

## **TR 175**

### **FACTS**

N is a fund established by the General Assembly as a Subsidiary Organ and integral part of an international organisation to provide for retirement, death, disability and related benefits for the staff of the organisation and the other organisations admitted to membership in the Fund. N is not an entity separate from the organisation; it does not have a legal personality separate from the organisation.

For more than a decade N has been investing in the equity markets in Mauritius. The investments were made through a discretionary Africa Emerging Market Equity external fund. As of March 31, 2016, N had an investment of USD xxx million invested in the discretionary Africa Emerging Market Equity Fund.

The Convention of the Privileges and Immunities of the organisation (“Convention”) was adopted by a Resolution of the General Assembly. Mauritius acceded to the Convention on 18 July 1969. The Convention provides that the organisation, its assets, income and other property shall be exempt from all direct taxes”.

N has no business presence in Mauritius and consequently no permanent establishment in Mauritius.

### **POINTS AT ISSUE**

1. Whether N, as a Subsidiary Organ of the organisation, qualifies as an exempt body of person under item 20 of Part 1 of the Second Schedule to the Income Tax Act 1995?
2. Whether any income derived by N in Mauritius by way of dividend, interest, capital gains and other income that may arise as a result of its investment actions are exempt from taxes?

### **RULING**

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

1. N Fund, as a Subsidiary Organ of the UN, is an exempt body of person under item 20 of Part 1 of the Second Schedule to the Income Tax Act 1995; and

2. any income derived by N Fund in Mauritius by way of dividend, interest, capital gains and other income that may arise as a result of its investment actions will be exempt from income tax.