

## TR84

### Facts

A company intends to purchase a villa under the IRS scheme which will be financed wholly by an interest-free loan advanced by its sole shareholder. The latter intends to make use of the villa as his residence. It is not intended to be let to others. No business will be carried out by the company, and any surplus of the loan remaining after the purchase of the villa will be deposited in a bank. The interest accruing to the company on any such deposit will be used for paying the maintenance costs of the villa. Also, the interest receivable by the company will be subject to tax without any claim for deduction in respect of expenses incurred for the maintenance of the villa. The company is only a vehicle through which the property is to be purchased and held.

### Point in issue

1. Whether in the above circumstances, the shareholder will be subject to tax whilst residing free of charge in the villa.
2. Whether the company will be subject to tax on an "adequate rent" to be determined by the Mauritius Revenue Authority (MRA).

### Ruling

#### 1. The provisions of Section 86A (Benefit to Shareholder) are as follows:

*"Where a benefit of any nature, whether in money or money's worth, other than payment of dividend, is made by a company to any shareholder or a relative of the shareholder, the value of that benefit, to the extent that it exceeds the payment, if any, made therefor, shall be deemed to be income referred to in section 10 (1)(f) and received by the shareholder or the relative of the shareholder, as the case may be."*

On the basis of facts provided, whilst residing free of charge in the villa belonging to the company, a benefit is deemed to accrue to the shareholder, which is therefore a taxable benefit in accordance with the above provisions.

#### 2. The provisions of Section 88 (1) of the Act state that

*".....where property owned by a company is leased to a shareholder or a relative of a shareholder or to any other person, and the rent is not an adequate rent for the property or the lease makes no provision for the payment of rent, there shall be deemed to be payable under the lease a rent that is equal to an adequate rent for the property, and that rent shall be deemed to be income derived by the lessor-*

(a) .....

(b) *where no rent is payable under the lease, in respect of such periods as the Director-General determines."*

3. In accordance with the above provisions, the company will be subject to tax on an adequate rent which shall be determined by the MRA.