

No.402/92/2006-MC (50 of 2008)
Government of India / Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi dated the 20th November 2008

PRESS RELEASE

A Double Taxation Avoidance Agreement was signed between India and Tajikistan today, i.e. 20th November, 2008. The Agreement was signed by Mr. Narendra Bahadur Singh, Chairman, Central Board of Direct Taxes on behalf of Government of India and by Mr. Norinov Jamshed Nurmahmadovich, Deputy Minister of Finance of the Republic of Tajikistan on behalf of the Government of Tajikistan.

The salient features of the Agreement are as follows:

1. Article 2-Taxes Covered: The Agreement will cover in the case of India, income tax including any surcharge thereon and in the case of Tajikistan, the taxes on income of legal persons and taxes on income of individuals.
2. Article 4-Resident: Under the said Article, a resident is a person who under the laws of a State is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.
3. Article 5-Permanent Establishment (PE): This article provides for constitution of a project PE with a threshold period of more than one year. It also provides for constitution of a PE where an enterprise of a contracting state carries on business in the other state through a dependent agent.
4. Article 7-Business Profits: This Article provides that only so much of the profits of an enterprise will be taxed in the other State as are attributable to a PE. For determining the profits of a PE the deduction of expenses will be in accordance with the domestic laws of each state.
5. Article 8- International Transport: The profits derived by an enterprise from the operation of ships or aircraft in international traffic shall be taxable in the country of residence of the enterprise.
6. Article 10-12 - Dividends, Interest and Royalties: Withholding rates for taxation of dividends in the source State have been restricted to a maximum of 5 % of the gross amount of dividends if the beneficial owner of the dividends is a company which holds directly at least 25% of the share capital of the company paying the dividends and 10% of the dividends in all other cases. Withholding rates for taxation of interest and royalties in the source State have been restricted to a maximum of 10% of the gross amount of interest and royalties respectively.

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7. Article 13-Capital Gains: This article provides for source state taxation of capital gains from alienation of shares. However, capital gains arising from alienation of shares of a company deriving its value principally from immovable property will be taxed in the state where the company is resident and not where the immovable property is situated.
8. Article 18- Pensions: Pensions and other similar remuneration will be taxable only in the state of residence.
9. Article 21-Students: Visiting students have been provided tax concessions for such period of time as may be reasonable or customarily required to complete the education or training undertaken or for six consecutive years from the date of their arrival, whichever is less.
10. Article 22- Other Income: Any income not specifically covered under the Agreement shall be taxable only in the State of residence. However, income from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling etc. may be taxed in the source state also.
11. Article 23-Elimination of Double Taxation: In the case of both India and Tajikistan, double taxation will be eliminated through the credit method. In other words, tax paid by a resident of India in Tajikistan will be allowed as a credit if the same income is taxable in India and vice versa.

The Agreement also provides for the exchange of information between the tax authorities of the two countries for carrying out the provisions of the Agreement or of the domestic laws concerning taxes covered by the Agreement and contains an anti-abuse provision aimed at preventing misuse of the Agreement.

The Agreement will provide tax stability to the residents of India and Tajikistan and facilitate mutual economic cooperation as well as stimulate the flow of investment, technology and services between the two countries.

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