

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

New Delhi, the 2nd September, 2016

(INCOME TAX)

S.O. 2853(E).—Whereas, an Agreement entered into between the Government of the Republic of India and the Government of the Republic of Maldives for Avoidance of Double Taxation of Income Derived From International Air Transport was signed at New Delhi on the 11th day of April, 2016 as set out in the Annexure to this notification (hereinafter referred to as the said Agreement);

And whereas, in accordance with paragraph 2 of Article 6 of the said Agreement, the said Agreement entered into force on the 1st day of August, 2016, being the first day of the second month following the month in which later of the notifications of the completion of the procedures as required by the respective laws for entry into force of the said Agreement is given;

And whereas, clause (i) of paragraph 3 of Article 6 of the said Agreement provides that the provisions of the said Agreement shall have effect in India in respect of income derived in any fiscal year beginning on or after the first day of April following the calendar year in which the Agreement 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 said Agreement, as annexed hereto, shall be given effect to in the Union of India.

ANNEXURE**AGREEMENT****BETWEEN****THE GOVERNMENT OF THE REPUBLIC OF INDIA****AND****THE GOVERNMENT OF THE REPUBLIC OF MALDIVES****FOR AVOIDANCE OF DOUBLE TAXATION OF INCOME DERIVED FROM****INTERNATIONAL AIR TRANSPORT**

The Government of the Republic of India and the Government of the Republic of Maldives desiring to conclude an agreement for the avoidance of double taxation of income derived from international air transport have agreed as follows:

Article 1**TAXES COVERED**

1. This Agreement shall apply to taxes on income imposed on behalf of each Contracting State irrespective of the manner in which they are levied.
2. The existing taxes to which this Agreement shall apply are:
 - a) in the case of India, the income-tax including any surcharge thereon (hereinafter referred to as “Indian tax”);
 - b) in the case of Maldives, Business Profit Tax imposed under the Business Profit Tax Act (Law Number 5/2011) (hereinafter referred to as “Maldives tax”);
3. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which are made in their respective taxation laws.

Article 2**DEFINITIONS**

1. In this Agreement, unless the context otherwise requires:

- a) the term "India" means the territory of India and includes the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian law and in accordance with international law, including the U.N. Convention on the Law of the Sea;
- b) the term "Maldives" means the territory of the Maldives and includes its territorial sea, continental shelf, sea-bed, sub-soil (and their natural resources) and airspace, as well as any maritime zone in which the Maldives has sovereign rights, other rights and jurisdiction, according to the law of the Maldives and in accordance with international law, including the United Nations Convention on the Law of the Sea;
- c) the terms "a Contracting State" and "the other Contracting State" mean the Republic of India or the Republic of Maldives as the context requires;
- d) the term "tax" means "Indian tax" or "Maldives tax" as the context requires ;
- e) the term "enterprise of a Contracting State" means an airline designated by the Government of that Contracting State in pursuance of the Agreement dated 24th December 2008, as maybe amended or revised from time to time, between the Government of Republic of India and the Government of Republic of Maldives relating to air services;
- f) the term "international air traffic" means any transport by an aircraft operated by an enterprise of a Contracting State, except when the aircraft is operated solely between places in the other Contracting State ;
- g) the term "operation of aircraft" means the business of transportation by air of passengers, livestock, goods or mail conducted by an enterprise of a Contracting State, including the sale of tickets and similar documents used for the purpose of transport;
- h) the term "competent authority" means:
 - (i) in the case of India, the Minister of Finance, Government of India or his authorized representative;
 - (ii) in the case of Maldives, the Maldives Inland Revenue Authority or its authorized representative.

2. In the application of the provisions of this Agreement by one of the Contracting States, any term used but not defined herein shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to taxes which are the subject of this Agreement.

Article 3

AVOIDANCE OF DOUBLE TAXATION

1. Income derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be exempted from tax in the other Contracting State.
2. The provisions of paragraph (1) shall also apply to income from the participation in a pool, a joint airline business or an international operating agency.
3. For the purpose of paragraphs 1 and 2, interest on funds directly connected with the operation of aircraft in international air traffic shall be regarded as income derived from the operation of such aircraft.

Article 4

RESIDUAL PROVISIONS

The laws in force in either of the Contracting States shall continue to govern the assessment and taxation of income in the Contracting States except where express provision to the contrary is made in this Agreement.

Article 5

MUTUAL AGREEMENT PROCEDURE

1. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.
2. Consultation may be requested at any time by the competent authority of a Contracting State for the purpose of paragraph 1 of this Article. Such consultation shall begin within ninety days from the date of receipt of any such request by the competent authority of the other Contracting State.

3. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching agreement under this Article.

Article 6

ENTRY INTO FORCE

1. The Contracting States shall notify each other in writing, through diplomatic channels, of the completion of the procedures required by the respective laws for the entry into force of this Agreement.

2. This Agreement shall enter into force on the first day of the second month following the month in which the later of the notifications referred to in paragraph 1 of this Article is given.

3. The provisions of this Agreement shall have effect:

- (i) in India, in respect of income derived in any fiscal year beginning on or after the first day of April following the calendar year in which the Agreement enters into force; and
- (ii) in Maldives, in respect of income derived in any fiscal year beginning on or after the first day of January following the calendar year in which the Agreement enters into force.

Article 7

TERMINATION

This Agreement shall remain in force indefinitely until terminated by a Contracting State. Either Contracting State may terminate the Agreement, by giving notice of termination through diplomatic channels, at least six months before the end of any calendar year beginning after the expiration of five years from the date of entry into force of the Agreement. In such event, the Agreement shall cease to have effect:

- a) in India, in respect of income derived in any fiscal year on or after the first day of April following the calendar year in which the notice is given;
- b) in Maldives, in respect of income derived in any fiscal year on or after the first day of January following the year in which the notice was given.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Agreement.

DONE in duplicate at New Delhi on this 11th day of April 2016 each in the English and Hindi languages, both texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government of the

Republic of India:

(Atulsh Jindal)

Chairman, Central Board of Direct Taxes

For the Government of the

Republic of Maldives:

(Ahmed Mohamed)

High Commissioner of the Republic of Maldives to India

[Notification No. 77/2016/F.No.503/4/2013-SO/FT&TR-II(1)]

RAJAT BANSAL, Jt. Secy.