TR 138 (Govt Gazette No. 78 of 07 September 2013)

Facts

X hereafter referred to as the "company" operates a casino and gaming machines. The Finance (Miscellaneous Provisions) Act 2011 ("FMPA 2011") repealed Item 5 of Sub-Part C of the Second Schedule (the "relevant item") to the Income Tax Act 1995 ("ITA 95") so that income derived from the operation of a casino and gaming machines is no longer exempt from income tax. Pursuant to section 21(6) of the FMPA 2011, the commencement date of the amendment is 01 October 2011.

Points at Issue

a. Gross income accruing from which date is subject to corporate tax;
b. How is chargeable income to be computed in the year of the amendment;
c. How are annual allowances to be computed in the year of the amendment and in subsequent years?

Ruling

a. Pursuant to the FMPA 2011 which provides for the amendment to be effective as from 01 October 2011, any gross income that accrues from the operation of a casino and gaming machines as from 01 October 2011 is no longer exempt from corporate tax. Hence, gross income derived up to 30 September 2011 would be exempt while gross income derived thereafter would be taxable.
b. The chargeable income in the year of amendment shall be computed by apportionment of allowable deductions, including annual allowance, between the exempt period and the taxable period. However, expenses directly attributable to the production of gross income from the operation of the casino and gaming machines in each period shall be allocated to that period without apportionment. Only expenses indirectly attributable to the production of gross income of both periods need to be apportioned in a fair and reasonable manner.
c. The company would be able to claim capital allowance on assets acquired prior to the amendment (that is, assets acquired prior to 01 October 2011). The base value, however would not be the cost of the assets but the carrying value of the assets after taking into account capital allowances for each year of use. On disposal of the assets, the company will compare the proceeds from disposal with the written down value of the assets to ascertain any balancing charge/balancing allowance. However, in the year of disposal, balancing charge/allowance shall be time-apportioned to reflect the amount thereof attributable to the period of use of the asset

during which taxable income was derived. The written down value of the assets would be the cost of the assets after deducting all the annual allowances attributable to the period of use of the assets.