

# date visited 2/10/14

## TAX CONVENTION WITH THE REPUBLIC OF INDIA

GENERAL EFFECTIVE DATE UNDER ARTICLE 30: 1 JANUARY 1991

### TABLE OF ARTICLES

Article 1-----	General Scope
Article 2-----	Taxes Covered
Article 3-----	General Definitions
Article 4-----	Residence
Article 5-----	Permanent Establishment
Article 6-----	Income from Immovable Property (Real Property)
Article 7-----	Business Profits
Article 8-----	Shipping and Air Transport
Article 9-----	Associated Enterprises
Article 10-----	Dividends
Article 11-----	Interest
Article 12-----	Royalties and Fees for Included Services
Article 13-----	Gains
Article 14-----	Permanent Establishment Tax
Article 15-----	Independent Personal Services
Article 16-----	Dependent Personal Services
Article 17-----	Directors' Fees
Article 18-----	Income Earned by Entertainers and Athletes
Article 19-----	Remuneration and Pensions in Respect of Government Service
Article 20-----	Private Pensions, Annuities, Alimony and Child Support
Article 21-----	Payments Received by Students and Apprentices
Article 22-----	Payments Received by Professors, Teachers and Research Scholars
Article 23-----	Other Income
Article 24-----	Limitation on Benefits
Article 25-----	Relief from Double Taxation).
Article 26-----	Non-discrimination
Article 27-----	Mutual Agreement Procedure
Article 28-----	Exchange of Information and Administrative Assistance
Article 29-----	Diplomatic Agents and Consular Officers
Article 30-----	Entry Into Force
Article 31-----	Termination
Protocol-----	of 12 September, 1989
Notes of Exchange 1-----	of 12 September, 1989
Notes of Exchange 2-----	of 12 September, 1989

# date visited 2/10/14

and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall apply to persons who are not residents of one or both of the Contracting States.

2. Except where the provisions of paragraph 3 of Article 7 (Business Profits) apply, the taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs, and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9 (Associated Enterprises), paragraph 7 of Article 11 (Interest), or paragraph 8 of Article 12 (Royalties and Fees for Included Services) apply, interest, royalties, and other disbursements paid by a resident of a Contracting State to a resident of the other Contracting State shall, for the purposes of determining the taxable profits of the first-mentioned resident, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. Nothing in this article shall be construed as preventing either Contracting State from imposing the taxes described in Article 14 (Permanent Establishment Tax) or the limitations described in paragraph 3 of Article 7 (Business Profits).

## ARTICLE 27

### Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or national. This case must be presented within three years of the date of receipt of notice of the action which gives rise to taxation not in accordance with the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not

# date visited 2/10/14

in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits or other procedural limitations in the domestic law of the Contracting States.

3. 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 Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article. In addition, a competent authority may devise appropriate unilateral procedures, conditions, methods and techniques to facilitate the above-mentioned bilateral actions and the implementation of the mutual agreement procedure.

## ARTICLE 28

### Exchange of Information and Administrative Assistance

1. The competent authorities of the Contracting States shall exchange such information (including documents) as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention, in particular, for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by Article 1 (General Scope). Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State. However, if the information is originally regarded as secret in the transmitting State, it shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment, collection, or administration of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Convention. Such persons or authorities shall use the information only for such purposes, but may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchange of information shall be made, including, where appropriate, exchange of information regarding tax avoidance.

2. The exchange of information or documents shall be either on a routine basis or on request with reference to particular cases, or otherwise. The competent authorities of the Contracting States shall agree from time to time on the list of information or documents which shall be furnished on a routine basis.

3. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

# date visited 2/10/14

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial, or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall obtain the information to which the request relates in the same manner and in the same form as if the tax of the first-mentioned State were the tax of that other State and were being imposed by that other State. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall provide information under this Article in the form of depositions of witnesses and authenticated copies of unedited original documents (including books, papers, statements, records, accounts, and writings), to the same extent such depositions and documents can be obtained under the laws and administrative practices of that other State with respect to its own taxes.

5. For the purpose of this Article, the Convention shall apply, notwithstanding the provisions of Article 2 (Taxes Covered):

(a) in the United States, to all taxes imposed under Title 26 of the United States Code;

and

(b) in India, to the income tax, the wealth tax and the gift tax.

## ARTICLE 29

### Diplomatic Agents and Consular Officers

Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

## ARTICLE 30

### Entry Into Force

1. Each Contracting State shall notify the other Contracting State in writing, through diplomatic channels, upon the completion of their respective legal procedures to bring this Convention into force.

2. The Convention shall enter into force on the date of the latter of such notifications and its provisions shall have effect:

(a) in the United States