year of a bank holding a Category 2 Banking Licence ends on 31 March. The financial statement for the year ended 31 March 2003, which forms the basis for the assessment year 2003/04 will therefore include foreign source income earned from 01 April 2002 to 30 June 2002.

Point at issue

Whether the bank would have to pay tax on income derived during the period prior to 01 July 2002 at the rate of 15%. Alternatively, whether the income for the financial year ended 31 March 2003 could be apportioned so that the rate of tax in force during the period before and after 01 July 2002 could be applied for calculation of the tax payable and the allowable presumed foreign tax credit.

Ruling (issued in September 2002)

Pursuant to Section 4 of the Income Tax Act 1995, the income assessable for the year of assessment 2003/04 is the income derived during the preceding year ended 30 June 2003. However, as the bank has an approved return date under Section 118 of the Income Tax Act, the income for the financial year ended during that preceding year will form the basis of assessment for the assessment year 2003/2004.

Income tax payable for the year of assessment 2003/2004 should be computed based on the tax rate applicable for that year of assessment, i.e. 15%. Apportionment of the income of a financial year for calculation of tax payable or presumed foreign tax credit is not applicable.