TR 33

Point 1: Taxation of Exchange Differences

Facts

A company incorporated in Mauritius holds a Category 1 Global Business Licence (GBC 1) for the purpose of holding investments of a group overseas. It intends to invest primarily in securities in some countries denominated in a currency other than its reporting currency viz US Dollars (USD).

At year end, the company may have in its balance sheet amounts due to and from brokers in different countries. The company may also have surplus cash in the bank account in these countries in the relevant underlying currencies for a number of reasons.

The debtors, creditors and cash balances at year end denominated in a currency other than the reporting currency will need to be translated at year end rates in accordance with generally accepted accountancy principles. This would result in exchange differences which would be taken to the statement of operations as results for the year.

Point at issue

Whether the exchange differences resulting from the above would be considered as a deduction or income, as the case may be, in computing the company’s chargeable income.

Ruling (issued in November 2003)

The calculation of profits for tax purposes should start with a consideration of the accounts drawn up in accordance with accepted principles of commercial accounting.

If the accounts of the GBC 1 company prepared in accordance with the Companies Act and generally accepted accountancy principles have to take account of translation profits and losses then these profits and losses should also be taken into account for tax purposes unless there are particular reasons relevant to the case in question, including whether they are in respect of capital items, for taking a different view.

In deciding what generally accepted accountancy principle is for this purpose, regard should be had in particular to IAS 21 – "The effects of changes in Foreign Exchange Rates" and to published accountancy practices.

Point 2: Availability of tax sparing credit

Facts

The GBC 1 company would invest in an overseas company (Co A) which is resident in a State with which Mauritius has a Double Taxation Agreement. Co A operates in the Free Trade Zone and would accordingly benefit from certain tax incentives. It would thus enjoy a tax holiday for the first 5 years of operations and would pay tax at a concessionary rate for the next five years.

In the initial years of profitability when the full tax exemption is available, Co A proposes to retain the bulk of distributable profits for future plans and operations and distribute to the GBC 1 company only a small proportion.

Depending on future performance and actual results on budget, Co A proposes to distribute all surpluses in later years out of retained earnings accumulated over the 5 initial years. At that time the tax rate in force would be the reduced or concessionary rate.

Point at issue

Whether tax sparing credit would be available in the later years in respect of dividends received from profits earned in earlier years, which would but for the tax incentives have been taxed at the normal rate.

Ruling (issued in November 2003)

In accordance with the Double Taxation Agreement in force between Mauritius and the State concerned and the current provisions of the Income Tax (Foreign Tax Credit) Regulations 1996, tax sparing credit would be available to the Mauritian company in respect of dividends received from an investee company in that other State paid out of that investee company's current and/or prior year profits.