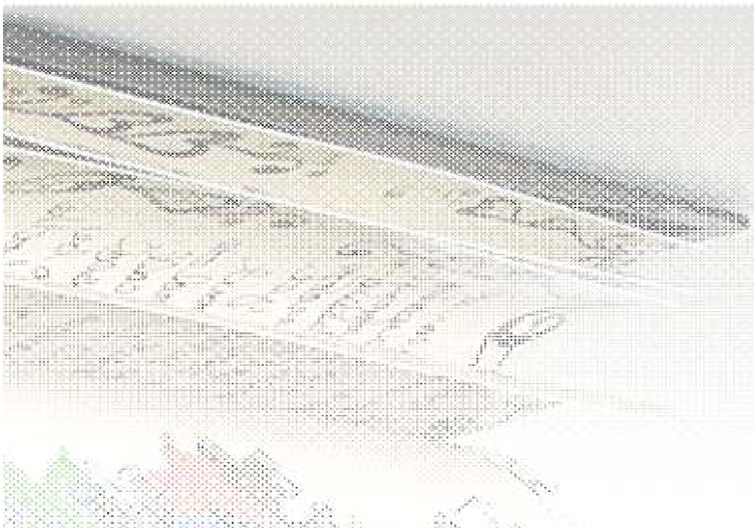


Volume-2 April -2016 Pages 1-22

SBS Interns' Digest

An attempt to share knowledge

By

Interns of
SBS and Company LLP

For Private circulation only

CONTENTS

INDIRECT TAXES....1

CENVAT CREDIT OF INPUT SERVICES – A DETAILED STUDY....1

COMPANY LAW....5

MAINTENANCE OF COST RECORDS....5

PROJECT FINANCE....8

CREDIT RATINGS....8

INCOME TAX....13

'DTAA'!!!!! – NO MORE A STRANGER!....13

RESET INCOME TAX EFILING PASSWORD....21

INDIRECT TAXES

CENVAT CREDIT OF INPUT SERVICES – A DETAILED STUDY

Contributed by Uday Kumar P & Vetted by CA Manindar K

Introduction:

CENVAT Credit Rules 2004 (for brevity 'CCR 2004') have replaced the erstwhile CENVAT Credit rules 2002 and Service Tax credit rules 2002, integrating the credit of goods and services, allowing adjustment against a manufacturer's excise duty liability or a service provider's service tax liability.

However, credit for all services used by Manufacturer or service provider is not given. There are inclusions and specific exclusions to the 'means part'definition of input services as per CCR, 2004. Also, CCR 2004 prescribes certain conditions for availing the credit on eligible input services. Let us have a brief look into the kind of services that are eligible for credit under CCR, 2004 and the procedure for availing the same.

Constitution of 'Input Service' Definition:

Rule 2(l) defines Input services. As said earlier, the definition has been broadly divided in to the following categories.

- 'Means' part,
- 'Inclusion' part,
- 'Exclusion' part.

In order to be eligible for credit as input service, the service should fall either under means part or inclusion part of the definition and the same should not be specifically excluded by the exclusion part.

Let us look into each part and understand what is intended to be conveyed through them.

Part 1: Input service means:

1. Any service used by the service provider for providing an output service;
2. Any service used by a manufacturer, whether directly or indirectly, 'in or in relation to' the manufacture of final products and clearance of final products upto place of removal.

In other words, services, having direct or indirect nexus with the provision of output service or manufacture/clearance of excisable goods, are eligible as input service (subject to specific exclusions given in the definition).

Part 2: Input service includes:

- Services used in relation to modernisation, renovation or repairs of a factory, premises of service provider or an office relating to such factory or premises;
- Advertisement or sales promotion, market research; storage upto place of removal, procurement of inputs;

- Accounting, auditing, financing;
- Recruitment and quality control, coaching and training,computer networking;
- Credit rating, share registry, business exhibition;
- Security, legal services;
- Inward transportation of inputs or capital goods and outward transportation upto place of removal.

As one can observe, this part list outs two types of services. They are as follows:

➢ Services having direct nexus with the output service/goods. They are even covered under the 'means part' of the definition; But the same are specifically included under the 'Inclusion part' in order clarify the legislative intent and to put an end to certain vexatious litigation that took place over a period of time. Examples for such services are as follows;

Ex- Services of Sales promotion, market research, storage upto place of removal,Inward transportation of inputs or capital goods and outward transportation upto place of removal.

➢ Services which do not have direct nexus, but are indirectly related/required for undertaking the business of providing output services or manufacture of excisable goods. Examples for such services are as follows;

Ex-Accounting, auditing, financing,security etc.
These are also specifically included, so as to make it clear that services which are used/required for the business, though not having direct/immediate nexus with provision of output service or manufacture/clearance of output good, are eligible as input services.

Thus, one has to understand that these inclusions are not to be treated as exhaustive list, but as illustrative so as to explain the scope of the definition.

Part 3: Input service excludes:

A. Construction related services

Works contract service and construction services including builder related services listed under clause (b) of section 66E of the Finance Act(hereinafter referred as 'specified services') used in construction of a building, civil structure or laying of foundation or making structures for support of capital goods are ineligible for CENVAT Credit as they are specifically excluded under the 'Exclusion Part' of the definition.

However, the only exception is when the above specified services are used for the provision of one or more of similar specified services.

By this, it can be said/understood that Credit of services (construction/works contract) relating to setting up of a manufacturing unit or office of service provider are not allowed;

However, the said specified services are eligible for credit when they are used to provide similar services. Say for example, Mr.X has entered into a Contract with Mr. Y to construct an office building to him. In order to execute this contract, Mr. X has sub-contracted a portion of work to Mr. Z. As Mr. Z is providing works contract services to Mr. X, he will charge service tax. Mr. X is allowed to take Credit of this service tax as Mr. X is also engaged in providing similar service (construction / works contract) as that provided by Mr. Z.

B. Motor vehicle related services:

a. Services related to renting of a motor vehicle if they are related to a motor vehicle which is not a capital good (as per CCR 2004);
b. Service of general insurance, servicing, repair and maintenance of a motor vehicle which is not a capital good (as per definition given in CCR 2004) except when used by:
   i. A manufacturer of motor vehicle in respect of a motor vehicle manufactured by such person,
   ii. An insurance company in respect of a motor vehicle insured or reinsured by such person.

In terms of the definition given for 'Capital goods', credit of excise duty paid on motor vehicles is allowed only for those service providers engaged in renting of motor vehicles, courier agency services and for transport of inputs and capital goods for any service provision. Thus, only for these service providers, the service tax paid on insurance, repair services, renting etc. in respect of motor vehicle are eligible for CENVAT credit. In all other cases, service providers are ineligible for CENVAT Credit.

The above discussed analogy can be better understood by an example. A Chartered Accountant is engaged in providing services of a Chartered Accountant. He purchases a motor vehicle for use in his profession. As the motor vehicle purchased is neither used for renting, business of courier agency or transport of inputs, capital goods, credit of the excise duty paid on motor vehicle at the time of its purchase cannot be taken. Similarly, service tax paid any services procured by such Chartered Accountant in respect of such motor vehicle namely repairing, servicing, insurance shall not be allowed as Credit.

However credit is allowed for service tax paid on re-insurance, repair services only to a manufacturer of motor vehicles or an insurance company engaged in the business of insurance and reinsurance of such motor vehicle.

C. Services for personal use or consumption of employees:

Services such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee.

The above mentioned list of services is just an illustrative and is not exhaustive. Thus service tax paid on any service procured by manufacturer or service provider for personal consumption of employees is ineligible for Credit

However, this exclusion is only when such services are used primarily for personal use or consumption of any employee. Thus, service to employees for business purpose is allowed as input service.

Ex: Telephone service for business purpose,

Outdoor catering service for a promotional event of a company where apart from business delegates, employees also participate in the event.

Procedure and conditions for availing CENVAT Credit on input services:

1. Eligibility:
Service used should be input service as per CCR 2004 by falling under the definition, and is consumed for providing taxable service or manufacture/clearance of excisable goods.

2. Earliest point of time at which credit can be taken: Credit on input services can be availed at any time after the receipt of invoice from vendor.
Even if the service is not yet received, you will be entitled to take credit upon receipt of invoice. However, the service should eventually be received and used for providing output service/manufacture of excisable goods. Thus credit is available even for advance payments alsofor which invoice is received, except in case where the services are not received at a later point of time.

In case of services covered under reverse charge mechanism, where service receiver is required to pay service tax, credit cannot be availed upon receipt of invoice. Credit can be taken at any time after payment of the applicable service tax under reverse charge mechanism

However, the credit availed in the above manner shall be required to be reversed in the following scenario:

a. Credit availment should be within one year from invoice date. Thefact of availment should be established through ER1/ST-3 returns.
b. In case of services not covered under reverse mechanism, the payment should within 3 months from invoice date. If not done, credit should be reversed. However, when payment made to vendor is made subsequently, credit can be availed again in the month of such payment.

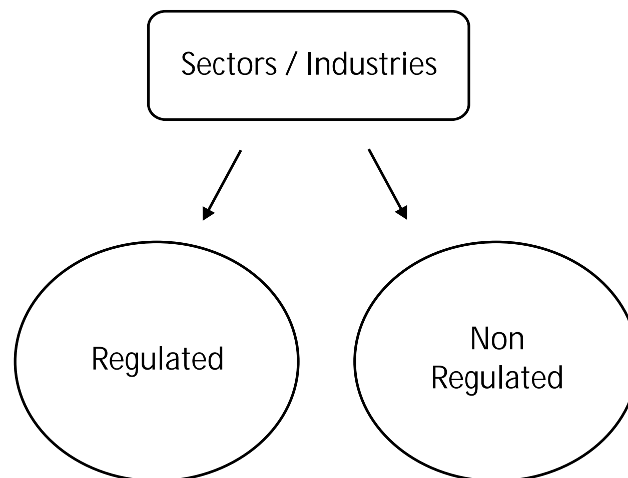
This article is contributed by Udaykumar P, Intern of SBS and Company LLP. The author can be reached at udaykumarp@sbsandco.com

COMPANY LAW

MAINTENANCE OF COST RECORDS

Contributed by Bhavani K & Vetted by CMA Vajralingam C |

- Maintenance of cost accounting records and cost audit as per sec-148 of the Companies Act, 2013 governed by the Companies (Cost Records and Audit) Rules, 2014 along with Amendment Rules, 2014
- The Rules classified the Sectors / Industries into Regulated and Non Regulated



- Applicability of maintenance of Cost Records:

1. Cost Records means 'books of account relating to utilization of materials, labour and other items of cost as applicable to the production of goods or provision of services as provided in section 148 of the Act and these Rules'.
2. There cannot be any exhaustive list of cost records.
3. Any transaction that has a effect on the cost of product / service shall forms part of the cost accounting records
4. Cost records shall be maintained in such a manner to make it possible to calculate cost of production / operations per unit, cost of sales per unit and margin for each of its product.
5. Every Company, including foreign company, whose turnover from all of its products and services having 35 crores or more during the previous financial year engaged in the production of goods or rendering the services shall maintain cost records

❖ Exception: The following companies are exempted from maintaining cost records:
- ✓ Foreign Companies having only one liaison office in India and engaged in the production, import and supply or trading of medical are exempted
- ✓ Companies classified as micro enterprise or medium enterprise as per Micro, Small and Medium Development Act, 2006 are exempted

❖ Meaning of Liaison

✓ Foreign companies can also start their Indian operations by setting up a liaison (representative) office in India. The role of liaison office is limited to collecting information about possible market opportunities in India and providing information about the parent company and its products to the prospective Indian customers. It acts as a communication channel between the parent company and Indian companies. Such Liaison office can be opened only with the prior approval of RBI.

❖ Definition of Turnover

✓ For the purposes of these Rules, "Turnover" means gross turnover made by the company from the sale or supply of all products or services during the financial year. It includes any turnover from job work or loan license operations but exclude duties and taxes. Export benefit received should be treated as a part of sales.

• Applicability of Cost Audit

1. Every Company specified under Regulated Sector / Industry whose overall annual turnover during the immediately previous financial year exceeds 50 crores and turnover of each individual product /service exceeds 25 crores
2. Every company specified under Non Regulated Sector / Industry whose overall annual turnover during the immediately previous financial year exceeds 100 crores and turnover of each individual product /service exceeds 35 crores

❖ Exception

Cost Audit shall not be applicable in following cases

✓ In case the company earns revenue from exports in foreign currency exceeds 75% of its total revenue; or
✓ The company is operating from Special Economic Zone(SEZ)

• Maintenance of Cost Records

1. Cost Records to be maintained in Form CRA-1
2. There is no prescribed format but provides the principles to be followed at the time of considering different cost elements.
3. Maintenance of cost records are left open for the sectors / Industries, but they shall be in a manner to ascertain true and fair view of cost of production, cost of sales and margin of products / services
4. In case of Multi Product Company, where all the products not covered under the rules, and even if the Turnover of the individual product/s that are covered under the Rules is less than threshold limit, but if the overall turnover of all the products exceeds the threshold limits, then maintenance of records shall be mandatory.
5. Once the maintenance of Cost records becomes applicable, it shall be maintained on continuous basis in the subsequent years also

- Appointment of Cost Auditor

1. Every Company to which cost audit applicable shall appoint the Cost Auditor within 180 days from the date of commencement of every financial year
2. Company shall file a Notice of appointment of Cost Auditor

✓ within 30 days from the date of board meeting in which the Cost Auditor appointed; or
✓ within 180 days from the commencement of financial year; whichever is earlier

3. Notice shall be filed in an electronic mode in Form CRA-2
4. Appointed Cost Auditor shall continue till

✓ the expiry of 180 days from the closure of financial year; or
✓ he submits the cost audit report; whichever is earlier

- Cost Audit Report

1. Cost Audit Report shall be submitted by the Cost Auditor along with his/ her observations, recommendations, qualifications, if any, in Form CRA-3
2. Submission of Report shall be done to the Board of Directors within 180 days from the closure of financial year to which the report relates
3. Cost Audit Report shall be furnished to the Central Government within 30 days from the date of receipt of such report from the Cost Auditor, along with the explanation on every reservation / qualification reported by the Cost Auditor in Form CRA-4

This article is contributed by Bhavani K, Intern of SBS and Company LLP. The author can be reached at bhavanik@sbsandco.com

PROJECT FINANCE

CREDIT RATINGS

Contributed by Jhansi D & Vetted by CA Rajesh D |

What is Credit Rating?

Credit Rating is an *opinion* of the credit rating agency on the relative ability of person upon fulfilling the financial commitments or debt service obligations when they arise on the basis of the available information at the particular point of time. Credit rating establishes a link between the *return & risk.*

Credit rating is usually expressed by alphabetical or symbols which are simple and easily understandable. Normally, the credit rating agencies publish the explanations for the symbols mentioned as well as rationale for the ratings assigned.

Why Credit Rating?

With the increasing market changes in the Indian Economy, investors value systematic assessment of two types of risk namely *"Business Risk" & "Payment Risk"* arising out of linkages between money, capital, and foreign exchange markets.

With a view to protect small investors, who are the main targets for the unlisted corporate debt in the form of fixed deposits credit ratings are made mandatory.

India was perhaps the first amongst developing countries to setup a credit rating agency in 1988. The function of credit rating was institutionalised when RBI made it mandatory for the issue of Commercial Paper (CP) and subsequently by SEBI, when it made credit rating compulsory for certain categories of debentures and debt instruments.

Objective of Credit Rating:

By definition, the main objective of credit rating is an opinion on issuer's capacity in servicing the debt.

So, therefore, the credit rating agencies conventionally does not rate equity as the servicing period is not known.

Credit Rating Agencies:

Credit rating Agencies are the companies that assign credit ratings on the ability of the debtor on fulfilling the financial commitments. An agency may rate the instruments, debt repaying obligations for short term & long term of the individuals/ company/ firm, etc.

The Credit Rating Agency in India *must* be a company and is regulated by SEBI and registration with SEBI is mandatory for rating the business.

Types of Credit Rating Agencies in India:

There are four standardised credit rating agencies in India:

1. CRISIL (Credit Rating Information Services of India Limited)
2. ICRA (Formerly called Investment Information Credit Rating Agency of India Limited)
3. CARE
4. ONICRA Credit Rating Agency Pvt. Ltd

Process of Credit Rating by the Credit Rating Agencies:

1. Pre-Analysis and document collection
2. Finalization of assignment and detailed questionnaire is prepared
3. Customer and referral feedback is collected
4. In-depth analysis of the business unit
5. Site visit scheduled and data collected
6. Draft Report and rating proposal
7. Report evaluation by rating committee
8. Final evaluation is made and rating is given to the business unit

How the ratings are given?

ITEM	RATIO-RANGE	PARAMETERS
Current Ratio	Over 1.50	20
	1.33 to 1.50	16
	1.20 to 1.33	12
	1.10 to 1.20	8
	1.00 to 1.20	4
	Below 1.00	0
TOL/TNW	Above 4.5	40
	4.25 to 4.50	8
	4.00 to 4.25	12
	3.50 to 4.00	16
	1 to 3.50	20
	Below 3.00	0

PBIT/Interest	Over 3.00 2.50 to 3.00 2.00 to 2.50 1.75 to 2.00 1.50 to 1.75 Below 1.50	 10 8 6 4 20
PAT/ Net sales	Above 15% 13-15% 11-12% 9-10% 7-8% Less than 6%	10 8 6 4 2 0
ROCE	20% Below 10%	10 0
Current Asset Holding	120 days Above 185 days	15 0

S.NO.	RATING	SYMBOL	COMPANY SCORE
1	Highest Safety	A+	Above 90
2	High Safety	A	Between 80 & 90
3	Fairly High Safety	A-	Between 70 & 80
4	Moderate Safety	B	Between 60 & 70
5	Low Safety	C	Between 50 & 60
6	Very Poor	D	Below 50

Credit Rating Agencies globally:

The *"Big Three"* credit rating agencies controlling around 95% of the rating business are as follows;

- Moody's Investor Service
- Standard & Poor (S&P)
- Fitch Ratings

Credit Ratings:

MOODY'S	S&P	FITCH	MEANING
Aaa	AAA	AAA	High Quality, Extremely strong capacity to meet its financial commitments.
Aa1	AA+	AA+	High Quality, Very Strong Capacity to meet financial obligations with very low credit risk, but susceptibility to long-term risks appears somewhat greater.
Aa2	AA	AA	
Aa3	AA-	AA-	
A1	A+	A+	High Quality, Strong Capacity to meet financial obligations but is somewhat susceptible to the adverse effects/ economic conditions are likely to weaken the obligor's capacity.
A2	A	A	
A3	A-	A-	
Baa1	BBB+	BBB+	Medium grade, Adequate capacity to meet the financial obligations
Baa2	BBB	BBB	Adverse conditions on changing the circumstances.
Baa3	BBB-	BBB-	Likely to lead weekend the obligor's capacity on adverse conditions.
Ba1	BB+	BB+	Lower medium grade, Less vulnerable but faces major ongoing uncertainties exposure which would lead to inadequate capacity to meet financial commitments.
Ba2	BB	BB	
Ba3	BB-	BB-	
B1	B+	B+	Lower medium grade, More vulnerable but faces major ongoing uncertainties exposure will likely weaken to meet financial commitments.
B2	B	B	
B3	B-	B-	
Caa	CCC	CCC	Poor Quality, Currently vulnerable depending on the favorable conditions
Ca	CC	CC	Poor Quality, Currently highly vulnerable
	C	C	Currently highly vulnerable for non-payment
C	D	D	Failed to pay or more of its financial obligations

Types of Credit Rating:

- Corporate Ratings
- Sovereign Ratings
- Instrument Ratings

Corporate Credit Ratings:The opinion of an independent agency regarding the likelihood that a corporation will fully meet its financial obligations as they come due is known as corporate credit rating.

Sovereign Credit Rating:The sovereign credit rating indicates the risk level of the investing environment of a country and is used by investors looking to invest abroad.

Instrument Credit Rating: The Credit Rating done on the credit worthiness of corporate or government bonds are called instrument credit rating.

Users of The Credit Rating:

- Investors
- Borrowers
- Lenders

Benefits of Credit Rating:

To Company:

1. Motivation for Growth in their own efforts
2. Lower Cost of Borrowings from Banks & Financial Institutions
3. A company with the higher credit rating can attract the investors of different strata of the society and the degree of the timely payment of principal and interest.
4. Reduction in costof public issue and debt t.

To Investors:

1. Assurance of Safety
2. Helps in Investment decisions
3. Regular review of the ratings of a particular instrument
4. Easy understandability of the investment proposal

Demerits of Credit Rating:

1. Possibility of Biased Rating and Misrepresentations by the rating committee
2. Highly rated instruments may not disclose the material facts
3. Ratings are given depending on the given past and present known facts of the company but it is difficult to predict the future in case of changes in the environment in the business by way of political, government, legal, social, technology, etc.
4. Problems for new companies as there is no existing data available for rating the company.
5. Downgrading of credit ratings of a particular instrument in case the expectations set is not reached by the company.

This article is contributed by Jhansi D, Intern of SBS and Company LLP. The author can be reached at jhansid@sbsandco.com

INCOME TAX

'DTAA'!!!!! – NO MORE A STRANGER!

Contributed by Disha M & Vetted by CA Ram Prasad

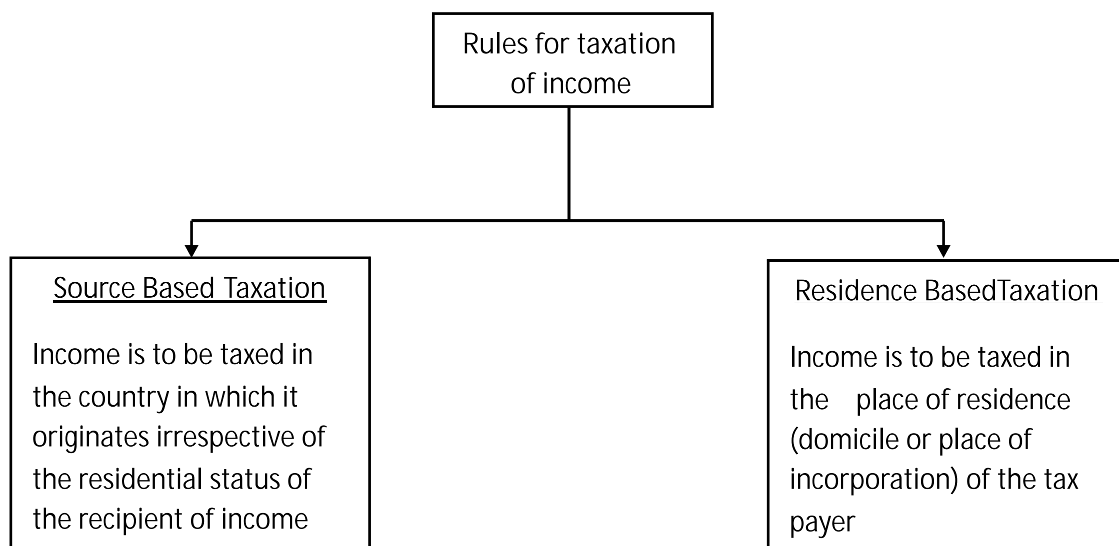
We all are in an era of globalization with increased economic development due to the strengthening of ties between countries. This has been possible due to a rise in sale / transfer of goods, services, technology, intellectual property etc., from one country to another, irrespective of the distance between the two. The markets that have stayed untapped for long have also become a part of this global village now. To ease inter-country trade and to develop connections with all the possible nations of the world, the Governments of all countries have started entering into agreements with each other.

What is DTAA?

DTAA refers to Double Taxation Avoidance Agreement.

In simple terms, DTAA is a bilateral agreement entered into between two countries.

There are two rules for any income being taxed:



If both rules were to apply to a business entity, the cost of operating at an international scale would turn out to be high and such cross-border businesses would become less attractive and deter the process of globalisation.

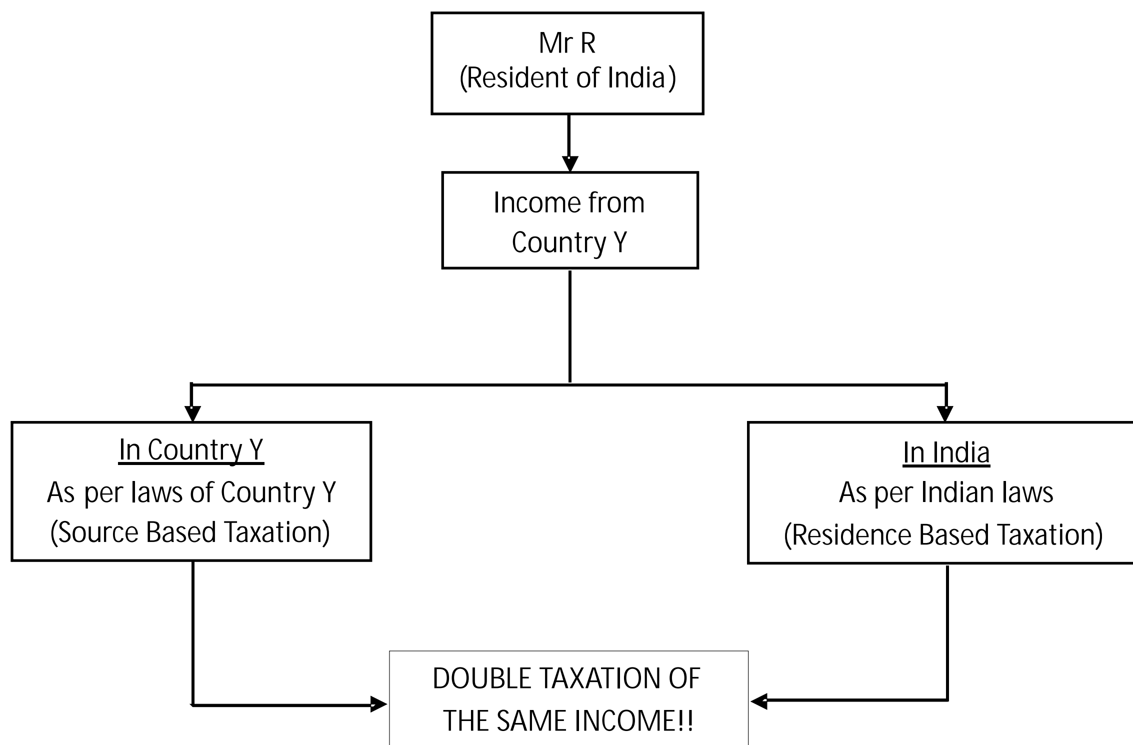
What is double taxation?

Where a taxpayer is a resident in one country but has some income whose source is in another country, it gives rise to possible double taxation.

If countries would have not entered into trade ties, the process of globalization would have collapsed at its budding stage as no person / entity would want to pay tax twice on the same income. One of the most significant results of globalization is the noticeable impact of one country's domestic tax policies on the economy of another country. This has led to the need for incessantly assessing the tax regimes of various countries and bringing about indispensable reforms.

To understand the basic purpose of the bilateral agreements in avoiding double taxation let us take a small example:

Mr. R is a resident of India for tax purposes. He earns certain income in Country Y during one of his visits. In which country would he be liable to pay tax for the income earned from Country Y??



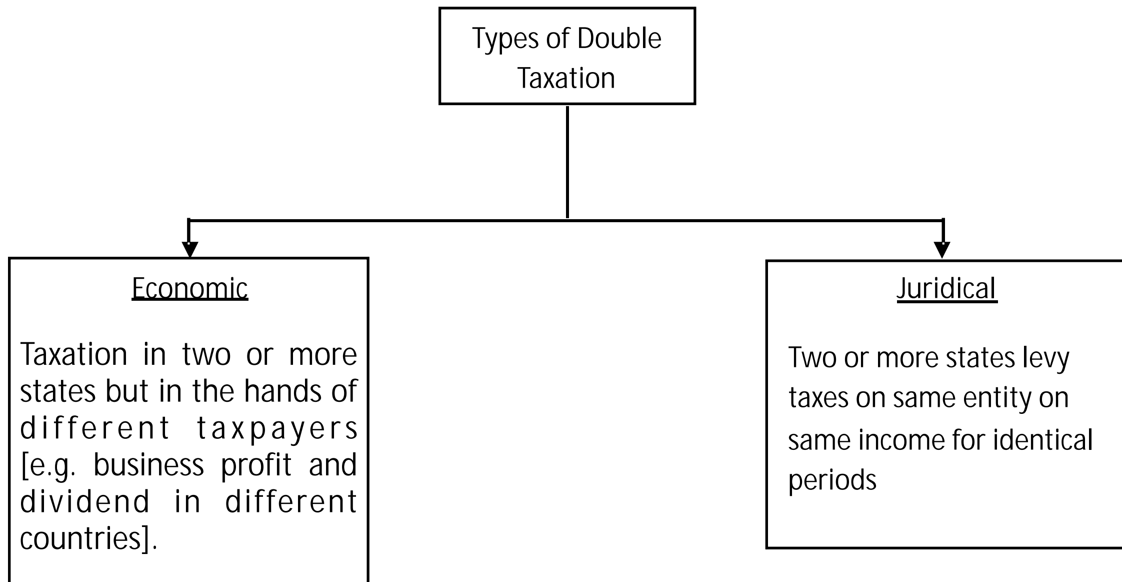
As shown in the above diagram, the income would be taxed twice, i.e.,

- As per the tax laws of Country Y, Mr. R would have to pay tax in Country Y on the income earned there.
- The same income is liable to tax in India as Mr. R is a resident in India (the global income of a resident is taxable in India).

If we assume that no trade ties have been entered between the two countries, we can visualize the situation of Mr. R whose income is being taxed twice – first in the source country (i.e., Country Y) and then in the home country (i.e., India).

Double taxation causes risk to cross border transactions. Elimination or mitigation of multi-level taxation is done by various entities through network of tax treaties.

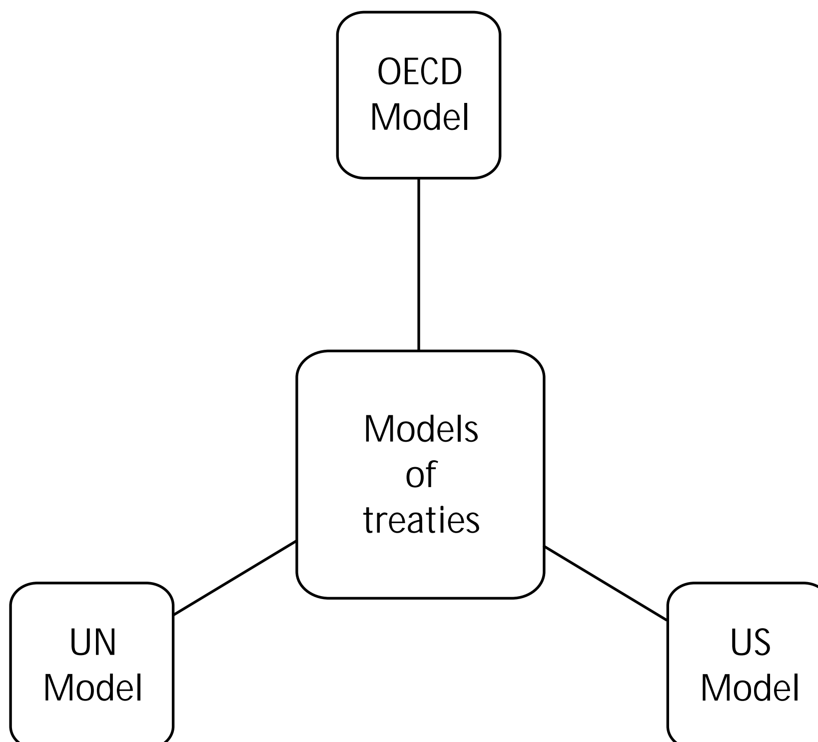
Double taxation could be;



Tax treaties safeguard against juridical taxation

Models of Treaties for avoidance of double taxation:

There are three main models of treaties based on which each country develops its own bilateral trade agreement with another country.



1) OECD (Organization for Economic Co-operation and Development) Model

The following are the main features of the OECD Model:

- It emphasizes on residency based taxation i.e., the right to tax all income rests with the home country only.
- This model is usually adopted by developed countries in case of treaties entered with other developed countries.
- The OECD Model is regularly updated to amend provisions to be in line with the interest of the law making bodies and the taxpayers.

2) UN Model

The following are the main features of the OECD Model:

- This model emphasizes on source based taxation i.e., the right to tax all income rests with the country where the income originates from / has its source from.
- This model is usually adopted by developed countries in case of treaties entered with developing countries or for treaties entered into between two developed countries.

3) US Model

The following are the main features of the OECD Model:

- The US Model is different from OECD and UN Models in many respects
- US Model has established its individuality through radical departure from usual treaty clauses under OECD Model and UN Model.
- This model is used by USA for all treaty negotiations.

DTAA and India

Section 90 of the Income-tax Act, 1961 ("Act") empowers the Central Government to enter into tax treaties with the Government of any foreign country / specified territory. The ranking of the treaties in the legal system depends on the country's view on international taxation / constitutional arrangements.

Various treaties have developed over years between the Indian Government and the Government of other countries to promote global trade. Such treaties are known as DTAA. At present India has entered into DTAA with 88 countries out of which 85 have been in force. DTAAs are negotiated under public international law and governed by the principal laid down under the Vienna Convention on the law of treaties of 1969 ("VCLT") (considered to be the genesis of DTAA).

DTAA are bilateral conventions aimed at addressing potential tax conflicts. In essence, DTAA reflects allocation of taxing rights amongst member countries.

In most of the countries, DTAA prevails over domestic law. In some countries, DTAA is treated at par with the domestic law (example - US).

India follows rule of source based taxation for non – residents, i.e., receipt, deemed receipt, accrual or deemed accrual. As per section 90 of the Act, a non-resident taxpayer has option to be taxed as per the tax treaty or as per domestic tax laws, whichever is more beneficial.

Main objectives of DTAA:

The basic objectives of DTAA are:

- Limit exercise of taxing powers in cross-border situations
- Avoidance of double taxation
- Rational / equitable allocation of income between two countries
- Promotion of cross border trade and investment
- Definition of uniform principles, rules, procedures etc. to facilitate recovery of tax dues
- Exchange of information to combat tax avoidance and tax evasion

Relief under the Act:

Under section 90 and 91 of the Act, relief against double taxation is provided in two ways:

Unilateral Relief:

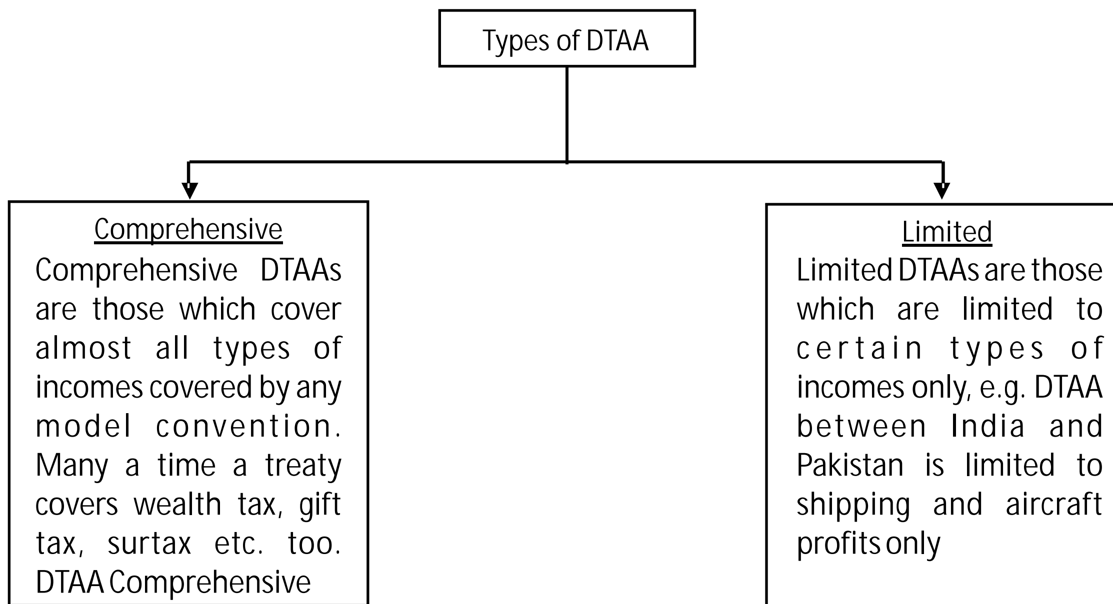
Under section 91 of the Act, an individual can be relieved from double taxation by Indian Government irrespective of whether there is a DTAA between India and the other country concerned. Unilateral relief to a tax payer may be offered if:

- The person or company has been a resident of India in the previous year
- The income should be taxable in India and in another country with which there is no tax treaty
- The tax has been paid by the person or company under the laws of the foreign country in question.

Bilateral Relief

Under Section 90, the Indian government offers protection against double taxation by entering into a DTAA with another country, based on mutually acceptable terms.

Types of DTAA



Examples of Comprehensive DTAA:

- Australia
- Nepal
- US
- China
- Bangladesh
- Netherlands
- Norway Canada
- Cyprus
- Singapore
- France
- Germany
- South Africa
- Sri Lanka
- Spain
- Thailand
- Italy
- Japan
- UK
- Mauritius
- Vietnam and many more countries

Examples of Limited DTAA:

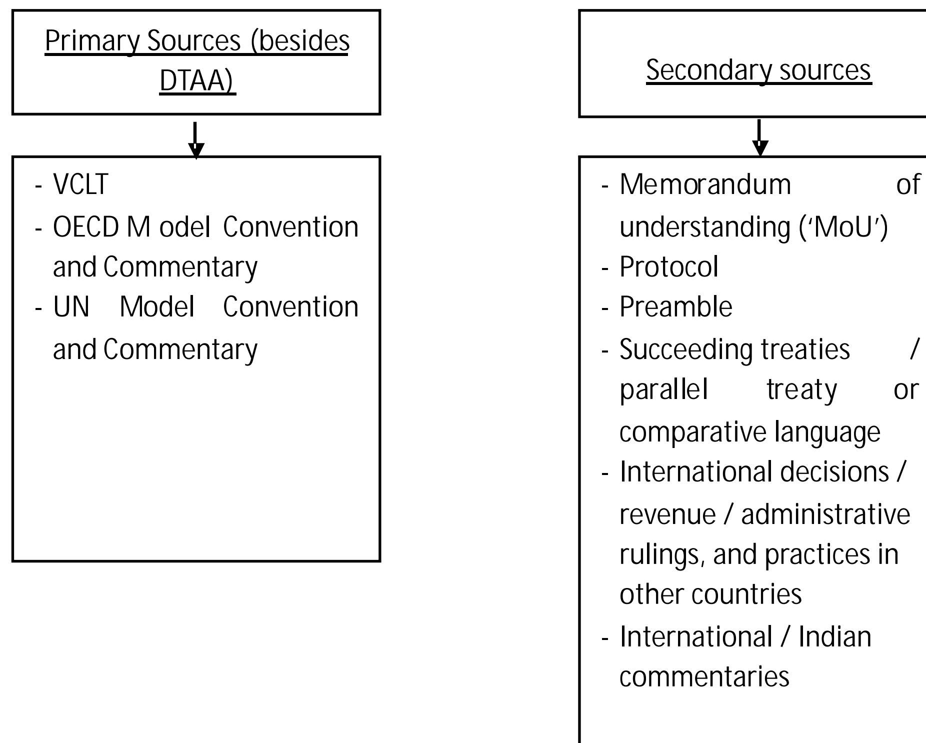
- Pakistan
- Afghanistan
- Iran
- Bulgaria
- Ethiopia
- Switzerland
- UAE
- Yamen Arab Republic
- Russian Federation
- Saudi Arabia
- Uganda
- Oman
- Lebanon
- Czechoslovakia
- Kuwait

Sources for interpreting DTAA

DTAA embodies general / indefinite terms which are much open to interpretation. It is very challenging in achieving coherence in interpretation of DTAA's due to:

- Difference in interpretative principles of member countries and
- Absence of rigid procedure for interpretation of terms

For interpreting the same, following should be used:



Points to be noted:

It is pertinent to note the following points:

- Furnishing of a valid Tax residency certificate is the foremost condition for claiming tax treaty relief.
- All tax treaties are not uniform i.e., each treaty codifies respective understanding between parties. The conditions need not be uniform in all treaties; E.g. Limitation of benefit clause in some treaties like Singapore
- Scope of income may vary. E.g. India US tax treaty has a narrow definition of FTS;
- The 'Most Favored Nation' clause exists in some treaties, i.e., Most Favored Nation ("MFN") clause links bilateral agreements by ensuring that the parties to one agreement are not subjected to a treatment which is less favorable than the treatment provided to other parties under similar agreements. In effect, a country that has been accorded MFN status may not be treated less advantageously than any other country with MFN status by the promising country.

It is imperative to analyze conditions of respective treaty depending on country of residence of the taxpayer.

With the increasing cross-border connectivity and huge complexities involved in tax planning, a detailed understanding of how such agreements work parallelly with the Act is the utmost need of the hour!!

This article is contributed by Disha M, Intern of SBS and Company LLP. The author can be reached at disham@sbsandco.com

INCOME TAX

RESET INCOME TAX EFILING PASSWORD

Contributed by Mohaseen SM, Sai Kishore C & Vetted by Ram Prasad |

It is important to note that the Income tax website does not have the option of recovering the old password. However, what you can do is that you can reset and create a new password and after creating a new password, you would be able to login through the new password.

There are 2 methods of resetting the Income tax efiling password which have been described below :

1. Through Income Tax Website
2. By sending email to Income Tax Department

1. Through Income Tax Website

To reset the password on the income tax website, just click the login button and then click the 'forget password' option. You would now be required to enter your PAN No. and the Captcha Code displayed on the link and then click the 'submit' option. On submitting these details, you would be given 4 ways of recovering your Income Tax efiling password:

A. Answer Secret Question
B. Upload Digital Signature Certificate
C. Enter e-filed acknowledgement number and Bank Account Number
D. Using OTP Pins

Method A: Answer Secret Question

- In case you opt for this option, you would be required to mention Date of Birth (Date of Incorporation in case of companies)
- Choose the secret question you had furnished at the time of creation of your account on the income tax website
- Answer the secret question you have choosedand click Submit option

Method B: Upload Digital Signature Certificate

If you have previously registered your digital signature on the income tax website, you can also reset your password by simple uploading your digital signature.

Method C: Enter efiling acknowledgement number & Bank Account Number

- The acknowledge number would be mentioned in all income tax returns. You can furnish the acknowledgement number of any income tax return filed previously.
- In case you don't have your Income tax return, you can easily download it from your mailbox as well. Income tax Department. Always sends a copy of the ITR-V to your mailbox.

Method D: Using OTP Pins

- After selecting this option you are required to choose any of the 2 options on the screen, one is Registered Email ID and Mobile Number and other is New Email ID and Mobile Number
- On selecting any of those options, 2 pins are sent to your email and mobile number(one to mail and other to the mobile number)
- Provide the 2pins in the places givenand click the 'validate' option
- You can reset and confirm the new password

After completing the details required in any of the above 4 manners, a new link would open up requiring you to create a new password. You can now login to your account using the newly created password.

Note: You can login to your account after 12hours of resetting the password but not immediately.

2. By sending mail to Income Tax Department.

If the taxpayer is unable to reset his password through any of the above means, he can send a mail to validate@incometaxindia.gov.in requesting them to reset the password with the below mentioned details: -

✓ PAN Number
✓ Taxpayers Name
✓ Date of Birth/Date of Incorporation
✓ Father's Name
✓ Mailing Address

You would receive a reply from the income tax department. Within 48 hours and then you can reset your password on the Income tax efiling website.

This article is contributed by Mohaseen SM, Sai Kishore C , Interns of SBS and Company LLP. The authors can be reached at mohaseens@sbsandco.com & saikishorec@sbsandco.com

© All Rights Reserved with SBS and Company LLP

Hyderabad: 6-3-900/6-9, #103 & 104, Veeru Castle, Durganagar Colony, Panjagutta, Hyderabad, Telangana
Kurnool: No. 302, 3rd Floor, V V Complex, 40/838, R.S. Road, Near SBI Main Branch, Kurnool, Andhra Pradesh
Nellore: 16-6-259, 1st Floor, Near Santi Sweets Opp: SBI ATM, Vijayamahal Centre, SPSR Nellore, Andhra Pradesh
Tada: 8-3-425/2, Flat No. 202, 2nd Floor, Bigsun Avenue, Near SRICITY, TADA, SPSR Nellore Dist, Andhra Pradesh
Visakhapatnam: # 39-20-40/6, Flat No.7, Sai Yasoda Apartments, Madhavadhara,Visakhapatnam (Urban),Vizag, Andhra Pradesh
Bengaluru: B104,RIRCO, Santosh Apartments, Wind Tunnel Road, Murugeshpalya, Old Airport Road, Bangalore – 560017, Karnataka.

Disclaimer:

The articles contained in SBS Interns' digest, are contributed by the respective resource persons and any opinion mentioned therein is his/their personal opinion. SBS Interns' digest is intended to be circulated among fellow professional and clients of the Firm, to provide general information on a particular subject or subjects and is not an exhaustive treatment of such subject(s). The information provided is not for solicitation of any kind of work and the Firm does not intend to advertise its services or solicit work through SBS Interns' digest. The information is not intended to be relied upon as the sole basis for any decision. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser.

SBS AND COMPANY LLP [Firm]does not endorse any of the content/opinion containedin any of the articles in SBS Interns' digest, and shall not be responsible for any loss whatsoever sustained by any person who relies on the same.

To unsubscribe, kindly drop us a mail at interns@sbsandco.com with subject 'unsubscribe'.