

TR 72

Facts

Company P is a UK Fund Manager appointed under an umbrella agreement to manage a number of investments on the balance sheet of AQ, a UK company. The investments are held all over the world. Company P and AQ are not related companies and do not have common directors.

Company P intends to subcontract the management of some of the investments to a Mauritius company (Company M), and this is permissible under the umbrella agreement. Company P will meet in London to provide recommendations to Company M which will consider these recommendations to decide whether or not to invest or disinvest. In this respect there will be an agreement between Company P and Company M.

Company M is a wholly owned subsidiary of Company P and holds a GBL 1 licence. It will receive an investment management fee for its services on which it will pay Mauritius income tax. The fee will reflect the management of assets already identified to be managed in Mauritius. Company P is also considering subcontracting management of more or all AQ securities to Company M at a second stage.

Point in Issue

Whether it can be confirmed that as a result of subcontracting of investment management by Company P to Company M, the mere management of part of or the majority or all of the AQ assets by Company M will not create a permanent establishment for AQ and Company P in Mauritius and AQ and Company P will not have any tax filing requirement with the Mauritian Tax Authorities.

Ruling

Company P is a Fund Manager and manages the investments of AQ under an umbrella agreement with the latter. Company P and AQ are not related companies. The management of the assets of AQ is subcontracted by Company P to Company M which has the power to act in an independent capacity. It is confirmed that Company M will not be considered as a permanent establishment of either AQ or Company P. Neither Company AQ nor Company P will have to file any tax return in Mauritius with regard to the activities carried out by Company M.