



Global Business Tax Alert Sharp Insights

New India-Thailand tax
treaty enters into force

Issue no: GBTA/82/2015

In this issue:

Upcoming Dbriefs - Register
Contacts

India had signed an agreement with Thailand for the avoidance of double taxation and the prevention of fiscal evasion effective 1 April 1987. The Government of India has now entered into a new agreement with the Government of Kingdom of Thailand, which was signed on 29 June 2015. The new agreement had entered into force on 13 October 2015 and shall have effect in India in respect of income derived after 1 April 2016 [Notification No. 88/2015 dated 1 December 2015].

Select changes in the treaty have been highlighted hereunder:

Article 3 – General Definition:

- The definition of ‘person’ now includes ‘body of persons’
- Definition of the term ‘fiscal year’ has been introduced to mean the financial year beginning 1st April in the case of India and the tax year beginning 1st January in case of Thailand.

Article 4 – Resident:

- The tie-breaker for ascertaining the residential status of a person ‘other than an individual’, which is a resident of both Contracting State shall be its place of effective management.
- The term ‘resident of a Contracting State’ does not include any person who is liable to tax in that State in respect only of income from sources in that State.

Article 5 – Permanent Establishment:

- A ‘sales outlet’ has been included to constitute a PE in the source state.
- The new treaty provides that the duration of 183 days, for formation of a service PE, should be within any twelve-month period
- Maintenance of a fixed place for ‘delivery’ to be construed as a PE

Article 7 - Business profits:

- The force of attraction rule in relation to taxation of sales of same or similar kind or other business activities included in the earlier treaty is not contained in the new treaty.

Article 8 – Shipping and Air transport:

- The term ‘operation of ships or aircraft’ has been defined to mean the business of transportation in ‘international traffic’ and other directly connected activities.
- The meaning of the term ‘operation of ships or aircraft’ has also been expanded to include ‘use, maintenance or rental of containers in connection with such transport’.

Article 9 – Associated Enterprises

- The new treaty contains a provision for corresponding adjustments to be made in the other Contracting State.

Article 10, 11 and 12- Dividends, Interest and Royalties:

- The rate of tax in the source State has been rationalized to 10% for payments made to the beneficial owner.

Article 12 - Royalties

- The definition of royalties exclude consideration received on 'alienation' of copyright etc.

Article 13 – Capital Gains

- The new treaty specifically deals with capital gains arising on alienation of shares. Gains on alienation of shares of companies, the property of which consists directly or indirectly principally of immovable property, may be taxed in the state in which property is situated.
- Gains from alienation of shares, the property of which does not consist directly or indirectly principally of immovable property, may be taxed in the state in which such company, whose shares are transferred, is a resident.
- Gains from alienation of any other property may be taxed in accordance with the taxation laws of the respective contracting states.

Article 13 – Dependent Personal Services

- Remuneration derived by a resident of a contracting state on employment exercised in the other contracting state shall be taxable only in the state of residence subject to conditions including that the stay in the other contracting state does not exceed 183 days 'within any twelve months commencing or ending in the fiscal year concerned'.

Article 26 – Exchange of information

- This article has been significantly redrafted to facilitate the exchange of information, expand usage of information obtained and restrict the instances of contracting states declining the exchange of information.

Article 27 – Limitation of benefits:

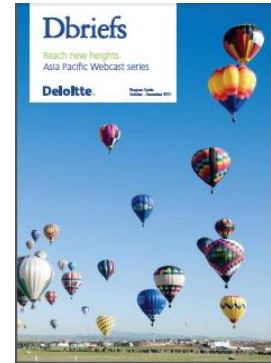
A new article has been inserted to enable a contracting state to apply its domestic law and measures concerning tax avoidance or evasion whether or not described as such.

Upcoming Dbriefs – Register

Global Mobility: No More Secrets!

On 15 December 2015 from 11:30 AM to 12:30 PM IST

Recently, we have seen trends emerging globally and in Asia Pacific as tax authorities seek to deal with maintaining revenue in more turbulent economic times by finding ways to ensure the correct tax revenues can be collected. As business, and especially commerce, is undertaken without regard to borders, how can authorities share better information and develop strategies to deal with the new borderless business environment? For more information, visit the [Dbriefs](#) page



Register Now

Contacts

Ahmedabad

Heritage, 3rd Floor,
Near Gujarat Vidyapith,
Off Ashram Road,
Ahmedabad – 380 014.
Tel: + 91 (079) 2758 2542
Fax: + 91 (079) 2758 2551

Bangalore

Deloitte Centre, Anchorage II,
100/2, Richmond Road,
Bangalore 560 025.
Tel: +91 (080) 6627 6000
Fax: +91 (080) 6627 6010

Chennai

No.52, Venkatanarayana Road,
7th Floor, ASV N Ramana Tower,
T-Nagar,
Chennai 600 017.
Tel: +91 (044) 6688 5000
Fax: +91 (044) 6688 5050

Coimbatore

Shanmugha Manram
41, Race Course,
Coimbatore
Tamil Nadu - 641018
Tel: + 91 (0422) 439 2801
Fax: +91 (0422) 222 3615

Delhi/Gurgaon

Building 10,
Tower B, 7th Floor,
DLF Cyber City,
Gurgaon 122 002
Tel : +91 (0124) 679 2000
Fax : + 91 (0124) 679 2012

Hyderabad

1-8-384 and 385, 3rd Floor,
Gowra Grand S.P.Road,
Begumpet,
Secunderabad – 500 003.
Tel: +91 (040) 6603 2600
Fax: +91 (040) 6603 2714

Kolkata

Bengal Intelligent Park Building Alpha,
1st floor, Block EP and GP Sector V,
Salt Lake Electronics Complex,
Kolkata - 700 091.
Tel : + 91 (033) 6612 1000
Fax : + 91 (033) 6612 1001

Mumbai

Indiabulls Finance Centre,
Tower 3, 28th Floor,
Elphinstone Mill Compound,
Senapati Bapat Marg, Elphinstone (W),
Mumbai – 400013
Tel: + 91 (022) 6185 4000
Fax: + 91 (022) 6185 4101

Pune

106, B-Wing, 7th Floor,
ICC Trade Tower,
Senapati Bapat Road,
Pune – 411 016.
Tel: + 91 (020) 6624 4600
Fax: +91 (020) 6624 4605

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

This material and the information contained herein prepared by Deloitte Touche Tohmatsu India LLP (DTTI LLP) is intended to provide general information on a particular subject or subjects and is not an exhaustive treatment of such subject(s). This material contains information sourced from third party sites (external sites). DTTI LLP is not responsible for any loss whatsoever caused due to reliance placed on information sourced from such external sites. None of DTTI LLP, Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte Network”) is, by means of this material, rendering professional advice or services. This information is not intended to be relied upon as the sole basis for any decision which may affect you or your business. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser.

No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this material.

©2015 Deloitte Touche Tohmatsu India LLP. Member of Deloitte Touche Tohmatsu Limited

Registered office: 12, Dr. Annie Besant Road, Opp. Shiv Sagar Estate, Worli, Mumbai – 400 018, India. Deloitte Touche Tohmatsu India Private Limited (U74140MH1995PTC093339), a private company limited by shares, was converted into Deloitte Touche Tohmatsu India LLP (LLP Identification No. AAE- 8458), a limited liability partnership, with effect from October 1, 2015.

[Home](#) | [Add Deloitte as a safe sender](#)

Follow us on:

