

TR 90

Facts:

H has been incorporated in Mauritius as a private company, and holds a GBL 1 Licence to carry out investment holding activities. No investments to-date, however, have been made by the Company. It has uninvested cash in its bank account in Mauritius, and earns interest thereon at commercial rates. It has no other income from any other source and incurs usual business operating expenses.

Points in issue

Confirmation that

- a) interest income earned by the Company on its uninvested cash would not be considered as exempt income for the purposes of Section 26 of the Income Tax Act and GN 140 of 2003;
- b) the Company would be allowed to carry forward its tax losses for set-off against future taxable income in five subsequent income years;
- c) in the event that the Company derives both taxable income (e.g. dividends), exempt income (e.g. gains from disposal of shares) and interest income on uninvested cash from its Mauritian bank account in future, such interest income would not be taken into account for the purposes of applying the formula set in GN 140 of 2003 to calculate the quantum of unauthorized deductions.

Rulings

- a) Item 3 (b) of Sub-Part B of Part II of the Second Schedule to the Income Tax Act provides that the interest payable on a call and deposit account held by a corporation holding a GBL 1 Licence with any bank under the Banking Act 2004 is exempt. It is therefore clear that the interest income earned by the Company on its uninvested cash in a bank account in Mauritius should be treated as exempt income.
- b) It is confirmed that the Company would be allowed to carry forward its tax losses for set-off against future taxable income in five subsequent income years in accordance with the provisions of Section 59 (b) of the Income Tax Act. However, these tax losses would not include any expenditure or loss incurred in the production of interest income referred to above, given that expenditure or loss incurred in the production of income which is an exempt income is not deductible by virtue of the provisions of Section 26 (1) (b) of the Act.
- c) In view of the ruling given at (a) above, in the event the Company derives both taxable income (e.g. dividends) and exempt income (e.g. interest income and gains from disposal of shares) such exempt income would be taken into account for the purpose of applying the formula set out under GN 140 of 2003 of the Act to calculate the quantum of unauthorized deductions.

However, in accordance with regulation 8 (2) of the Act, no proportion of the common expenditure will be disallowed where the proportion of exempt income to total gross income is 10 per cent or less.