

TR 41

Facts

A company wishes to incorporate a Category 1 Global Business Company (GBC 1). The company will be an investment holding company. One of its main activities would be to purchase promissory notes or bills of exchange or other financial instruments issued by companies outside Mauritius through offshore sellers. To finance the purchase of the promissory notes, bills of exchange or other financial instruments, the GBC 1 may in turn issue its own promissory notes, bills of exchange or other financial instruments to the offshore sellers.

Points at issue

Whether it can be confirmed that

- a) the payment made to offshore sellers by the GBC 1 company for the purchase of promissory notes, bills of exchange or other financial instruments will not be subject to any withholding income tax, stamp duties, value-added taxes and any other taxes or duties.
- b) the gains arising to the GBC 1 from the purchase and sale of the above financial instruments will not be liable to tax whereas the coupon interest received under the purchased promissory notes, bills of exchange or other financial instruments will be subject to tax at the rate of 15%.
- c) the gains arising to the GBC 1 if these financial instruments are sold before maturity will not be assessable as also stated in (2) above.
- d) the GBC 1 can apply for a certificate of residency in Mauritius through the Financial Services Promotion Agency if it satisfies the set criteria in order to benefit from lower withholding tax under the relevant Double Taxation Agreement between Mauritius and the country where the issuer is relevant.
- e) the GBC 1 will be entitled to claim as tax deduction the interest paid (at arm's length) for the purchase of the financial instruments
- f) in cases where the financial instruments are issued by the GBC 1 at a discount, the difference between the issue price and the redemption price will not be allowed as a deduction for income tax purposes.
- g) interest paid by the GBC 1 in paragraph 5 above will be allowed as deduction even if the recipient of the interest is resident in the British Virgin Islands.

Ruling (issued in November 2005)

- a) The payment made to offshore sellers by the GBC 1 company for the purchase of promissory notes, bills of exchange or other financial instruments will not be subject to any withholding income tax. Regarding the exemption from payment of stamp duties, value-added taxes and any other taxes or duties, it is suggested that these issues be addressed to relevant authorities.
- b) The gains arising to the GBC 1 from the purchase and sale of the above financial instruments will be liable to tax in the hands of the GBC 1 at the incentive rate of 15%. Moreover, the coupon interest received under the purchased promissory notes, bills of exchange and other financial instruments will be subject to tax at the rate of 15%. GBC1 may benefit from credits for taxes suffered at source where this can be evidenced. If taxes suffered at source cannot be evidenced, a unilateral tax relief of 80% of the Mauritius tax charge is available under the Income Tax (Foreign Tax Credit) Regulation 1996, thus resulting in an effective maximum tax rate of 3%.
- c) The gains arising to the GBC 1 if these financial instruments are sold before maturity will be assessable to tax in the same way as per paragraph (2) above.
- d) The GBC 1 may apply for a tax residence certificate to the Commissioner of Income Tax through the Financial Services Promotion Agency. The tax residence certificate will be delivered to the company on the strict condition that it can prove to the satisfaction of the Commissioner that it is either incorporated in Mauritius or has its central management and control in Mauritius.
- e) The GBC 1 will be entitled to claim as tax deduction the interest paid for the purchase of the financial instruments provided that the interest paid is at arms' length. The recipient of the interest will in principle be taxable in Mauritius.
- f) Where the financial instruments are issued by the GBC 1 at a discount, the difference between the issue price and the redemption price will be allowed as a deduction for income tax purposes.
- g) Interest paid by the GBC 1 in paragraph 5 above will be allowed as deduction even if the recipient of the interest is resident abroad. The recipient will on the other hand be taxable on the interest in Mauritius.