

# Tax Hotline

October 27, 2004

## NEW TAX TREATY BETWEEN INDIA AND MALAYSIA NOTIFIED

India has recently renegotiated its Double Taxation Avoidance Agreement ("**Treaty**") with Malaysia. The same has been notified on October 12, 2004. This Treaty will come into force, in the case of India, from April 1, 2004 and in the case of Malaysia, for the purposes of Income tax, from January 1, 2004. The earlier treaty between India and Malaysia will cease to have effect from the date this Treaty becomes effective.

As per the provisions of the Treaty, incomes in the nature of dividend, interest, royalty and fees for technical services would be subject to a maximum withholding tax at the rate of 10% in the country of source, if the recipient is the beneficial owner of the same. Interestingly, there is no specific article covering income in the nature of capital gains.

The previous treaty did not deal with 'Other Income'. Article 22 - 'Other Income' of the Treaty states that items of income, which are not expressly mentioned in the other articles of the Treaty and derived by a resident of a contracting 'State', will be taxable only in that 'State'. It then reverts to the 'source rule' stating that if such income is derived from sources in the other contracting 'State', it may also be taxed in that other 'State'.

Underlying tax credit will be available in Malaysia for corporate taxes paid in India whereas India will not grant any underlying tax credit for the corporate tax paid in Malaysia.

**Source:** Notification No. G.S.R. 667(E); 257/2004 dated October 12, 2004

## 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

### New Age of Franchising

June 20, 2025

### Life Sciences 2025

June 11, 2025

### The Tour d'Horizon of Data Law Implications of Digital Twins

May 29, 2025

## Research Articles

### 2025 Watchlist: Life Sciences Sector India

April 04, 2025

### Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

### INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

## Audio

### CCI's Deal Value Test

February 22, 2025

### Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

### Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

[Click here to view Hotline archives.](#)

## Video

### Reimagining CSR: From Grant Giving to Blended Finance & Outcome Based Funding

June 16, 2025

Courts vs Bankruptcy code: The  
JSW-Bhushan Saga

June 04, 2025

Vyapak Desai speaking on the  
danger of deepfakes | Legally  
Speaking with Tarun Nangia |  
NewsX

April 01, 2025