# India and China Amend Tax Treaty for Greater Flow of Information

**Our Bureau**

**New Delhi:** India and China have amended their bilateral tax treaty to enable greater flow of information and help prevent tax evasion.

"The Government of India and the People's Republic of China have signed a protocol on November 26, 2018, to amend the Double Taxation Avoidance Agreement (DTAA) for avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income," a statement from the Central Board of Direct Taxes said Monday.

This amendment brings existing provisions for exchange of information on par with latest global standards, the statement said.

The protocol incorporates changes required to implement treaty-related minimum standards under the action reports of Base Erosion & Profit Shifting (BEPS) Project, a global agreement to curb tax evasion.

Tax experts say the changes would make the exchange meaningful. "This protocol strengthens the 'Exchange of Information' clause, bringing it to international standards, to enable a more meaningful exchange of information," said Rakesh Nangia, managing partner, Nangia Advisors LLP. India and China inked the DTAA in 1994.

China had included 102 treaties in its list of 'Covered Tax Agreement' but not India while penning the 'Multilateral Instrument', which meant the minimum standards suggested by BEPS report wouldn't have amended the India-China DTAA even after the global treaty.

In order to bring the changes suggested by BEPS, it was necessary for India & China to sign a protocol and bring the changes bilaterally.

# India, China ink protocol to amend double taxation avoidance treaty

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New Delhi, November 26

India and China on Monday signed a protocol to amend the existing double taxation avoidance agreement (DTAA) between the two countries.

The protocol, among other things, updates the existing provisions for exchange of information to the latest international standards.

Further, it incorporates changes required to implement treaty related minimum standards under the action reports of Base Erosion & Profit shifting (BEPS) Project, in which India had participated on an equal footing.

Besides minimum standards, the protocol brings in changes as per BEPS Action reports as agreed upon by the two sides.

Rakesh Namgia, Managing Partner, Nangia Advisors LLP, said India and China have now signed the protocol amending the treaty initially signed in 1994.

Nangia highlighted that China, interestingly, had included 102 treaties in its list of 'Covered Tax Agreement' but not India, while penning the 'Multilateral Instrument' ('MLI'). This implied that the minimum standards suggested by BEPS report would not have amended the India-China DTAA even after MLI coming into force.

Hence, in order to bring the changes suggested by BEPS reports, it was necessary for India and China to sign a protocol and bring such changes bilaterally. "This is similar to the situation in the India-Mauritius treaty, where the changes were agreed bilaterally and Mauritius excluded India from its list of 'Covered Tax Agreements'". Nangia said.

Nangia said the protocol is expected to bring the changes agreed upon by both India and China on implementation of BEPS report. However, the exact changes to the DTAA will come to light only in the fine-print of the protocol, he said.

## Effective info exchange

Aseem Chawla, Managing Partner, ASC Legal, said: "Bringing in line with recent developments in the arena of BEPS and India's commitment to enhance the effectiveness of exchange of information, the protocol has been signed to amend the India-China DTAA".

This reaffirms India's resolve to ensure that its tax treaty framework is in line with contemporary developments, especially in the sphere of BEPS, Chawla told *BusinessLine*.