

Tax Hotline

February 18, 2003

CLARIFICATION IN RELATION DUAL RESIDENCY UNDER THE INDIA MAURITIUS TAX TREATY

The Central Board of Direct Taxes ("CBDT") Circular No. 789 dated April 13, 2000 clarified that 'Certificate of residence' issued by the Mauritius authorities would constitute sufficient evidence for accepting the status of residence, as well as beneficial ownership for entitlement to the benefits of the India Mauritius Tax Treaty. However, the Circular was silent on whether such certificate would also apply in cases of dual residency.

To address this doubt, the CBDT issued Circular No. 1 dated February 10, 2003 clarifying that if a person is found to be resident of both India and Mauritius, his residence is to be decided in accordance with the provisions of Article 4(3) of the India Mauritius Tax Treaty.

Further, where a company is found to have its place of effective management in India, then notwithstanding the fact that it is incorporated in Mauritius, it would be taxed in India as per provisions of the India Mauritius Tax Treaty. It is pertinent to note that this Circular has been issued while the proceedings in relation to Circular No. 789 are at an advanced stage before the Supreme Court of India.

Source: CBDT Circular No. 1 dated February 10, 2003

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

Handbook on New Labour Codes

April 29, 2024

Compendium of Research Papers

April 11, 2024

Third-Party Funding for Dispute Resolution in India

April 02, 2024

Research Articles

Private Client Insights - Sustainable Success: How Family Constitutions can Shape Corporate Governance, Business Succession and Familial Legacy

January 25, 2024

Private Equity and M&A in India: What to Expect in 2024?

January 23, 2024

Emerging Legal Issues with use of Generative AI

October 27, 2023

Audio

Third-Party Funding: India & the World

April 27, 2024

IBC allows automatic release of ED attachments: Bombay HC reaffirms

April 15, 2024

The Midnight Clause

February 29, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Q&A 2024 Protocol to the Mauritius India Tax Treaty

April 22, 2024

Boost to India's Space Potential: India Liberalizes Foreign Direct

Cyber Incident Response
Management

February 28, 2024