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Tax alert: Protocol amending India-Mauritius tax treaty ratified by Mauritius

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The Mauritian cabinet has approved and ratified the Protocol amending the India-Mauritius tax treaty on 17 July 2026, which was signed on 7 March 2024.

Background:

- A protocol[1] dated 7 March 2024 was signed between the Government of India and Government of Mauritius ('Protocol'), amending the India-Mauritius tax treaty (refer **Annexure** for relevant extract). It contained the following **three Articles**:
  (i) Article replacing the existing Preamble of the India-Mauritius tax treaty;
  (ii) New Article 27B (relating to Entitlement to Benefits); and;
  (iii) Date of entry into force of the Protocol.
- The Mauritian Cabinet has on 17 July 2026[2] agreed on the promulgation of the Protocol to the India-Mauritius tax treaty which will provide for the operationalization of the Protocol, signed on 7 March 2024, to provide, *inter-alia*, for the inclusion in the tax treaty, as follows:

  (a) a paragraph in the Preamble section to reiterate the common intention of both countries to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance; and

  (b) an article on Entitlement to Benefits to prevent the abusive use of the DTAA, i.e., allowing either party to deny a benefit under the DTAA if one of the principal purposes of an investment is to benefit from the tax treaty (Principal Purpose Test).
- The highlights of the Mauritius Cabinet meeting states as follows:
  - the ratification was deferred by the Mauritian side following concerns expressed by stakeholders and investors both in Mauritius and India.
  - during the recent visits of the Prime Minister in India, the matter was raised with Prime Minister Modi who gave the assurance of the continued stand of India of not taking any action that **would undermine the benefits of Mauritius under the amended India-Mauritius tax treaty**.
  - Subsequently, the Indian authorities clarified their stand now favourable to Mauritius. **Thus the decision to ratify the Protocol, which will come into force on the date of notification to the Indian authorities of the completion of the ratification procedures.**

[1] As per the Protocol published on the Ministry of External Affairs website: https://www.mea.gov.in/TreatyDetail.htm?4377

[2] Highlights of Cabinet meeting held on Friday 17th July 2026 (as available in public domain)

Deloitte comments:

In view of the decision taken in the Cabinet meeting of Maurtius, the protocol now has been ratified by Mauritius. However, the same will enter into force on the date of notification to the Indian authorities of the completion of the ratification procedures.

Further, it is expected that the protocol will be notified by the Indian government under section 159 of the Income-tax Act, 2025 (section 90 of the Income-tax Act, 1961).

One may need to evaluate:

- Whether the Protocol, once notified, would apply prospectively or retrospectively?
- The impact of the Protocol on the grandfathering benefit provided for capital gains exemption on sale of shares in an Indian company (acquired up to 31 March 2017).

Separately, it may be pertinent to examine the clarification by the Indian authorities of the stand favourable to Mauritius.

Annexure:

The relevant extracts of the Protocol are as follows:

Article 1 of the Protocol to the India-Mauritius tax treaty

- Article 1 of the Protocol replaces the existing Preamble of the India-Mauritius tax treaty as follows:

  "The Government of the Republic of India and the Government of the Republic Mauritius

  Intending to eliminate double taxation with respect to the taxes covered by this Convention without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third jurisdictions),

  Have agreed as follows:"

Article 2 of the Protocol to the India-Mauritius tax treaty

- New Article 27B relating to 'Entitlement to Benefits':

  "Article 27B-ENTITLEMENT TO BENEFITS:

  Notwithstanding the other provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention."

Article 3 of the Protocol to the India-Mauritius tax treaty

- Date of entry into force of the Protocol:

  "Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Protocol. This Protocol shall enter into force on the date of the later of these notifications.

  The provisions of this Protocol shall have 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."