
Changes to the India-Cyprus Treaty / Revocation of Cyprus's classification as a "Notified Jurisdictional Area" – Press release issued by CBDT

01 July 2016



The Central Board of Direct Taxes (CBDT) has issued a statement providing an update on the negotiations between India and Cyprus on revision of India-Cyprus Tax Treaty.

The key highlights of this announcement are as under:

- Negotiations with respect to revision of India-Cyprus Tax Treaty have been successfully completed
- In-principle agreement has been reached on all pending issues which will pave the way for removal of Cyprus from India's list of NJA.
- India to consider retrospectively rescinding the notification which classifies Cyprus as a 'Notified

Jurisdictional Area' under section 94A¹ from 1 November 2013. It was agreed that India will initiate the process for the same.

- The revised India-Cyprus Tax Treaty will provide for source based taxation for gains from the alienation of shares.

However, investments undertaken prior to 1 April 2017 will be grandfathered with the view that taxation of disposal of such shares at any future date remains with the contracting state of residence of the seller.

- CBDT has stated that these 'provisional' agreements will now be placed before the Cabinet for its approval subsequent to which the

¹ Section 94A empowers India to notify a country as a 'Notified Jurisdictional Area' under section 94A of the Income-tax Act, 1961. Such a notification triggers several consequences under Indian law, most important

of which is the obligation to deduct tax at a higher rate of 30% on payments to Cyprus based entities.

new tax treaty can be signed by the two countries.

Dhruva comments

The statement issued by the CBDT marks the successful completion of renegotiations on the India-Cyprus tax treaty. However, it must be emphasised that the text of the revised treaty is yet to be released.

It is pertinent to note that the press release states that India will consider to retrospectively rescind the notification classifying Cyprus as a NJA. This is an important development, and could have a significant impact on several cases where the impact of section 94A (particularly sub-section (5) which deals with increased withholding obligations) is a subject matter of dispute. However, this will depend on the fine print of the revised treaty language as well as the legal modalities adopted for the retrospective revocation of the notification of Cyprus under section 94A.

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