

Mutual Agreement regarding the interpretation of subparagraph b) of the new paragraph 10 of the Protocol to the Agreement between the Swiss Confederation and the Republic of India for the avoidance of double taxation with respect to taxes on income with protocol, signed at New Delhi on 2 November 1994, as amended by the supplementary protocol signed at New Delhi on 16 February 2000, as amended by Article 13 of the Amending Protocol signed on 30 August 2010 between the Swiss Confederation and the Republic of India

The competent authorities of the Swiss Confederation and of the Republic of India have entered into the following Mutual Agreement regarding the interpretation of subparagraph b) of the new paragraph 10 of the Protocol (hereinafter “Protocol”) to the Agreement for the Avoidance of Double Taxation with Respect to Taxes on Income (hereinafter “the Agreement”), signed at New Delhi on 2 November 1994, as amended by the supplementary protocol signed at New Delhi on 16 February 2000, as amended by article 13 of the Amending Protocol signed on 30 August 2010 between the Swiss Confederation and the Republic of India (hereinafter “Amending Protocol”):

Subparagraph b) of the new paragraph 10 of the Protocol sets forth the information that the competent authority of the requesting State shall provide to the competent authority of the requested State when making a request for information under Article 26 of the Agreement. According to this provision it is required that the requesting State provides among other information (i) the name of the person(s) under examination or investigation and, if available, other particulars facilitating that persons identification, such as address, date of birth, marital status, tax identification number as well as (v) the name and, if available, address of any person believed to be in possession of the requested information. Subparagraph d) clarifies that whilst these are important procedural requirements that are intended to ensure that, fishing expeditions do not occur, these requirements nevertheless need to be interpreted with a view not to frustrate effective exchange of information.

Therefore, such requirements are to be interpreted in a manner that an administrative assistance request is to be complied with if the requesting State, further to the information as required by (ii) to (iv) of subparagraph b) of the new paragraph 10 of the Protocol,

- a) identifies the person under examination or investigation; such identification may be provided by other means than by indicating the name and address of the person concerned; and
- b) indicates to the extent known, the name and address of any person believed to be in possession of the requested information,

provided the request is not a fishing expedition.

Upon signature by both competent authorities, this Mutual Agreement is effective as from the date of entry into force of the Amending Protocol signed on 30 August 2010 between the Swiss Confederation and the Republic of India.

Done at on

Done at New Delhi on 20.04.2012.

For the Swiss Competent Authority
(Juerg Giraudi),
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For the Indian Competent Authority
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Joint Secretary,
Foreign Tax & Tax Research Division-I,
Department of Revenue,
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