TR 42

Facts

A bank is proposing to implement a Domestic Medium Term Bond Programme under which it will issue unsecured bonds in tranches by private placement over a period of time. The bonds will have a term of maturity of more than 3 but less than 15 years. Interests on the bonds will be payable at the rates and dates as determined under the programme.

Point at issue

Whether interest payable on unsecured bonds that the bank is proposing to issue will be exempt from income tax under item 3(d) of Part III of the Second Schedule of the Income Tax Act.

Ruling (given in December 2005)

Although from a purely banking law perspective, bonds are treated in the nature of a deposit in view of the adequacy ratio requirements and the equal ranking to a fixed deposit in the event of a distribution in a winding-up, for the purposes of income tax, interest payable on bonds are only exempt when such bonds are issued by the Bank of Mauritius as approved by the Minister of Finance and Economic Development as provided under item 3(e), Part III of the Second Schedule to the Income Tax Act.

The Income Tax Act makes separate provisions for the exemption of interest on deposits. The provisions under item 3(d), Part III of the Second Schedule to the Income Tax Act are clear in that only deposits made and maintained for a continuous period of not less than 3 years by an individual in a bank bear tax-free interest. The exemption provided under this item in respect of interest payable on deposits cannot legally be extended to interest payable on bonds.