

Tax Hotline

July 04, 2005

PROTOCOL AMENDING THE INDIA SINGAPORE TAX TREATY

On June 29, 2005, India and Singapore signed the Comprehensive Economic Cooperation Treaty ("**CECA**"), which is a strategic compact between the two countries to enhance bilateral trade. As a part the CECA, India and Singapore also agreed on a protocol, ("**the Protocol**") in a move to improve the existing Double Taxation Avoidance Agreement ("**DTAA**"), which was signed in January 1994.

The amendments which have been effected to the existing India-Singapore DTAA through the signing of the Protocol are as follows:

1. Capital Gains - Capital gains derived by a resident of a Contracting State shall be taxable only in that State. However, a resident of a Contracting State shall not be entitled to this benefit if its affairs are arranged with the primary purpose to take advantage of the said benefit.

In addition, a shell/conduit company with negligible or nil business operations or with no real and continuous business activities in Singapore is disallowed from enjoying the capital gains exemption.

For the purposes of the capital gains tax exemption, a company is not a shell company if:

- It is listed on a recognised stock exchanges of the Contracting State; or
- Its total annual expenditure on operations in the residence State is equal to or more than S\$200,000 or Indian Rs 50,00,000 in the respective Contracting State as the case may be, in the immediately preceding period of 24 months from the date the gains arise.

2. Exchange of Information - On a request made by a Contracting State, the revenue authority of the other Contracting State shall collect, and share with the first mentioned Contracting State, through its Competent Authority, whatever information that it is competent to obtain for its own purposes under its law.

3. Review - It has been agreed that there shall be an inter-governmental group consisting of representatives of the revenue authorities of the two countries, which shall review the working of the provisions of the Protocol at least once a year or earlier at the request of either of the two countries.

4. Term of the Protocol - The above mentioned provisions of the Protocol shall remain in force so long as the DTAA between India and Mauritius provides that *any gains from the alienation of shares in any company which is a resident of a Contracting State shall be taxable only in the Contracting State in which the alienator is a resident.*

5. Royalties and Fee for technical Services ("FTS") - The withholding tax on royalties and FTS has been reduced to 10% to bring it in line with the provisions of Indian Income Tax Act.

The protocol forms an integral part of the existing DTAA and shall come into force from **August 1, 2005**.

Source: Inland Revenue Authority of Singapore website - 1
Inland Revenue Authority of Singapore website - 2

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