

Tax Hotline

May 17, 2002

INDIA ENTERS INTO A TAX TREATY WITH IRELAND

India has recently entered into a Double Taxation Avoidance Agreement ("the treaty") with Ireland. This treaty has come into force, in case of India, from April 1, 2002 and in case of Ireland, for the purposes of income tax and capital gains, from April 6, 2002 and for the purpose of corporation tax from January 1, 2002.

As per the provisions of the treaty, incomes in the nature of dividend, interest, royalty and fees for technical services ("FTS") would be taxable at the rate of 10% in the country of source.

Article 11 of the treaty, which provides for a 10% withholding tax rate on interest payments exempts interest paid to certain financial institutions in India.

Ireland has agreed to allow an underlying tax credit for the corporate taxes payable on profits of the Indian companies out of which dividends are paid to Irish residents. However, an equivalent credit for underlying taxes shall not be allowed in India for Irish taxes paid.

Though the treaty contains a standard non-discrimination Article, however, as agreed under the protocol, India reserves the right to charge a permanent establishment of an Irish company in India, at a rate of tax (currently 42% for foreign companies) which is higher than that imposed on the profits of a similar Indian company (currently 36.75%). Interestingly, the Indian Income Tax Act was amended last year, with retrospective effect from April 1, 1962 to provide that subjecting foreign companies to a higher rate of tax than the Indian companies will not constitute discriminatory.

Source: Volume 254 of Income Tax Reports, Pg. 245 [254 ITR 245 [2002]]

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

Third Party Funding in India

March 28, 2024

Compendium of Research Papers

March 21, 2024

Opportunities in GIFT City

March 18, 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

The Midnight Clause

February 29, 2024

Enforceability of unstamped or inadequately stamped Arbitration Agreements

January 10, 2024

Lookout circulars: An Introduction

December 29, 2023

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Cyber Incident Response Management

February 28, 2024

Webinar : Navigating Advertising Laws in India Part II Fireside Chat with Manisha Kapoor

February 27, 2024

**Webinar : Navigating Advertising
Laws in India**

February 20, 2024