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DOUBLE TAXATION

WHAT IS DOUBLE TAXATION

Jurisdictional

- **Same person is taxed twice on same total income in more than one country**

Economic

- **Different person is taxed once on same taxable income**

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What is DTAA?

- Double Taxation Avoidance Agreement (DTAA) is an agreement between two countries that the income of non-residents should not be taxed both in their country of origin and in the country in which they live.

Why DTAA is required?

- Double tax avoidance agreement ensures that the honest taxpayers do not end up paying tax in two countries. It also acts as a tool to promote investment from certain countries by offering tax exemptions or lower tax rates. It is an effective way to promote cross country investments without any ambiguity.

With whom India having DTAA?

- India has Double Taxation Avoidance Agreement (DTAA) with **88 countries**, but presently **85** has been in force which include Australia, France, Canada, UK, USA etc..

Purpose of DTAA

- DTAA is an Agreement between two or more countries for resolving the issues of taxability of income and increased transparency to avoid tax evasion.

Advantages

- The main intention of DTAA is to make the country attractive for investments by offering tax benefits while avoiding double taxation.
- There is legal certainty in DTAAs as there are specific rules for applying taxes on international income.
- The DTAA also ensures that the benefits are applicable to only genuine residents of two countries by implying anti-abusive provisions.
- Concessional tax rates can be offered in some cases as per the provision of DTAA.

Disadvantages

- Treaty Shopping- Where national or a resident of third country seeks to obtain benefit double tax avoidance agreement (DTAA) between two or multiple countries by impersonating as a company or other entity in one of the country.

Stages in DTAA

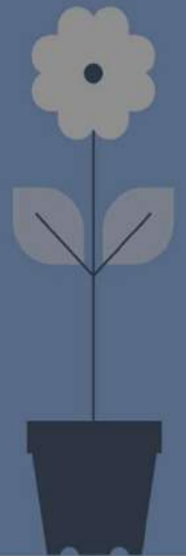
Negotiation

Drafting of articles

Signing

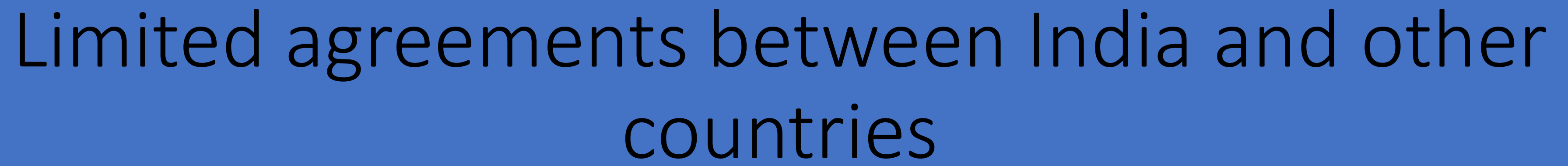
Ratification

Notification



Types of DTAA

Comprehensive	Limited	Bilateral	Multilateral
• Contains rules which allocate tax jurisdiction for all or almost all types of incomes.	• Contains rules for only certain types of incomes like inheritance, gift, shipping and air transport, estates.	• Between two countries only. • Majority of DTAA are bilateral.	• Between more than 2 or a group of countries



Limited agreements between India and other countries

- Afghanistan
- Ethiopia
- Iran
- Lebanon
- Maldives
- Pakistan
- People Democratic Republic of Yemen
- Yemen Arab Republic

Models of DTAA

Model	Description
OECD Models	It is adopted by developed nations and their emphasis is on the **residency based** taxation.
UN Model	It emphasis on the **source based** taxation and generally adopted by the developing nations.
US model Convention & Indian Model	In this Treaties Importance has been given to **Residence than citizenship**.

Sections 90 and 91 under the Income Tax Act 1961

Section 90	Section 91
• deals with those provisions involving taxpayers who have paid tax to another country with which India has a DTAA.	• is for those countries with which India does not have a DTAA. In effect, India provides relief to both types of taxpayers.

Double Taxation Avoidance Agreements (DTAA) applies on

- Services
- Salary
- Property
- Capital gains
- Savings/fixed deposit accounts

Methods of DTAA

Exemption Method:

- Exemption method is more favourable if tax rate in Domestic country are higher than that of in Source Country.

Credit Method:

- Credit Method is preferable as the assesses gets taxed at domestic tax rate without any double tax and country also gets its eligible amount of Tax.

Tax sparing

- Thus the tax sparing credit, in the context of tax treaty, refers to the provisions in the tax treaties between contracting states which give benefit to the residence country to give credit not only for taxes actually paid in the source country but also for taxes which would have been paid but exempted in the source

Availing of DTAA Benefit – In India's perspective

- A non-resident assesses must furnish a 'Tax Residency Certificate (TRC) or Form 10F obtained from the tax authorities of the other **country where he resides**. As said earlier, the income will be entirely exempted or it may be taxed at a lower rate. If it is taxable under DTAA arrangements, the non-resident assesses has to pay the tax in India and then claim the refund of such taxes paid against the tax liability in his home country.

Duration and Rates of DTAAs

- Generally, these agreements will continue indefinitely until officially terminated by either Party of the Agreement. The Rates and Rules of DTAA will vary from country to country. For instance, **TDS rates on interests earned** will be charged either at **10 percent or 15 percent**.

Concluding With

- Treaty does not create any additional tax burden; it can only relieve tax
- That's the "magic" of double-taxation treaties: you can shop around for the lowest taxer.
- DTAA is a treat to the country which misuses it.

THANK YOU