

Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

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PRESS RELEASE

Ratification by India of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting

India has ratified the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI), which was signed by the Hon'ble Finance Minister at Paris on 7th June, 2017 on behalf of India, alongwith representatives of more than 65 countries. **On 25th June, 2019, India has deposited the Instrument of Ratification to OECD, Paris alongwith its Final Position in terms of Covered Tax Agreements (CTAs), Reservations, Options and Notifications under the MLI, as a result of which MLI will enter into force for India on 01st October, 2019 and its provisions will have effect on India's DTAA's from FY 2020-21 onwards.**

The Multilateral Convention/MLI is an outcome of the OECD / G20 Project to tackle Base Erosion and Profit Shifting (the "BEPS Project") i.e. tax planning strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations where there is little or no economic activity, resulting in little or no overall corporate tax being paid. India was part of the Ad Hoc Group of more than 100 countries and jurisdictions from G20, OECD, BEPS associates and other interested countries, which worked on an equal footing on the finalization of the text of the Multilateral Convention.

The MLI will modify India's tax treaties to curb revenue loss through treaty abuse and base erosion and profit shifting strategies by ensuring that profits are taxed where substantive economic activities generating the profits are carried out. The MLI will be applied alongside existing tax treaties, modifying their application in order to implement the BEPS measures. **Out of 93 CTAs notified by India, 22 countries have already ratified the MLI as on date and the Double Taxation Avoidance Agreement (DTAA) with these countries will be modified by MLI.** For the remaining CTAs, effect of MLI will take place as and when these countries ratify the MLI. Depending on the position taken under MLI by a country, India's DTAA with it shall get modified in the following prominent ways:-

- a) The minimum standard under BEPS Action 6 to tackle treaty abuse, i.e., insertion of new Preamble and the Principal Purposes Test (PPT) in the DTAA's shall be achieved.
- b) The minimum standard under BEPS Action 14 relating to the mutual agreement procedure shall get implemented.

- c) Artificial avoidance of Permanent Establishment (PE) status through commissionaire arrangements and similar strategies would be prevented. Avoidance of PE formation through specific activity exemptions and splitting up of contracts would also be prevented.
- d) Avenues leading to avoidance of capital gains from alienation of shares/ interests deriving value principally from immovable property would be plugged.
- e) Certain dividend transfer transactions that are intended to lower withholding taxes payable on dividends artificially would be prevented.

The date of entry into force of the MLI for India is 1st day of October, 2019. In respect of the 22 treaty partners of India who have deposited the Instrument of Ratification on or before 30th June, 2019, entry into effect for India under MLI with respect to the DTAA shall be from financial year 2020-21 onwards.

(Surabhi Ahluwalia)
Commissioner of Income Tax
(Media & Technical Policy)
Official Spokesperson, CBDT.