

February 2022

NEWSLETTER

TAX

- Income Tax
- Goods and Services Tax



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Income Tax

1. Clarification regarding the Most-Favoured-Nation (MFN) clause in the Protocol to India's DTAA's (Double taxation avoidance agreement) with certain countries.

CBDT

Circular No. 03/2022 dated 03.02.2022

Vide this circular, CBDT has provided clarification about applicability of MFN clause in the Protocol to India's DTAA with some of the countries especially European States and OECD member countries (The Netherlands, France, the Swiss Confederation, Sweden, Spain, Hungary, Slovenia, Colombia, Lithuania).

- **As per the general MFN clause in the DTAA's**-if after the signature/ entry into force of the DTAA with the *first OECD member state*, India enters into a DTAA with *another OECD member State*, wherein India taxes certain items of income at a lower rate or a scope more restricted than the scope provided for those items of income in the DTAA with the *first OECD member state*, such beneficial treatment should also be extended to the *first OECD member state*.
- India has existing DTAA's with the Netherlands, France, Swiss federation i.e., *first OECD member state*
- India has recently signed DTAA's with the Slovenia, Columbia, Lithuania i.e., *another OECD member state*, wherein taxation of specified incomes is provided at lower rate as compared to DTAA's with The Netherlands, France, the Swiss Confederation i.e., *first OECD member state*.
- Now the Govt of Netherland, France, Swiss federation i.e., *first OECD member state* is also taxing specified incomes at lower rate (as per DTAA's with Slovenia, Columbia, Lithuania) by applying the abovesaid MFN clause to which Indian government objected.
- In this regard CBDT has now clarified that the MFN clause in case of OECD countries can only be applied after fulfillment of certain conditions which are listed below:
 - The second treaty (with another OECD member state) is entered into after the signature/ Entry into Force of the treaty between India and the first OECD member State.
 - The second treaty is entered into between India and a State which is a member of OECD at the time of signing the treaty with it.
 - Application of concessional rates/restricted scope from the date of entry into force of the DTAA with the third State and not from the date the third State becomes member of the OECD.
 - A separate notification has been issued by India, importing the benefits of the second treaty into the treaty with the first State, as required by the provisions of sub-section (1) of Section 90 of the Income Tax Act, 1961.

Circular No.3

<u>Goods and services tax</u>
1. Turnover limit for issuance of mandatory e-invoices under GST is reduced.
CBIC Notification No. 01/2022 dated 24.02.2022
<p>Vide this notification, CBIC has reduced turnover limit for E-invoicing to Rs. 20 crores from Rs. 50 crores.</p> <ul style="list-style-type: none">➤ This implies that businesses with turnover of Rs. 20 crore or more will have to issue e-invoice.➤ This notification will come into effect from 1st April, 2022. <p><u>Notification No.01</u></p>

Disclaimer:

This is not a complete listing of all circulars/notifications issued during the month.

Instead, it is only a listing of some of the circulars/notifications that we considered important.



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