

TR 57

Facts

A Company is tax resident in Mauritius and operates a gaming house. It has entered into a lease contract with a company registered and tax resident in South-Africa, in respect of the lease of certain Wheel of Gold Machines. The latter company does not have a PE in Mauritius. The consideration of the lease is based on the number of machines used per day and per machine, and lease payments are made accordingly. The Mauritius - South Africa DTA does not make specific mention of income in respect of operating lease.

Point of Issue

Can it be confirmed that the lease payments made by the company to the South African company are not Mauritian sourced income and therefore outside the scope of the Mauritian tax system?

Ruling

Lease income derived by the South African Company, from lease of equipment made to the company, constitutes income which falls under Article 22(1) of the Mauritius-South Africa Double Taxation Agreement and therefore taxable only in the country of residence of the recipient of the income, i.e. South Africa.