



# Tax Flash News



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## India notifies the 2024 Protocol amending the India-Mauritius tax treaty; introduces principal purpose test

### Executive summary



On 13 October 2026, the Government of India notified the Protocol signed between India and Mauritius in 2024, amending the existing Indian-Mauritius tax treaty ('the Treaty').<sup>1</sup>

The 2024 Protocol entered into force on 10 August 2026, being the later of the dates on which India and Mauritius notified each other of the completion of their respective domestic procedures.

As the Treaty is not a Covered Tax Agreement under the Multilateral Instrument ('MLI'), the two countries adopted a bilateral approach to amend the Treaty to incorporate the anti-abuse provisions similar to those contained in the MLI.

<sup>1</sup> Notified in the Gazette of India - F. No. 135/2026/F. No. 500/03/2012-FTD-II

## Background



The Treaty, signed in 1982, historically provided significant treaty benefits, including exemption from capital gains tax in India and a concessional rate of tax on dividend income.

The Treaty was amended in 2016, pursuant to which India obtained taxing rights over capital gains arising from transfer of shares of an Indian company acquired by a Mauritius tax resident on or after 1 April 2017, while shares acquired before that date were grandfathered and continued to enjoy exemption from capital gains tax in India.

On 7 March 2024, India and Mauritius signed the 2024 Protocol to amend the Treaty by replacing the existing preamble and introducing Principal Purpose Test ('PPT') related provision. The 2024 Protocol also provided that it shall enter into force on the date on which the later of India and Mauritius notifies completion of its domestic procedures.

## Key amendments by the Protocol



### Revised Preamble

The preamble provides that the amended Treaty aims to eliminate double taxation, while ensuring that it does not give rise to non-taxation or reduced taxation through tax evasion, avoidance, or treaty-shopping arrangements aimed at indirectly benefiting residents of third jurisdictions.

### Introduction of Principal Purpose Test

The PPT has been introduced to deny the Treaty benefits if obtaining that benefit was one of the principal purposes of entering into an arrangement or transaction, unless it is established that granting that benefit was in accordance with the object and purpose of the relevant provisions of the Treaty.<sup>2</sup>

### Entry into force

The 2024 Protocol entered into force on 10 August 2026. Further the provisions of the Protocol shall come into effect from the date of entry into force of the Protocol, without regard to the date on which the taxes are levied or the taxable years to which the taxes relate.

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<sup>2</sup> Insertion of Article 27B – 'Entitlement to Benefits'

## Clarifications issued by CBDT



In January 2025, the Central Board of Direct Taxes ('CBDT') issued a circular clarifying that the PPT contained in India's tax treaties, whether incorporated through the MLI or through bilateral negotiations, would apply prospectively. The circular also clarified that grandfathered provisions under the treaties would remain outside the scope of the PPT provision.<sup>3</sup>

Subsequently, in March 2025, the CBDT issued a Press Release clarifying that the circular was limited to the interpretation and application of the PPT and was not intended to affect any other treaty provisions, including those relating to treaty entitlement or denial of treaty benefits. The Press Release further clarified that the circular would not impact the application of domestic anti-abuse rules, including the General Anti-Avoidance Rules ('GAAR'), Specific Anti-Avoidance Rules ('SAAR') and Judicial Anti-Avoidance Rules ('JAAR').<sup>4</sup>

In light of the Supreme Court's decision in *Tiger Global*, the CBDT in March 2026, amended the language of grandfathering provisions under the

domestic GAAR framework to confirm availability of GAAR grandfathering to income from transfer of investments which were made before the 1st day of April 2017.<sup>5</sup>

## Our comments



The 2024 Protocol replaces the existing preamble of the Treaty and introduces PPT, an anti-abuse provision, that permits denial of the Treaty benefits where obtaining such benefits was one of the principal purposes of an arrangement or transaction.

Considering the January 2025 CBDT Circular and March 2026 amendment to GAAR grandfathering provisions, the capital gains arising from the transfer of shares acquired prior to 1 April 2017 may continue to remain outside the scope of the PPT and domestic GAAR. However, other categories of income, such as dividend, interest, royalty and fees for technical services etc. would now need to meet the higher threshold of PPT and the amended preamble to be eligible for the Treaty benefit.

<sup>3</sup> [KPMG Flash News: Grandfathering provision under the tax treaty is outside the purview of the Principal Purpose Test: CBDT circular](#)

<sup>4</sup> [KPMG Flash News: CBDT Circular on application of PPT vis-à-vis grandfathering provisions in treaty does not affect other anti-abuse provisions](#)

<sup>5</sup> [KPMG Flash News: GAAR Grandfathering Rules amended for transfer of investments made prior to 1 April 2017](#)

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