

TR 228

Facts

G is incorporated in Mauritius and it holds a Category 1 Global Business Licence. The principal activity of G is that of investment holding.

G is listed on a foreign stock exchange and various non-resident directors (“**Directors**”) are entitled to director fees.

The Board of G wishes to compensate the Directors by granting them Restricted Stocks (“**RS**”).

Particulars of the RS will be as follows:

- (i) on the grant date, a certain number of RS, determined by the value of the grant divided by the fair market value of the stocks at the date of the grant (“RS Value”), will be granted to the Directors by way of a letter of grant, which will not involve any transfer of stocks in the name of the Directors until the Period of Restriction expires or lapses;
- (ii) the Directors will have no right to vote or be entitled to dividends on the RS during the Period of Restriction;
- (iii) after the expiry of the Period of Restriction of 18 months, if a Director is still a member of the Board, RS granted will be considered as earned by the Director and the full number of stocks will be transferred in the name of the Directors;
- (iv) in addition, if any of the Directors voluntarily leaves G without cause during the 18 months period, the Period of Restriction will lapse and the said Director will earn and be entitled to stocks pro-rata the time he/she has served as Director;
- (v) however, if any of the Directors is removed with cause during the Period of Restriction of 18 months period, the said Director will lose all his or her entitlement to the RS granted and no stocks will be transferred to him/her.

In line with US GAAP, G will amortize the RS Value (computed as per Black-Scholes method of valuation) over the full Period of Restriction of 18 months by accruing and charging to its quarterly income statement three eighteenth of the RS Value.

For the purpose of calculating its chargeable income for an income year, G will disallow all provisions that have been made in respect of amortized RS Value.

Point at issue

Whether PAYE on the RS granted to Directors will apply on the date the Period of Restriction expires or lapses and be calculated on the fair market value of the stocks on that date and not at the end of every quarter based on three eighteenth of the RS Value?

Ruling

On the basis of facts mentioned above, it is confirmed that PAYE on the RS granted to Directors shall apply on the date the Period of Restriction expires or lapses, i.e. when the Directors are entitled to the RS and be calculated on the market value of the RS on that date.