Tax Alert

June 2020

Negotiation of a new Double Tax Avoidance Agreement between Mauritius and Zambia

On 22 June 2020, the Zambian Government resolved to terminate the Double Tax Avoidance Agreement ("DTAA") between Zambia and Mauritius which has been in force since June 2012. Fresh negotiations have been initiated between the two countries to introduce new shared taxing rights and anti-abuse provisions. Under Article 28 of the DTAA, assuming all other diplomatic protocols are observed, the DTAA will cease to have effect on 31 December 2020 in Zambia, and 30 June 2021 in Mauritius.

Therefore, all Limited Deduction Directives that have been issued by Zambia Revenue Authority for the 2020 charge year should remain valid until 31 December 2020.

Currently, Zambia is one of the largest recipients of investments in Africa from Mauritius. The value of investments into Zambia from Mauritius as at 30 June 2019 amounted to USD1.9 bn (MUR66 bn or KES195 bn) [source: Financial Services Commission website]. We hope that the new DTAA would come into effect by 31 Dec 2020 so that there is no gap between the two DTAAs and that the new DTAA would continue to encourage investments between the two countries, especially during this post COVID-19 period.

Mauritius is a signatory to the Multilateral Instrument ("MLI") to implement tax treaty related measures to prevent Base Erosion and Profit Shifting. Mauritius included the current DTAA with Zambia as a covered tax treaty under the MLI whereby the DTAA would have changed to include the anti-abuse provisions, i.e. the Principal Purpose Test ("PPT"). Please note that Zambia has not signed the MLI as of date.

We expect the new DTAA to be in line with minimum standards under the MLI and hence to include a PPT or a detailed Limitation of Benefit test to limit access to the DTAA benefits to companies with economic substance and genuine arrangements having commercial rationale and not designed solely to take advantage of the DTAA.

During this transition period to the new DTAA, we suggest that existing structures into Zambia from the Mauritius International Financial Centre be reviewed to mitigate any impact of the anti-abuse provisions. We can assist you during this process.

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