

VATR 118

Facts

M is a private company limited by shares incorporated under the laws of Mauritius and holds a 'global business licence' issued by the Financial Services Commission of Mauritius – (“FSC”).

M's sole shareholder is N, another private company limited by shares incorporated under the laws of Mauritius. N also holds a 'global business licence' issued by the FSC.

The sole shareholder of N is O, a company established in the United States of America.

M has been established to trade in carbon emission reduction credits ("**Carbon Credits**"). M invests in carbon programs to eventually hold the sole rights of these programs and on-sell such rights. Following its incorporation, M acquired the Carbon Credits and now sells these to several countries outside Mauritius. M conducts its business outside of Mauritius.

M is considering purchasing Carbon Credits from two trusts, namely P and Q (referred to as **the “Trusts”**), established under the laws of Mauritius. The sale of Carbon Credits to M by R shall be within Mauritius.

R are not managed and controlled from Mauritius and hence are not tax resident in Mauritius. R do not hold a 'global business licence'.

Points at issue

- (1) Whether the sale of Carbon Credits in Mauritius falls outside the scope of the VAT legislation?

- (2) Whether the Trusts are required to register for VAT in Mauritius if their respective annual turnovers relating to the sale of Carbon Credits in Mauritius exceed MUR 6 million?

Ruling

On the basis of the facts mentioned above, it is ruled that -

- (1) The sale of Carbon Credits in Mauritius is a supply of services by virtue of section 4(2)(b) of the VAT Act;

- (2) As the sale of Carbon Credits is not an exempt supply according to the First Schedule to the VAT Act, the Trusts would be required to register for VAT in Mauritius if their respective annual turnovers relating to the sale of Carbon Credits in Mauritius exceed or is likely to exceed the amount specified in the Sixth Schedule to the VAT Act, in accordance with section 15(1) of the VAT Act.