

## Supreme Court Judgement – Deferring annual allowance is not permitted

- Mauritius Freeport Development Co. Ltd (the “**Taxpayer**”) provides logistics, warehousing and distribution facilities in Mauritius.
- The Taxpayer claimed annual allowance of approximately MUR84.7 Million in the year of assessment 2012, for assets acquired between 1995 and 2005.
- The Taxpayer did not claim these allowances in earlier years, intending to defer the annual allowance to more profitable years.
- The Mauritius Revenue Authority (“**MRA**”) disagreed with this approach and disallowed the annual allowance for tax purposes.
- The Assessment Review Committee (“**ARC**”) initially ruled in favour of the Taxpayer, but the MRA appealed to the Supreme Court (SC) of Mauritius.
- The SC ruled in favour of the MRA, overturning the ARC’s decision.
- The SC confirmed that annual allowance must be claimed in the year the asset is first used, and in each subsequent years. Deferring the claim to future years is not allowed.
- The SC emphasised that the language of the law is clear: the claim for annual allowance must be made “in that income year and in each of the succeeding years”. Tax planning strategies or legal interpretations cannot override this.

We recommend that taxpayers review prior/current year tax returns and their deferred taxes to assess the impact of this judgement. In case you need any assistance, feel free to contact us.



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This document is based on our interpretation of the current tax laws and international tax principles. These laws and principles are subject to change occasioned by future legislative amendments and court decisions. You are therefore cautioned to keep abreast of such developments and are most welcome to consult us for this purpose.

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