

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

New Delhi, the 8th December, 2021

(INCOME TAX)

S.O. 5094(E).—Whereas, the Protocol, amending the Agreement between the Government of the Republic of India and the Government of the Kyrgyz Republic for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes on income which was signed at New Delhi on 13th April, 1999, has been signed at Bishkek, Kyrgyz Republic on 14th June, 2019, as set out in the Annexure appended to this notification (hereinafter referred to as the said amending Protocol);

And whereas, the date of entry into force of the said amending Protocol is the 22nd October, 2020, being the date of the later notification of the completion of the procedures required by the respective laws for the entry into force of the said amending Protocol, in accordance with Article 3 of the said amending Protocol;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of the said amending Protocol, as annexed hereto, shall have effect in the Union of India.

ANNEXURE

Protocol amending the Agreement between the Government of the Republic of India and the Government of the Kyrgyz Republic for the Avoidance of Double Taxation and for the Prevention of Fiscal Evasion with respect to taxes on income signed at New Delhi on 13th April, 1999.

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

Desiring to amend the Agreement between the Government of the Republic of India and the Government of Kyrgyz Republic for the Avoidance of Double Taxation and for the Prevention of Fiscal Evasion with respect to taxes on income signed at New Delhi on 13th April, 1999 (hereinafter referred to as “the Agreement”).

Have agreed as follows:

Article 1

Subparagraph (ii) of paragraph (g) of Article 3 of the Agreement shall read as follows:

“in Kyrgyz Republic, the Ministry of Economy or its authorized representative”.

Article 2

Article 26 of the Agreement shall be replaced by the following

“ARTICLE 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information (including documents or certified copies of the documents) as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political sub-divisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that Contracting State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both Contracting States and the competent authority of the supplying Contracting State authorises such use.

3. In no case shall the provisions of paragraph 1 and 2 be construed so as to impose on competent authority of a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws or administrative practice of that or of the other Contracting State;

(b) to supply information (including certified copies of documents) which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3, but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interest in person”.

Article 3**ENTRY INTO FORCE**

Both Contracting States shall notify each other in writing through diplomatic channels that they have completed the procedures required by the respective laws for the entry into force of this Protocol. This Protocol shall enter into force on the date of the later of such notifications.

In witness thereof, the undersigned, duly authorised thereto, have signed this Protocol which shall be an integral part of the Agreement.

Done in duplicate at Bishkek on this 14th day of June 2019 in the Hindi, Kyrgyz, Russian and English languages, all texts being equally authentic. In case of any divergence, the English text shall prevail.

For the Government of
the Republic of India

For the Government of
the Kyrgyz Republic

[Notification No. 135/2021/F. No. 503/07/95-FTD-II]

RAJESH KUMAR BHOOT, Jt. Secy.