

TR 40

Facts

A company is engaged in Segment B banking activities (previously Category 2 banking). It received its banking licence on 3 June 2002 and started its operation as from July 2002. When calculating PAYE in respect of its expatriate employees, employed since the beginning, the company has been applying 50% exemption available under item 14 (a) (iv) of Part II of the Second Schedule.

Point at issue

Whether it can be confirmed that

- a) there is no limit on the number of expatriate employees who are entitled to claim 50% exemption
- b) each expatriate employee is entitled to the 50% exemption of income tax on his emoluments up to 30 June 2006.
- c) that further to the introduction of the Banking Act 2004, the 50% exemption up to 30 June 2006 will apply only to existing expatriate employees already benefiting from this exemption, and not to newly employed expatriates.

Ruling (given in September 2005)

It is confirmed that

- a) There is no limit on the number of expatriate employees who are entitled to the 50% exemption provided under Item 14(a)(iv), Part II of the Second Schedule to the Income Tax Act 1995.
- b) Each expatriate employee is entitled to the 50% exemption of income tax on his emoluments up to 30 June 2006.
- c) As the law presently stands, the 50% exemption will apply not only to expatriates employed prior to the coming into force of the Banking Act 2004 but also to newly employed expatriates up to 30 June 2006 on the condition that they satisfy the requirements (as amended) laid down in Item 14(a)(iv), Part II of the Second Schedule to the Income Tax Act.