

TR 125

Facts

The ABC group has a collective investment scheme in Botswana called the ABC Unit Trust Scheme (Scheme). The Scheme, comprising several portfolio funds, is established by way of a Trust in Botswana and is regulated by the Non-Bank Financial Institutions Regulatory Authority (NBFIRA). The group intends to 'move' the Scheme from Botswana to Mauritius by winding down the Scheme and establishing a Collective Investment Scheme (CIS) in Mauritius that mirrors the structure and investment objectives of the Botswana Scheme. As part of its migration process, the scheme will seek to:

- Establish a trust in terms of the Trust Act, 2001;
- register the trust as a CIS;
- Register the CIS as a Category 1 GBL trust; and
- Appoint a CIS manager; a custodian trustee and a managing trustee as required per the relevant legislations.

Point of Issue

Whether the entity will be governed by Section 45A (CIS) of the Income Tax Act 1995 or can it be considered as a non-resident trust under Section 46 (Trust) of the Income Tax Act 1995?

Ruling

On the basis of information contained in your application, it is ruled that the proposed Collective Investment Scheme will be governed by Section 45A of the Income Tax Act 1995.

You may wish to note that Category 1 Global Business Licences are issued to resident corporations only.