

TR 28

Facts

A company incorporated by continuation in Mauritius holds a Category 1 Global Business License since 1998.

The company is registered with the Companies Registry in a foreign country as an overseas company. The company has established a place of business in that country from where all the activities of the company are carried out.

The company maintains full time employees based in the foreign country to carry out its day to day business activities. The company has no employees outside the foreign country.

Under the tax law of the foreign country, income not sourced in that country is exempt from tax. However, where an overseas company carries on business in that country through a branch, it is required to declare all income (wherever sourced) attributable to the branch in that country even foreign source income is eventually exempt.

Point at issue

Whether the company is eligible to a tax sparing credit under Regulation 9(1) of the Income Tax (Foreign Tax Credit) Regulations 1996 in respect of profits tax which would otherwise have been payable but for the exemption effectively given as a result of the source basis of taxation in that country.

Ruling

The company is entitled to a tax sparing credit in respect of profits tax which would otherwise have been payable had foreign source profits not been exempt in that country.