



**Editorial**

Dear Readers,

The keen interest generated amongst the professionals who attended the seminars organised by the Financial Services Promotion Agency in Singapore, Hong Kong and China augurs well for our Financial Services centre in this region. The challenge is to capitalise on this awareness campaign in order to attract quality business to Mauritius.

Challenges, there are indeed many facing Mauritius; the notice of termination of the Indonesia/Mauritius tax treaty being of particular concern to us and our clients. We are confident that with the resolve of the authorities and all parties concerned, this matter will be settled satisfactorily. As we seek to diversify our markets, the expanding tax treaty network and innovative products will provide opportunities to explore new avenues.

Jimmy Wong

**Contents**

Editorial..... 1  
 Mauritius Trusts..... 1  
 Promotion Mission in Asia..... 1  
 Transition to IFRS ..... 2  
 Update on the Indonesia/Mauritius  
 Tax Treaty ..... 2  
 Double Taxation Treaties ..... 2

**Mauritius Trusts**

The Trusts Act 2001 provides the legal framework for the establishment and recognition of a wide variety of trusts in Mauritius. Mauritius trusts offer interesting tax planning opportunities.

A trust that is resident in Mauritius, for income tax purposes, is eligible to benefit from the numerous tax treaties that Mauritius has entered into. A trust is resident

- (a) where the trust is administered in Mauritius and a majority of the trustees are resident in Mauritius; or
- (b) the settlor of the trust was resident in Mauritius at the time the instrument creating the trust was executed.

A trust that is resident in Mauritius is generally liable to tax on its chargeable income at the rate of 25%. However, provided that certain conditions are fulfilled, the incentive tax rate of 15% will apply. This incentive rate will apply to a trust where

- (a) the settlor is a non-resident, or holds a Category 1 or 2 Global Business Licence, or is another trust that qualifies similarly; and
- (b) all the beneficiaries are, throughout the income year, non-resident or hold a

Category 1 or 2 Global Business Licence, or is a purpose trust whose purpose is carried out outside Mauritius.

Furthermore, such a trust is allowed a credit for foreign tax paid on its foreign source income. To benefit from actual foreign tax credit, the trust must submit written evidence to the Commissioner of Income Tax. Where this is not submitted, the amount of foreign tax is conclusively presumed to be 80% of the tax chargeable in Mauritius on that income.

A trust that qualifies for the tax incentive rate may opt to deposit a declaration of non-residence with the Commissioner of Income Tax within 3 months after the expiry of the income year. It shall then be exempt from income tax in respect of that income year.

The chargeable income of a trust is the difference between its non-exempt income and the aggregate amount distributed to the beneficiaries under the terms of the trust deed.

A trust that distributes all its income will therefore have no chargeable income in Mauritius.

**Promotion Mission In Asia**

The promotion mission organised by the Financial Services Promotion Agency to Singapore, Shanghai and Hong Kong was held from 24<sup>th</sup> March 2004 to 1<sup>st</sup> April 2004. The turn out for the seminar on "Mauritius International Financial Services Centre: Onwards & Upwards" in each of the above named countries was extremely encouraging. It was attended by over 200 professionals in Singapore and around 100 and 150 in Shanghai and Hong Kong respectively.

The general feel is that the promotion mission has achieved its stated two-fold objectives of:

- Introducing Mauritius as a significant and growing financial services centre, and
- Fostering relationships with professionals from leading government and private sector organisations for the development of our financial services industry

A number of presentations on various topics were made by the Minister of Industry, Financial Services and Corporate Affairs of Mauritius, the Chairman of the Financial Services Promotion Agency, the Deputy Chief Executive of the Financial Services Commission and professionals from the Global Business Sector, which emphasised on the use of Mauritius, as a credible, low tax rate and well regulated jurisdiction, as an investment route to Asia. The official delegates also gave press conferences in the various countries.

There were also various gatherings which were organised after the seminars whereby the Mauritian delegates had the opportunity to network with the professionals present.

Whilst a fair number of the professionals who have attended the seminars have heard of, and have even used Mauritius, there were still many for whom Mauritius was still unknown. After the seminars, they were able to understand the various advantages which Mauritius offers and also how Mauritius can be used to invest into Asia and realised the prospects offered by Mauritius as a reputable and credible financial services centre.

## Transition to IFRS

The International Accounting Standard Committee (IASC) was formed in 1973 through a consensus reached by nine world wide professional bodies. IASC was later renamed to International Accounting Standards Board (IASB) in 2000. International Accounting Standards (IAS) were set with a goal to promote the harmonisation of accounting standards and to better help users of financial statements. Corporations holding a Category 1 Global Business Licence prepare their financial statements in accordance with IAS or such other standards as may be agreed by the Financial Services Commission (FSC). However, most companies follow IAS.

On a global perspective IAS, will soon be replaced by International Financial Reporting Standards (IFRS), that will become applicable for financial years beginning on or after 2005. All EU listed companies will be required to report under IFRS. As the implementation year is 2005, some may say "we'll cross the bridge when we come to it". However, companies should become familiar with and apply the standards now, as 2004 figures will be the comparatives for 2005. These will also need to comply with IFRS.

The transition to IFRS is indeed an issue which needs immediate attention. Such a transition is time consuming and not merely a technical accounting issue. Implementing IFRS will necessitate considerable planning and the participation of almost the whole organisation. To start with, senior management must ensure that they, themselves, have a good understanding and knowledge of the standards, their implications and applications. They, as leaders, should communicate to their staff the importance and consequences in adopting the standards. If need be, advice from experts may be sought to assist proper implementation of IFRS.

As for the impact on the numbers themselves, these will certainly be numerous. One example may include the approach of revenue recognition which will affect the profit and loss. Another area in particular will be the valuation of financial instruments which tends more towards the use of fair value which differs from the traditional historical approach.

IFRS is a challenge and will require a strategy whereby companies will need to identify information required under IFRS, how such information differs from what they currently have, and hence the different treatment to be adopted.

Now is the time for companies to start addressing the issue of transition to IFRS.

## Update on the Indonesia/Mauritius Tax Treaty

The Government of the Republic of Indonesia has, in February 2004 through diplomatic channels, given written notice of termination of the **Agreement between the Government of the Republic of Indonesia and The Government of the Republic of Mauritius for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income ("the Treaty")** to the Government of the Republic of Mauritius.

The notice has been given in accordance with Article 29 of the Treaty, which provides that the Treaty shall cease to have effect in Indonesia as from 1 January 2005.

Following the receipt of the written notice the Government of Mauritius have met the ambassador of Indonesia based in Dar-es-Salam and two high ranking officials from his embassy, who were on an official visit to Mauritius. The Government of Mauritius, have, through diplomatic channels, made an official request to the Government of Indonesia to receive a high level delegation from Mauritius in Jakarta to enter into discussions and negotiations with a view to satisfactorily resolve this issue. The Government of Mauritius is now awaiting a feedback from their Indonesian counterparts in order to move forward with the negotiations. The indications are that the Government of Mauritius is using all the diplomatic means available in order to obtain an urgent response from the Government of Indonesia.

The Government of Mauritius has engaged a reputed international tax specialist to assist in developing a strategy in view of an eventual re-negotiation of the Treaty.

## Double Taxation Treaties

Mauritius has ratified favourable Double Taxation Treaties with 28 countries and is a party to a series of treaties under negotiation. Many high net worth individuals and multinational corporations use Mauritius to route their investments into China, South East Asia, Africa as well as mature markets. The most recent treaties that have entered into force are with Croatia and Rwanda.

The Double Taxation Agreement between Mauritius and Croatia was ratified on 10 August 2003 and that between Mauritius and Rwanda on 14 April 2003. They cover income tax, capital gains tax, business profits tax as well as various other levies. Under both treaties, there is no withholding tax on Dividend, Interest and Royalties, and Capital Gains Tax is generally taxable in Mauritius only except for immovable property. There is no Capital Gains Tax in Mauritius. These represent interesting opportunities for companies having investments or financing operations in these two countries.

All Mauritian Double Taxation Treaties are based on the OECD Model Treaty of 1977. Under some treaties concluded so far, tax sparing is also available. This implies that where income has been exempted from tax credit is allowed for the amount of foreign tax which would have been chargeable had those provisions not been enacted. In order to facilitate their claim to the advantages of tax treaties, Category 1 Global Business Companies must obtain a Tax Residence Certificate from the Commissioner of Income Tax in Mauritius.

Herewith is a list of countries Mauritius has signed and ratified Double Tax Agreements to date:

Belgium	Botswana	China	Croatia
Cyprus	France	Germany	India
Indonesia	Italy	Kuwait	Luxembourg
Madagascar	Malaysia	Mozambique	Namibia
Nepal	Oman	Pakistan	Rwanda
Singapore	South Africa	Sri Lanka	Swaziland
Sweden	Thailand	United Kingdom	Zimbabwe

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