



Financial Services Commission

Mauritius

CIRCULAR LETTER

CL011006

03 October 2006

To

**Directors
Management Companies**

and

**President
Association of Offshore Management Companies**

Dear Sir/Madam,

Enhanced Procedure Relating to the Issue of Tax Residence Certificate (TRC)

As you are aware the Finance Act 2006 has amended section 73 of the Income Tax by adding the following new subsections-

- (2) *Where a person wishes to be certified as a resident in Mauritius in respect of an income year, he should apply to the Director-General for a Tax Residence Certificate.*
- (3) *The Tax Residence Certificate under subsection (2) shall be issued within a period of 7 days from the date of the application, provided that the person has submitted the return required to be submitted under section 112 or 116, as the case may be.*

Following this amendment, representations have been made to the Commission by Management Companies in connection with applications for a Tax Residence Certificate by newly incorporated companies.

The Commission has had various meetings with the Mauritius Revenue Authority (MRA) on the implementation of the abovementioned amendments to the Income Tax Act. The Commission and the MRA have both agreed that the practice will be as follows.

1. All companies holding a Category 1 Global Business Licence (C1GB Licence) in regard to which an obligation to file returns has not yet arisen may apply for a TRC provided that the requirements of this Circular Letter are adhered to.
2. Consequently, a newly incorporated company which will not at the time of its first application for a TRC have an obligation to file returns before the dates specified

under section 116 (2) of the Income Tax will also be eligible for a TRC on the recommendation of the Commission.

3. As already announced, all applications for a TRC from companies holding a C1GB Licence will henceforth be made through the Commission. The Commission will recommend the issue of a TRC if it is satisfied that the undertakings set out in the annex to this Circular Letter have been given.
4. A company holding a C1 GB Licence applying for a TRC will need to ensure that it has duly submitted to the Director General of the MRA all returns of income due for submission as at the date of such application. For example, a company having the 31st of October as its accounting year end, and making an application for a TRC on the 5th of October, will need to ensure that it has submitted its returns of income pertaining to all past accounting periods ended 31 October. This requirement will not affect newly incorporated companies applying for a TRC.
5. The TRC will be issued pursuant to a specified DTA. Accordingly the application will have to state the DTA in relation to which a TRC is being applied for.
6. Henceforth the TRC will be issued on an annual basis. The first TRC will be issued on the basis that it shall be effective as from the date of issue of the C1GB Licence of the company and shall remain valid until the expiry of the validity date of the C1GB Licence. The next and subsequent TRC will be effective and valid as from the date of renewal of the C1GB Licence until its expiry.
7. All applications to the Director-General of the MRA for a TRC shall be made on behalf of the company by its Management Company and be supported by-
 - (a) a statement as to the DTA/DTA's under which the TRC is being applied for;
 - (b) a statement to the effect that the return of income that the company is required to submit under Sub-Part C of Part VIII of the ITA has been filed. *(For newly incorporated companies, please see paragraph 2 above)* ;
 - (c) undertakings given in accordance with the requirements set out in the annex to this Circular Letter and shall be signed by any two resident directors and the secretary of the company.
 - (d) certified copies of amendments (if any) made to the company's constitution (unless already provided to the Commission), certified copy of the company's certificate of incorporation and C1GB Licence (for the records of the Director General – MRA), certified copy of Board Minutes evidencing resolutions passed to satisfy the requirements set out in the annex to this Circular Letter.

8. Upon being satisfied that-

- (a) The company fulfils the requirements of this Circular Letter; and
- (b) the company is in good standing,

the Commission shall recommend the application for a TRC to the Director-General, MRA.

9. In the case of an application for the renewal of a TRC, the company shall certify that the undertakings given at the time of the first application are still being complied with and provided that the company satisfies the requirements of paragraph 8 above, the Commission will recommend the application for the TRC.
10. The Commission reserves the right to revoke its recommendation if at any time it becomes aware that the conditions of paragraph 8 above are not being complied with.
- .11. Applications made to the MRA prior to this Circular Letter and which have not yet been processed, will be processed in accordance with the procedure that existed before the issue of this Circular Letter except that the TRC will be issued in accordance with the recent amendments to the Income Tax Act.

Yours faithfully,



J. N. Meetarbhan
Chief Executive

ANNEXURE

Pre-requisite for a Tax Residence Certificate (TRC)
(To be given in the form of undertakings)

- (1) The Company shall at all times have at least two Directors resident in Mauritius. The resident directors shall be of appropriate calibre who can exercise independence of mind and judgement.
 - (2) All meetings of the Board of Directors shall be held, chaired and minuted in Mauritius.
 - (3) The company shall at all times keep all its accounting records at its registered office in Mauritius.
 - (4) The company shall ensure that all its banking transactions are channelled through a bank account in Mauritius.
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