

## **TR 20**

### **Facts**

A foreign company intends to register itself with the Registrar of Companies as a foreign company to operate in the offshore sector. The offshore company (the lessor) will contract a loan with an offshore bank for the purchase of a new brewery plant which is being constructed abroad with a view to hire it to a leasing partnership (the lessee) established abroad which will in turn make the new brewery plant available to another company under a financial lease agreement. The lessee will pay a rental to the lessor during the first five years.

### **Point at issue**

- a) Whether the offshore company is assessable to tax on the lease interest derived by it under the finance lease agreement entered into by it and the leasing partnership.
- b) Whether the lease interest paid by the leasing partnership to the offshore company is income derived from outside Mauritius.
- c) Whether the offshore company will, by virtue of Section 19 of the Income Tax Act 1995, be entitled to a deduction in respect of interest payable on loan taken from the non-resident bank for the acquisition of the brewery plant.
- d) Whether the offshore company is entitled to a deduction in respect of its administrative and other expenses which satisfy the requirement of Section 18(1) of the Income Tax Act 1995.
- e) Whether the interest paid by the offshore company to a non-resident bank is exempt from tax under item 5 of Part III of the Second Schedule to the Income Tax Act 1995.

### **Ruling**

- a) The offshore company, being a resident of Mauritius, is assessable to tax on the lease interest derived by it under the finance lease agreement entered into by it and the leasing partnership.
- b) The lease interest paid by the leasing partnership to the offshore company is income derived from outside Mauritius.
- c) The offshore company will, by virtue of Section 19 of the Income Tax Act 1995, be entitled to a deduction in respect of interest payable on loan taken from the non-resident bank for the acquisition of the brewery plant.
- d) The offshore company is entitled to a deduction in respect of its administrative and other expenses which satisfy the requirements of Section 18(1) of the Income Tax Act 1995.
- e) Interest paid by the offshore company to a non-resident bank is exempt from tax under item 5 of Part III of the Second Schedule to the Income Tax Act 1995.