

# Double Taxation Agreement between India and New Zealand

Signed on December 30, 1999

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## **New Zealand**

### **AGREEMENT BETWEEN INDIA AND NEW ZEALAND.**

Whereas the annexed Second Protocol to the Convention between the Government of the Republic of India and the Government of New Zealand for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, comes into force on 30th December, 1999, thirty days after the date of receipt of the later of notifications by both the Contracting States to each other, under article 9 of the Second Protocol, of the completion of the procedures required under their respective laws for bringing into force the said Second Protocol.

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of the said Second Protocol shall be given effect to in the Union of India.

#### **ANNEXURE**

#### **SECOND PROTOCOL TO THE CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF NEW ZEALAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.**

##### **SECOND PROTOCOL**

TO THE CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF NEW ZEALAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

##### **The Government of the Republic of India and the Government of New Zealand,**

Having regard to the convention between the Government of the Republic of India and the Government of New Zealand for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income done at Auckland on the 17th day of October, 1986 (hereinafter referred to as "the Convention"),

Have agreed as follows:

##### **Article 1**

Paragraph 1(a)(ii) of article 3 of the Convention is replaced by the following:

"(ii) the term 'India' means the territory of India and includes the territorial sea and the airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian law and in accordance with international law, including the U.N. Convention of the Law of the Sea;"

##### **Article 2**

Paragraph 3 of article 4 of the Convention is replaced by the following:

"3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated cannot be determined, then the competent authorities of the Contracting States shall settle the question by mutual agreement."

##### **Article 3**

Paragraph 1 of article 6 of the Convention is replaced by the following:

"1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may also be taxed in that other State."

#### **Article 4**

In paragraph 2 of article 10 of the Convention, "20 per cent" is replaced by "15 per cent."

#### **Article 5**

In paragraph 2 of article 11 of the Convention, "15 per cent" is replaced by "10 per cent."

#### **Article 6**

In paragraph 2 of article 12 of the Convention " 30 per cent" is replaced by "10 per cent."

#### **Article 7**

Paragraph 1 of article 13 of the Convention is replaced by the following:

"1. Income or gains derived by a resident of a Contracting State from the alienation of immovable property referred to in article 6 and situated in the other Contracting State may also be taxed in that other State."

#### **Article 8**

1. Paragraph 2 of article 24 of the Convention is replaced by the following:
2. "2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other
3. State carrying on the same activities. This provision shall not be construed as preventing a contracting State from charging the profits of a permanent establishment which a company of the other Contracting State has in the first-mentioned State at a rate of tax which is higher than that imposed on the profits of a similar company of the first-mentioned Contracting State."
4. A new paragraph 5 is inserted immediately after paragraph 4 of article 24 of the convention and the original paragraph 5 of the article is renumbered paragraph 6.
5. "5. The article shall not apply to any provisions of the taxation laws of a Contracting State which are reasonably designed to prevent or defeat the avoidance or evasion of taxes."

#### **Article 9**

1. The Contracting States shall notify each other through diplomatic channels of the completion of the procedures required by the respective laws for the entry into force of this protocol.
2. This Protocol shall enter into force 30 days after the date of receipt of the later of the notifications referred to in paragraph 1 of this article and its provisions shall have effect:
  - a. in New Zealand: for any income year beginning on or after 1st April in the calendar year next following the date on which the Protocol enters into force;
  - b. in India: for any "previous year" (as defined in the Income-tax Act,1961) beginning on or after 1st April in the calendar year next following the date on which the Protocol enters into force.

**In WITNESS WHEREOF** the undersigned, duly authorized by their respective Governments, have signed this Protocol.

**Done** in duplicate at New Delhi this twenty first day of June, 1999, in the Hindi and English languages, both texts being equally authentic. In case of divergence between the two texts, the English text shall be the operative one.

For the Government of the Republic of India.....

(Ravi Kant).

For the Government of the New Zealand.....

(Adrian G.Simcock)

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**Notification No. S. O. 166(E), dated 5th March, 1997.**

WHEREAS the annexed Protocol to the Convention between the Government of the Republic of India and the Government of New Zealand for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income has come into force on 9th January, 1997, on the notification by both the Contracting States to each other of the compliance with the domestic requirements as required by Article 2 of the said Protocol;

NOW, THEREFORE, in exercise of the powers conferred under section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of the said Protocol shall be given effect to in the Union of India.

**ANNEXURE**

**PROTOCOL TO THE CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF NEW ZEALAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

The Government of the Republic of India and the Government of Newzealand,

Having regard to the Convention between the Government of the Republic of India and the Government of New Zealand for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income done at Auckland on 17th October, 1986 (hereinafter referred to as "the Convention"),

**HAVE** agreed that the following provisions shall form an integral part of the Convention:

**Article 1**

Notwithstanding paragraph 3 of Article 23 of the Convention, a New Zealand resident deriving income from India, being income referred to in that paragraph, shall not be deemed to have paid Indian tax in respect of such income where the competent authority of New Zealand considers, after consultation with the competent authority of India, that it is inappropriate to do so having regard to:

- a. whether any arrangements have been entered into by any person for the purpose of taking advantage of paragraph 3 of Article 23 for the benefit of that person or any other person;
- b. whether any benefit accrues or may accrue to a person who is neither a New Zealand resident nor an Indian resident;
- c. the prevention of fraud or the avoidance of the taxes to which the Convention applies;
- d. any other matter which either competent authority considers relevant in the particular circumstances of the case, including any submissions from the New Zealand resident concerned.

**Article 2**

1. The Contracting States shall notify each other that the domestic requirements for entry into force of this Protocol have been complied with.
2. This Protocol shall enter into force on the date of the later of the notifications referred to in paragraph (1) of this article.

### **Article 3**

Article 1 of this Protocol shall apply to income derived on or after the 1st day of the month following the date on which this Protocol enters into force.

**DONE** at New Delhi in duplicate this the Twenty-ninth day of August, One Thousand Nine Hundred Ninety-six in the Hindi and the English languages, both texts being equally authentic. In case of divergence between the two texts, the English text shall be the operative one.

For the Government of the Republic of India

(Sd.)(G. K. Mishra)

Chairman, Central Board of Direct Taxes and Ex-Officio Special

Secretary to the Government of India.

For the Government of New Zealand.

(Sd.) (Nicholas William Bridge)

High Commissioner of New Zealand in India

**[Notification No. 10280/F. No. 500/151/93-FTD]**