

TR 46

Facts

A foreign company intends to set up a Category 1 Global Business Licence Company (GBC 1) for the purpose of providing management and consulting services to the mining industry worldwide. The proposed GBC1 will employ foreign employees. They will carry out work wholly outside Mauritius. The proposed GBC1 will also have consultancy agreement with overseas contractors who will provide management and consulting services on behalf of the proposed GBC1 and such services will be carried out wholly from abroad.

Points at issue

- a) Whether the foreign employees the GBC1 will be employing to carry out work wholly outside Mauritius will be subject to PAYE.
- b) Whether the overseas contractors will be subject to income tax in respect of fees they will receive from the GBC1 for consultancy work to be carried out from abroad.

Ruling (given in January 2006)

- a) The foreign employees the GBC1 will be employing to carry out work wholly outside Mauritius will not be subject to PAYE.
- b) The overseas contractors too will not be subject to income tax in respect of the fees they will receive from the GBC1 for consultancy work to be carried out from abroad.

However, where the overseas contractor is related to the GBC1, the fees payable to the GBC1 would still not be taxable in the hands of the contractor but those fees would have to satisfy the arm's length principles for tax purposes in the accounts of the GBC1.