TR 102

Facts

X Ltd (the Company) has been incorporated in Mauritius as a company holding a GBL 1 Licence. The principal activity of the Company is investment holding, and it actually holds the majority of the shares of a bank in Indonesia. Its main income from the bank is dividend, and it suffers tax at source in that the bank pays tax in Indonesia prior to distributing dividend. The Company normally distributes the majority of its reserve to its holding company, Y Ltd, which is also incorporated in Mauritius and holds a GBL 1 Licence. However, due to future investment opportunities the Company has changed its strategy, and instead of paying dividend to its holding company funds will be transferred to the latter on a refundable basis. The main reason for doing so is that the Company can call back these funds to invest elsewhere as it may seem good.

Points in issue

1) Whether any interest received by the Company for advance made to its holding company is taxable?

2) If the interest income is taxable, whether tax suffered on income derived from the bank in Indonesia or from any other foreign source is deductible against tax liability on the interest income?

3) Whether all types of income, derived from investment made in companies incorporated outside Mauritius, are taxable in the case of the Company?

Rulings

It is confirmed that -

1) the interest income derived by the Company for advance made to its holding company is taxable in accordance with the provisions of Section 51 of the Income Tax Act.

2) the tax suffered by the Company on income derived from the bank in Indonesia or from any other source is not deductible against its tax liability on the interest income   derived from the local source.

3) all types of income derived by the Company from investment made in companies incorporated outside Mauritius are taxable. It is also confirmed that in respect of such income the Company will benefit from foreign tax credit in accordance with the provisions of the Income Tax (Foreign Tax Credit) Regulations 1996.