

Facts

On 21 July 1997, a company engaged in hotel industry applied for a Hotel Development Certificate. The Ministry of Tourism and Leisure subsequently issued a letter of intent dated 25 August 1998 informing the company that the Government has approved the grant of a Hotel Development Certificate, subject to certain conditions. The Hotel Development Certificate was duly issued on 8 December 2000.

Point at issue

Whether for the purposes of Section 36 of the Income Tax Act 1995, the company would be regarded as a tax incentive company as from the date the Ministry of Tourism and Leisure issued the letter of intent.

Ruling

The company became a tax incentive company as from 1 July 1999 under item 29 of Part IV of the First Schedule to the Income Tax Act 1995. Had it not been for that new provision enacted by the Finance Act 1999, the company would have qualified as a tax Incentive Company as from the date the Hotel Development Certificate was issued to it i.e. 8 December 2000.

The company cannot therefore be regarded as a tax incentive company for the purposes of Section 36 of the Income Tax Act 1995 as from the date the letter of intent was issued to it by the Ministry of Tourism and Leisure.