MAURITIUS SIGNS DTA WITH UGANDA

The government of Mauritius has signed a Double Taxation Avoidance Agreement with the government of Uganda last month with a view to encourage the development of economic and business relations between the two countries.

The treaty will become effective once the ratification procedure has been completed.

The treaty applies to persons, who are residents of one or both of the contracting states and covers all taxes imposed on total income as well as taxes on capital gains from the alienation of movable or immovable property.

Salient Features of the Treaty:

Treatment of Residents *(Article 4)*

The treaty covers any person (individual or company) who is subject to tax therein by reason of his domicile, residence, place of management or any other criteria of similar nature such as the place of habitual abode and citizenship.

Provisions are made for determining the status of an individual who is resident in both Uganda and Mauritius.

Permanent Establishment *(Article 5)*

A building site, construction or installation project will constitute a permanent establishment only if it has been maintained for more than **six** months.

If an enterprise of one state has a permanent establishment in the other state, then all income whether it is related to that establishment or not, could be taxed in the source country as if it were income of the permanent establishment.

Business Profits *(Article 7)*

The treaty provides that non residents will not be liable to tax in the host country on "business profit" unless earned through a permanent establishment.

- **Consolidation of profits/losses in the host country**

  The treaty allows the set off of profits and losses of a permanent establishment in the same group on a current year.

- **Deductibility of interest, royalties, management charges, fees or payments for the use of patents**

  Permanent establishments (branches) are denied such deductions. However, the "non-discrimination" provision of the treaty (Article 25) provides that a permanent establishment of a contracting state located in the other contracting state shall not be taxed "less favourably" than resident enterprises.

Transfer Pricing Issues *(Article 9)*

Article 9 of the treaty stipulates the arm's length principle as the basis for transactions between associated enterprises. If one state makes a transfer pricing adjustment to a taxpayer's taxable income, the other state is supposed to grant a corresponding adjustment.

Dividends *(Article 10)*

Taxed in the beneficial owner's country of residence but **may** be taxed in the source country at a maximum rate of **10%**.

Interests *(Article 11)*

Taxed in beneficial owner's country of residence but may be taxed in the source country at a maximum rate of **10%** of the gross amount of interest except in the case of a Central Bank and any financial institutions controlled by government which are exempt from tax.

Royalties *(Article 12)*

Taxed in beneficial owner's country of residence but may be taxed in the source country at a maximum rate of **10%.** This provision shall not apply in the case where an intermediary is interposed between the beneficiary and the payer.

Technical Fees *(Article 13)*

Taxed in the beneficial owner's country of residence but **may** be taxed in the source country at a maximum rate of **10%**.

Capital Gains *(Article 14)*

Gains from the alienation of property (movable and immovable) forming part of the business property of a permanent establishment may be taxed in the country where the permanent establishment is situated. Gains from the alienation of ships or aircraft are taxable only in the state in which the alienator is resident.

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Financial Services Commission