

## **VATR 33 (Govt Gazette No. 54 of 05 June 2010)**

### **Facts**

A is a non-resident French company. It has obtained a contract to provide services to B Ltd, a company incorporated in Mauritius and which is VAT registered. A proposes to sub-contract part of the services to C Ltd, which is incorporated in Mauritius and registered for VAT. C Ltd is a wholly-owned subsidiary of A.

There is no contractual relationship between B Ltd and C Ltd. The subsidiary only acts as a sub-contractor of A for part of the services the latter provides to B Ltd. There will not be any direct invoicing between B Ltd and C Ltd. A has no permanent establishment in Mauritius. C Ltd is legally and commercially independent of A. It also acts in the ordinary course of business and is at arm's length in its business dealings with A.

### **Points in issue**

Whether, with regard to the contractual arrangements, it can be confirmed that the supplies by C Ltd to A are taxable supplies; and, if in the affirmative, whether they are zero-rated supplies in accordance with Section 11(2) and item 6(a) of the Fifth Schedule to the VAT Act?

### **Ruling**

On the basis of facts provided, it is confirmed that with regard to the contractual arrangements between C Ltd and A, the supply of services performed by C Ltd is a taxable supply. However, examination of the contract between A and B Ltd shows that the services provided by A to B Ltd are supplied in Mauritius. A is therefore liable to be registered for VAT in Mauritius. In the circumstances the services provided under the sub-contract by C Ltd to A do not fall under item 6(a) of the Fifth Schedule to the Act and are therefore not zero-rated.