Ministry of Finance

Third Protocol Amending India-Singapore DTAA notified today; Comes into force with effect from 27th February 2017

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The Third Protocol amending India-Singapore Double Taxation Avoidance Agreement (DTAA) which was signed on 30th December, 2016, has come into force on 27th February 2017. The same has been notified in the Official Gazette today.

The India-Singapore DTAA at present provides for residence based taxation of Capital Gains of shares in a company. The Third Protocol amends the DTAA with effect from 01st April, 2017 to provide for source based taxation of capital gains arising on sale of shares in a company. This will curb revenue loss, prevent double non-taxation and streamline the flow of investments. In order to provide certainty to investors, investments in shares made before 01st April, 2017 have been grandfathered subject to fulfillment of conditions in Limitation of Benefits clause as per 2005 Protocol. Further, a two-year transition period from 1st April, 2017 to 31st March, 2019 has been provided during which capital gains on shares will be taxed in source country at half of normal tax rate, subject to fulfillment of conditions in Limitation of Benefits clause.

The Third Protocol also inserts Article 9(2) in the DTAA which would facilitate relieving of economic double taxation in transfer pricing cases. This is a taxpayer friendly measure and is in line with India’s commitments under Base Erosion and Profit Shifting (BEPS) Action Plan to meet the minimum standard of providing Mutual Agreement Procedure (MAP) access in transfer pricing cases. The Third Protocol also enables application of domestic law and measures concerning prevention of tax avoidance or tax evasion.

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