

TR 168

Facts

Mr D is a French national who is tax resident in Mauritius. He receives dividends of Euro 10 million from K, a company resident in Mauritius and holding a Category 1 Global Business Licence.

Points at issue

1. Whether K is required to pay corporation tax or any other tax on the dividends being distributed?
2. Whether Mr D is subject to income tax or any other tax on the dividends received from K?
3. The applicability of section 7(3) of the Income Tax Act and whether same can be applicable to Mr D.

Ruling

On the basis of facts given above, it is confirmed that :

1. the distribution of dividends by K to Mr D is exempt from income tax in accordance with item 1 of Sub-Part B of Part II of the Second Schedule to the Income Tax Act.
2. any dividend received by Mr D from a resident company is exempt from income tax in accordance with item 1 of Sub-Part B of Part II of the Second Schedule to the Income Tax Act.
3. Section 7(3) of the Income Tax Act is not applicable to Mr D since dividends are exempt by virtue of item 1 of Sub-Part B of Part II of the Second Schedule to the Income Tax Act.

Under section 7(3) of the Income Tax Act, where emoluments, dividends and interest are paid by a body of persons or persons who are exempt from tax or out of income exempt from income tax, such income (emoluments, dividends and interest) is not exempt from tax by virtue of the provisions of this section. This means that such income will be exempt from income tax only if there are provisions elsewhere in the Income Tax Act to exempt such income.