

TR 105

Facts

M Limited (the Company) is a private company incorporated and domiciled in Mauritius, and holds a Category 1 Global Business Licence. It receives dividend income, subscription fees, management fees, satellite fees and other fees from Nigeria, Ghana, Kenya, Tanzania and Zambia.

Points in issue

- 1) Whether a source of income can be determined by reference to the type of income, so that in the case of the Company dividend income, subscription fees, management fees, satellite fees and other fees will each be regarded as a source of income? Also, whether source of income can be determined by reference to a particular country, so that the aforesaid income from one country will be regarded as one source and the same income received from another country regarded as another source?
- 2) Whether for a particular year of assessment, the actual tax suffered on one foreign source income can be claimed as foreign tax credit and a presumed foreign tax of 80% on a second source of income?
- 3) Whether, in case the Company opts to compute the amount of credit for foreign tax by reference to all foreign source income derived by it in accordance with regulation 6 (3) (a), the amount of credit shall be the higher of 80% of Mauritius tax payable and the actual foreign tax suffered on that income?

Rulings

- 1) It is confirmed that source of income can be determined either by reference to the type of income or to the country from where the income is derived.
- 2) It is confirmed that on the basis of the above ruling, for a particular year of assessment, the Company can claim the actual tax suffered on one foreign source income and a presumed tax credit of 80% on a second source of income, in accordance with the provisions of Regulations 6 (3)(b) and 8 (3) of the Income Tax (Foreign Tax Credit) Regulations 1996, provided that credit for actual tax suffered does not exceed the amount of Mauritius income tax payable on that foreign source income, as laid down by Regulation 6(1) of the aforementioned regulations.
- 3) In case the Company opts to compute the amount of credit for foreign tax by reference to all foreign source income derived by it in accordance with Regulation 6 (3) (a), it is confirmed that the amount of credit shall be the higher of the actual foreign tax suffered or 80% of the Mauritius tax chargeable with respect to all foreign source income, provided that credit for actual tax suffered does not exceed the amount of Mauritius income tax payable on all the foreign source income, as laid down by Regulation 6 (1) of the aforementioned regulations.