

TR 198

Facts

Mr F, a South African national lives in Mauritius since February 2017. In July 2018, F acted as settlor to T, a trust formed under the Cayman Islands Trust law.

All beneficiaries of T including Mr F are tax resident in Mauritius since January 2018.

The factors enumerated in section 60 (2) of the Trust Act 2001 are not applicable to T.

S, a company formed under the Cayman Islands Company law acts as trustee of T.

Points at issue

- (i) Whether T is a trust recognised under the laws of Mauritius and as such falls within the definition of Trust under the Income Tax Act?
- (ii) Whether T shall be considered as tax resident in Mauritius by virtue of section 73 of the Income Tax Act?
- (iii) Whether T shall have any obligation to file tax returns in Mauritius and pay any tax accordingly?

Ruling

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

- (i) T is a trust recognised under the laws of Mauritius since the factors enumerated in section 60 (2) of the Trust Act 2001 are not applicable to that trust.
- (ii) T will be considered as tax resident in Mauritius in accordance with section 73(d) of the Income Tax Act since the settlor was resident in Mauritius at the time the instrument creating the trust was executed.
- (iii) T shall be liable to income tax by virtue of section 46(1) of the Income Tax Act and shall have to file income tax returns accordingly.