Intercontinental Trust Ltd

Mauritius-Ghana Double Taxation Avoidance Agreement

The Mauritius-Ghana Double Taxation Avoidance agreement (the "DTAA") was signed in 2017 and came into effect on 1st January 2020. In a live interview broadcasted on CNBC Africa on 28th February 2020, Eric Mensah, Former Lead Treaty Negotiator at the Ghana Revenue Authority and Co-Chair of the UN Tax Committee highlighted the importance of having a DTAA in place. "The Double Taxation Avoidance Agreement removes barriers to Foreign Direct Investments" explained Mr. Mensah. He further added that investment has been flowing between both countries for a number of years even in the absence of an active DTAA as is evidenced by the official statistics published by the Mauritius Financial Services Commission as of June 2019:

Investment Flows	USD (millions)
Investment flows from Mauritius to Ghana	99
Investment flows from Ghana to Mauritius	1,042*

*combined figures for Consolidated Portfolio Investment Survey and Consolidated Direct Investment Survey Outward as at 30 June 2019 (Source: FSC website)

Mr. Mensah believes that whilst the DTAA will result in short term costs (i.e. reduced tax revenues), it will certainly encourage more Foreign Direct Investments (FDI) in the long term which will trickle down into tangible economic benefits for both countries through increased revenue generation and creation of employment.

The salient features of the new Mauritius-Kenya DTAA

Preferential Withholding Tax Rates under the DTAA

	Dividends		Interest		Royalties		Capital Gains	
	Non-Treaty	Treaty	Non-Treaty	Treaty	Non-Treaty	Treaty	Non-Treaty	Treaty*
Maximum Tax Rates	8%	7%	8%	7%	15%	8%	25%	0%/25%

(Source for Non-Treaty rates: Deloitte Guide to Fiscal Information – Key Economies in Africa 2019)
*There is no capital gains tax in Mauritius.

Duration to constitute Permanent Establishment

Permanent Establishment	
Building Site	Provision of Services
6 months	6 months

Is DTAA the only consideration for investment structuring?

African countries are rallying up to establish the African Continental Free Trade Area which will be one of the world's largest, if not the largest, free trade area to ease the movement of goods across the continent through the removal of tariffs on goods and the elimination of non-tariff barriers such as import quota and administrative bottlenecks. The same reasoning applies to DTAAs which have historically played an important role in intra-African investment, allowing funds to be injected efficiently in projects that would ultimately play a significant role in bettering the lives of its bulging population.

However in recent years, double taxation avoidance treaties have been the subject of constant attention on the part of international media and watchdog organisations amid claims that many investors were indulging in "treaty shopping". Accordingly, the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS) (hereunder referred to as the "MLI") was introduced by the Organisation for Economic Co-operation and Development in 2016. The MLI is an instrument used for implementing some of the BEPS minimum standards in DTAAs in a bid to counter treaty abuse, improve the dispute resolution mechanisms and prevent the artificial avoidance of permanent establishment status etc. Having signed up to MLI in July 2017, Mauritius included most of the DTAAs that it has signed so far in its definitive instrument of ratification that was deposited on the 18th October 2019*.

The economic benefits of having DTAAs in place are irrefutable as they promote inter-country trade and investment. However, it should by no means be the sole consideration for investment structuring decisions. Other considerations should include political and economic stability, skilled workforce, sophisticated banking and legal platform, presence of an efficient capital market, work and live opportunities, proper air and sea connectivity etc. - which are all available in Mauritius. The Ease of Doing Business 2020 report, a flagship publication of the World Bank, lauded the island nation for the substantial progress that it has achieved in improving its business climate over the years. Mauritius ranks 1st in Africa and 13th worldwide, representing the best ranking ever for the country since the publication of the first report in 2007 (2018 ranking: 1st in Africa and 20th worldwide). Mauritius has indeed positioned itself a jurisdiction of substance providing a comprehensive, transparent and modern platform for investment into Africa.

About Intercontinental Trust Limited

ITL is licensed by the Mauritius Financial Services Commission to provide a plethora of financial and fiduciary services such as structuring, formation and administration of companies, trusts, limited partnerships, foundations and funds; accounting and tax services; FATCA and Common Reporting Standards services; expatriate/relocation services and corporate finance advisory services - comprising mainly of listing services and assistance in capital raising.

ITL has a proven track-record spanning over 20 years and was the first management company in Mauritius to have completed an ISAE 3402 Type II audit.

For more information about how we can assist you in establishing your business in the Mauritius IFC, please liaise with your usual contact person or write to us on info@intercontinentaltrust.com

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ISAE 3402 COMPLETED TYPE II AUDIT

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