

MINISTRY OF FINANCE**(Department of Revenue)****NOTIFICATION**

New Delhi, the 14th February, 2017

(INCOME TAX)

S.O. 441(E).—Whereas, a Protocol amending the Convention and the Protocol between the Republic of India and the State of Israel for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes on income and on capital was signed at Jerusalem, Israel on the 14th day of October, 2015 (hereinafter referred to as the said Protocol);

And whereas, the said Protocol has entered into force on the 19th day of December, 2016, being the date of the last notification of the completion of the procedures as required by the respective laws for entry into force of the said Protocol, in accordance with Article 6 of the said Protocol;

And whereas, clause (a) of Article 6 of the said Protocol provides that the provisions of the Protocol shall have effect in India in respect of taxes on income, and taxes on capital, for fiscal year beginning on or after the first day of April next following the date on which the said Protocol enters into force;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of the said Protocol between the Republic of India and the State of Israel for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes of income and on capital, as set out in the Annexure hereto, shall be given effect to in the Union of India.

[Notification No.10/2017 F. No. 500/14/2004-FTD-II]
RAJAT BANSAL, Jt. Secy.

ANNEXURE

**PROTOCOL AMENDING THE CONVENTION
AND
THE PROTOCOL
BETWEEN
THE REPUBLIC OF INDIA
AND
THE STATE OF ISRAEL
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND
FOR THE PREVENTION OF FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME AND ON CAPITAL
SIGNED ON
29TH JANUARY, 1996**

The Government of the Republic of India and the Government of the State of Israel,

Desiring to amend the Convention and the Protocol between the Government of the Republic of India and the Government of the State of Israel for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed at New Delhi on the 29th day of January 1996 (in this Amending Protocol referred to as “the Convention” and “the Protocol”),

Have agreed as follows:

Article 1

The Convention is amended by omitting Paragraph 4 of Article 14(Capital Gains) and substituting:

- “4. Gains derived by a resident of a Contracting State from the alienation of:
- a) shares, deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other State (at the time of the alienation or at any time during the twelve preceding months); or
 - b) an interest in a partnership, trust or other entity, deriving more than 50 per cent of its value directly or indirectly from immovable property situated in that other State (at the time of the alienation or at any time during the twelve preceding months);
- may be taxed in that other State.”

Article 2

Paragraphs 3 and 4 of Article 24 (Elimination of Double Taxation) of the Convention are omitted.

Article 3

The Convention is amended by omitting Article 27 and substituting it with the following:

“Article 27

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information (including documents) as is foreseeably relevant for carrying out the provisions of this Convention, or to the administration or enforcement of the domestic laws concerning taxes covered by this Convention imposed on behalf of the Contracting States, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes of every kind and description, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorizes such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information (including documents) which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.”

Article 4

The Convention is amended by inserting:

“Article 27A
LIMITATION OF BENEFITS

1. Benefits of this Convention shall not be available to a resident of a Contracting State, or with respect to any transaction undertaken by such resident, if the main purpose or one of the main purposes of the creation or existence of such resident or of the transaction undertaken by it, was to obtain benefits under this Convention that would not otherwise be available.
2. The Convention shall not prevent a Contracting State from applying its domestic law on prevention of tax evasion or tax avoidance.
3. Any benefit under this Convention shall not be granted to a person who is not the beneficial owner of the item of income.”

Article 5

Paragraphs 2 and 3 of the Protocol are omitted.

Article 6
ENTRY INTO FORCE

The Contracting States shall notify each other in writing through the diplomatic channels of completion of their domestic requirements for entry into force of this Amending Protocol. The Amending Protocol, which shall form an integral part of the Convention, shall enter into force on the date of the last notification, and thereupon shall have effect:

- (a) in case of India, in respect of taxes on income, and taxes on capital, for fiscal years beginning on or after the first day of April next following the date on which the Amending Protocol enters into force;
- (b) in case of Israel, in respect of taxes on income, and taxes on capital, for taxable periods beginning on or after the first day of January next following the date on which the Amending Protocol enters into force;
- (c) for the purposes of Article 27 (Exchange of Information) of the Convention, from the date of entry into force of the Amending Protocol.

IN WITNESS WHEREOF the undersigned, being duly authorised, have signed this Protocol.

DONE in duplicate at Jerusalem, Israel this 14th day of October, 2015, in the Hindi, Hebrew and English languages, all texts equally authentic, the English text to be the operative one in any case of doubt.

For the Government of the
Republic of India

For the Government of the
State of Israel