

India-USA (ARTICLE 3)

USA

ARTICLE 3
**TIME AND MANNER OF EXCHANGE OF
 INFORMATION**

For purposes of the exchange obligation in Article 2 of this Agreement, the amount and characterization of payments made with respect to a U.S. Reportable Account may be determined in accordance with the principles of the tax laws of India, and the amount and characterization, of payments made with respect to an Indian Reportable Account may be determined in accordance with principles of U.S. federal income tax law.

2. For purposes of the exchange obligation in Article 2 of this Agreement, the information exchanged shall identify the currency in which each relevant amount is denominated.

3. With respect to paragraph 2 of Article 2 of this Agreement, information is to be obtained and exchanged with respect to 2014 and all subsequent years, except that:

(a) In the case of India

- (1) the information to be obtained and exchanged with respect to 2014 is only the information described in subparagraphs 2(a)(1) through 2(a)(4) of Article 2 of this Agreement;
- (2) the information to be obtained and exchanged with respect to 2015 is the information described in subparagraphs 2(a)(1) through 2(a)(7) of Article 2 of this Agreement, except for gross proceeds described in subparagraph 2(a)(5)(B) of Article 2 of this Agreement; and
- (3) the information to be obtained and exchanged with respect to 2016 and subsequent years is the information described in subparagraphs 2(a)(1) through 2(a)(7) of Article 2 of this Agreement;

(b) In the case of the United States, the information to be obtained and exchanged with respect to 2014 and subsequent years is all of the information

India-UK (ARTICLE 3)

UK

ARTICLE 3
GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires :

- (a) the term "United Kingdom" means Great Britain and Northern Ireland;
- (b) the term "India" means the Republic of India;
- (c) the term "tax" means United Kingdom tax or Indian tax, as the context requires but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Convention applies or which represents a penalty imposed relating to those taxes;
- (d) the term "fiscal year" in relation to Indian tax means "previous year" as defined in the Income-tax Act, 1961 (43 of 1961) and in relation to United Kingdom tax means a year beginning with 6th April in one year and ending with 5th April in the following year;
- (e) the terms "a Contracting State" and "the other Contracting State" mean India or the United Kingdom, as the context requires;
- ¹(f) *the term "person" includes an individual, a company, a body of persons and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting States;*
- (g) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
- (h) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (i) the term "competent authority" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative, and in the case of India, the Central Government in

India-South Africa (ARTICLE 3)

SOUTH AFRICA

ARTICLE 3
GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires :

- (a) the term "India" means the territory of the Republic of India and includes the territorial sea and air space above it. For the purposes of this Agreement, the term shall cover any other maritime zone in which the Republic of India has sovereign rights, other rights and jurisdictions, according to the Indian law and in accordance with international law in particular as laid down in the UN Convention of the Law of the Sea, 1982; and
- (b) the term "South Africa" means the Republic of South Africa and, when used in a geographical sense, includes the territorial sea thereof as well as any area outside the territorial sea, including the continental shelf, which has been or may hereafter be designated, under the laws of South Africa and in accordance with international law, as an area within which South Africa may exercise sovereign rights or jurisdiction;
- (c) the terms "a Contracting State" and "the other Contracting State" mean India or South Africa, as the context requires;
- (d) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
- (e) the term "competent authority" means :
 - (i) in India, the Central Government in the Ministry of Finance (Department of Revenue) or their authorised representative; and
 - (ii) in South Africa, the Commissioner for Inland Revenue or his authorised representative;
- (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean

identified in subparagraph 2(b) of Article 2 of this Agreement.

4. Notwithstanding paragraph 3 of this Article, with respect to each Reportable Account that is maintained by a Reporting Financial Institution as of June 30, 2014, and subject to paragraph 4 of Article 6 of this Agreement, the Parties are not required to obtain and include in the exchanged information the Indian TIN or the U.S. TIN, as applicable, of any relevant person if such taxpayer identifying number is not in the records of the Reporting Financial Institution. In such a case, the Parties shall obtain and include in the exchanged information the date of birth of the relevant person, if the Reporting Financial Institution has such date of birth in its records.

5. Subject to paragraphs 3 and 4 of this Article, the information described in Article 2 of this Agreement shall be exchanged within nine months after the end of the calendar year to which the information relates.

6. The Competent Authorities of India and the United States shall enter into an agreement or arrangement under the mutual agreement procedure provided for in Article 27 of the Convention, which shall:

- (a) establish the procedures for the automatic exchange obligations described in Article 2 of this Agreement;
- (b) prescribe rules and procedures as may be necessary to implement Article 5 of this Agreement; and
- (c) establish as necessary procedures for the exchange of the information reported under subparagraph 1(b) of Article 4 of this Agreement.

7. All information exchanged shall be subject to the confidentiality and other protections : provided for in the Convention, including the provisions limiting the use of the information exchanged.

8. Following entry into force of this Agreement, each Competent Authority shall provide written notification to the other Competent Authority when it is satisfied that the jurisdiction of the other Competent Authority has in place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement shall remain confidential and be used solely for tax purposes, and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and demonstrated capabilities to promptly resolve questions and concerns about exchanges

the Ministry of Finance (Department of Revenue) or their authorised representative;

- (j) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State except when the ship or aircraft is operated solely between places in the other Contracting State;
- (k) the term "Government" means the Government of a Contracting State or a political sub-division or local authority thereof. In relation to the United Kingdom, the term "political sub-division" shall include Northern Ireland.

2. ²[***]

3. As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

- (g) the term "fiscal year" means :
 - (i) in India, the twelve-month period beginning on 1st April;
 - (ii) in South Africa, the "year of assessment" as defined in the Income-tax Act, 1962;
- (h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (i) the term "national" means :
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person or association deriving its status as such from the laws in force in a Contracting State;
- (j) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes under the taxation laws in force in the respective Contracting States; and
- (k) the term "tax" means Indian tax or South African tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty imposed relating to those taxes.

2. As regards the application of the provisions of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

or requests for exchanges and to administer the provisions of Article 5 of this Agreement). The Competent Authorities shall endeavor in good faith to meet, prior to September 2015, to establish that each jurisdiction has such safeguards and infrastructure in place.

9. The obligations of the Parties to obtain and exchange information under Article 2 of this Agreement shall take effect on the date of the later of the written notifications described in paragraph 8 of this Article.

10. This Agreement shall terminate on September 30, 2015, if Article 2 of this Agreement is not in effect pursuant to paragraph 9 of this Article by that date.