

TR 67

Facts

A company holding a Category 1 Global Business licence, will invest in a subsidiary in France. The subsidiary will not own any immovable property in France.

Points in issue

Whether, in the event of the sale of part or the whole of the shares in the subsidiary in future:

- a) the sale of the shares will fall under paragraph 2 of Article 13 of the DTA between Mauritius and France, i.e. gains from the alienation of movable property, or under paragraph 4 of the Article, i.e. gain from the alienation of any property other than that referred to in paragraphs 1,2 and 3 of Article 13;
- b) the gains from the sale of the shares will be taxable only in Mauritius, and therefore exempt.

Ruling

The sale of the shares will fall under paragraph 4 of Article 13 of the Mauritius-France Double Taxation Treaty, i.e. gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 of Article 13.

The gains from the sale of shares will be taxable only in Mauritius, in accordance with paragraph 4 of Article 13 of the DTA. Since there is no capital gains tax in Mauritius, those gains will not be subject to tax.