

## **TR 150**

### **Facts**

X, holder of an Indian passport and resident in the United Arab Emirates also holds Caymanian Status which is equivalent of being Caymanian. He is currently in the process of searching for a high end residential property in Mauritius with the intention to purchase same within the next month or so. He and his family intend to reside in Mauritius either in aggregate of 183 days or more in each income year and/or aggregate of 270 days or more over three (3) years.

X is the sole shareholder and sole director of Y, hereinafter referred to as “the Company”. The Company has Subsidiaries in India, USA, Europe, Middle East and South East Asia. The principal activity of the Group is manufacture, marketing and distribution of herbal products to over 90 countries including Mauritius. The Company’s principal income is derived from profit sharing and dividends distributed by the Company’s Subsidiaries after payment of due taxes in their respective countries.

The Company is incorporated in the Cayman Islands as an exempted company with limited liability. Its central management and control is effected by a team of highly qualified professionals amongst others including a Global CEO, Global CFO, Executive Director and a Principal Herbalist. The professionals are currently based out in the Dubai International Centre, UAE and the Cayman Islands. All board meetings of the Company will continue to be held outside of Mauritius and all its funds will continue to flow through bank accounts outside of Mauritius.

### **Points at issue**

1. Whether the Company will qualify to be « resident » in Mauritius if X stays in Mauritius either in aggregate of 183 days or more in each income year and/or aggregate of 270 days or more over three (3) years.
2. Whether any dividends, income and any proceeds earned by X as a result of his investments in the Company and which will not be remitted to Mauritius shall be subject to any taxes in Mauritius.

## **Ruling**

On the basis of facts submitted, it is confirmed that:

1. in accordance with the provisions of section 73(1)(b) of the Income Tax Act, the Company will not qualify to be « resident » in Mauritius even if X stays in Mauritius either in aggregate of 183 days or more in each income year and/or aggregate of 270 days or more over three (3) years as the Company is neither incorporated in Mauritius nor is its central management and control being exercised in Mauritius.
2. any dividends, income and proceeds earned by X, as a result of his investments in the Company and which will not be remitted to Mauritius shall not be subject to Mauritian income tax.