

## **TR 126**

### **Facts**

ABC is a trust established in Mauritius and its objective is to generate medium to long term capital growth from its investments for distribution to its beneficiaries which include a number of charities and philanthropics. The sole trustee of ABC is XYZ Trustees, a resident corporate trustee, whereas the settlor and all the beneficiaries of ABC are non-residents of Mauritius. ABC deposits a declaration of non-residence with the MRA on an annual basis and, accordingly, avails of income tax exemption in Mauritius under Section 46 (3) of the Income Tax Act 1995.

ABC is presently considering consolidation of all its charitable and philanthropics activities through a new trust to be set up in Mauritius to achieve greater efficiency in its operations. The new trust will be settled by XYZ trustees, as trustee for ABC. In addition, all the beneficiaries of the new trust will be non-residents of Mauritius. Accordingly the ultimate beneficiaries of ABC will still remain non-residents of Mauritius despite the interposition of the new trust in Mauritius.

### **Point of Issue**

- a) Whether the new trust will be eligible to deposit a declaration of non-residence under Section 46(3) of the Income Tax Act and be exempted from tax; and
- b) Whether ABC will still be eligible to deposit a declaration of non-residence and be exempted from income tax in Mauritius under Section 46(3) of the Income Tax Act following the addition of the new trust as an additional beneficiary.

### **Ruling**

- a) The new trust will be considered as a resident of Mauritius under Section 73(d) of the Income Tax Act as the trust will be administered in Mauritius and a majority of its trustees are resident of Mauritius.
- b) ABC will no more be eligible to deposit a declaration of non-residence as one of its beneficiaries (the new trust) will be considered as a resident of Mauritius.