

PRESS COMMUNIQUE

Tax Residency Certificate

Mauritius has taken note of the measures announced by the Indian Minister of Finance, the Honourable P. Chidambaram, during the presentation of the 2013-14 budget to the Indian Parliament on Thursday 28 February 2013.

The Minister announced, amongst others, that the Indian Income Tax Act would be amended to provide that Tax Residency Certificate (TRC) would constitute a necessary but not sufficient condition to avail of the benefits under double taxation avoidance agreements. This announcement has created much confusion among investors in India and internationally, including those using Mauritius to do business with India. The amendment has been interpreted as providing wide powers to the Indian tax authorities to question the Tax Residency Certificate produced by a resident of a contracting state.

Although there are still some prevailing uncertainties regarding how the GAAR will be implemented in 2016-17, the post budget declarations from the Indian Ministry of Finance contain some positive elements. It is with satisfaction that we note that the Indian Ministry of Finance has acted promptly to clarify the situation regarding the validity of the TRC. In a communiqué issued on 1 March 2013, the Indian Ministry of Finance specifies that *“the TRC produced by a resident of a contracting state will be accepted as evidence that he is a resident of that contracting state and the income tax authorities in India will not go beyond the TRC and question his residence status.”*

The communiqué also emphasizes that for the case of Mauritius circular No.789, issued by the Central Board of Direct Taxes (CBDT) clarifying that a Certificate of Residence delivered by the Mauritian authorities would constitute sufficient evidence for accepting the status of residence as well as beneficial ownership for claiming benefits under Indo-Mauritian Double Taxation Avoidance Convention (DTAC), continues to be in force pending ongoing discussions between India and Mauritius. Furthermore, we are comforted by the declaration of the Indian Minister

of Finance to the effect that India will not take unilateral action to revise the Mauritius-India DTAC.

For recall, the India-Mauritius Joint Working Group met in December 2011 and again in August 2012 to discuss concerns on the operation of the India-Mauritius DTAC. Mauritius has agreed with India on a Tax information Exchange Agreement, which incorporates provisions on assistance in the collection of taxes. The next meeting of the JWG is scheduled to take place in the last week of this month, in India. Mauritius has already proposed dates for the holding of the meeting and we are waiting for a confirmation from the Indian side regarding the dates.

We wish to reiterate that Mauritius is committed and willing to collaborate fully to address the concerns of the Indian side on the DTAC while ensuring that the treaty remains commercially viable. We are optimistic that both sides can conclude a mutually acceptable package that would yield a win-win solution.

**Press Department
Ministry of Finance
and Economic Development
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