

## **TR 140**

### **Facts:**

A is a Category 1 GBL company and is a licenced reseller of life insurance policies to individuals in various countries in Africa.

It is being proposed that a Trust be set up in Mauritius which would hold the said life insurance policy on trust for the Settlor's beneficiaries with the Settlor himself acting as the protector of the trust.

The Settlor as well as the beneficiaries will be non-residents of Mauritius. The Trustees will be the Settlor, someone nominated by the Settlor and a licenced management company which will act as qualified trustee. The Beneficiaries will be the surviving family of the Settlor.

The Trust is used as a fast and efficient mechanism to distribute the proceeds of the life insurance policy when it matures as opposed to the time consuming settlement of an estate in certain jurisdiction, thus ensuring the prompt wellbeing of the deceased's beneficiaries.

### **Points at issue**

- a) Would the Trust be deemed to receive chargeable income as defined under the Income Tax Act if, at its maturity:
  - (i) the policy's cash payment is made directly to the Beneficiaries from the insurance company under the instruction of the Trustees? or
  - (ii) the policy's cash payment is paid to the Qualified Trustee's client account in Mauritius before being distributed to the Beneficiaries?
- b) What would be the filing obligations of the Trust during the term of the policy and at its end?

## **Rulings**

- a) The proceeds of a life insurance policy on maturity or on death of the insured do not constitute a taxable income under Section 10 of the Income Tax Act.
- b) The Trust will have an obligation to furnish a return of income under Section 116 of the Income Tax Act unless it deposits a declaration of non- residence for any income year with the Director-General within 3 months after the expiry of the income year under Section 46(3) of the Act.