

## **TR 195**

### **Facts**

B is incorporated in Mauritius and holds a management licence issued by the Financial Services Commission. It provides trust and corporate services in Mauritius and acts as an Authorised Trustee for trusts administered in Mauritius.

B forms part of a group comprising:

(a) T

T is incorporated in Nevis and provides professional trustee services for trusts formed under Jersey or other foreign laws (excluding Mauritian law). The Settlers and beneficiaries of the trusts are not resident in Mauritius.

Each trust is the sole shareholder of a separate C. Each client of T has its own trust and C.

(b) S

S is incorporated in Nevis and provides administration services for C and trusts mentioned at (a) above.

(c) W

W is incorporated in Nevis and provides investment portfolio management services to the trusts and C mentioned at (a) above.

(d) H

H is incorporated in Bahamas and is the group holding company for S, T, W and B.

The executive directors of T, C, S, W and H are not tax resident in Mauritius. The board directors of S, T and W meet outside Mauritius where key operational and investment decisions are taken.

The proposed transaction involves:

- (i) the transfer of trusteeship, administration services, investment portfolio management services of several trusts formed under foreign laws from T, S, and W, to B; and
- (ii) the resignation of existing board of directors of C and the appointment of B as the new corporate director of those companies.

On the completion of the proposed transaction, the sole trustee and administrator of the trust and corporate services will be B in Mauritius and the central control and management of C will take place in Mauritius.

### **Points at issue**

- (i) Whether the Trusts formed under Jersey law will be considered as tax resident in Mauritius on the basis that the sole trustee, B is tax resident in Mauritius and B will administer the Trusts from Mauritius?
- (ii) Whether the Trusts will be required to register for income tax purposes in Mauritius and pay income tax at the rate of 15 % on their foreign source income?
- (iii) Whether C incorporated under the laws of A will be considered as tax resident in Mauritius on the basis of having their central management and control in Mauritius?
- (iv) Whether C will be required to register for income tax purposes in Mauritius and pay income tax at the rate of 15 % on their foreign source income?
- (v) Whether for purposes of the Common Reporting Standard (“CRS”),
  - (a) the Trusts will be required to report any reportable accounts as a Financial Institution that is managed by B?
  - (b) C will be considered as passive Non-Financial Entities and therefore will not be required to report any reportable accounts as a Financial Institution?

### **Ruling**

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

- (i) The trusts will be considered as resident in Mauritius by virtue of section 73 (1) (d) of the Income Tax Act as the sole trustee will be resident in Mauritius and the trust will be administered in Mauritius.
- (ii) Each trust will be required to apply for a Tax Account Number at the Mauritius Revenue Authority and file income tax returns. The trusts will be liable to income tax on their chargeable income at the rate specified in Part IV of the First Schedule.
- (iii) C will be considered as tax resident in Mauritius by virtue of section 73(1) (b) of the Income Tax Act since their central management and control will be in Mauritius.

- (iv) C will be required to apply for a Tax Account Number at the Mauritius Revenue Authority and file income tax returns. They will be liable to income tax on their chargeable income at the rate specified in Part IV of the First Schedule.

As regards Point at Issue (v), the Trusts and C will have to decide on the basis of all facts and circumstances whether for purposes of the CRS, they should be classified as Financial Institutions and be required to report any reportable accounts.