

**MINISTRY OF FINANCE**

**(Department of Revenue)**

**NOTIFICATION**

New Delhi, the 4th May, 2018

**(INCOME TAX)**

**S.O. 1823(E).**—Whereas the Protocol amending the Agreement between the Government of the Republic of India and the Government of the State of Kuwait for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income which was signed at New Delhi on 15<sup>th</sup> June, 2006 has been signed at Kuwait on the 15<sup>th</sup> January, 2017, as set out in the Annexure appended to this notification (hereinafter referred to as the said amending Protocol);

And whereas, the date of entry into force of the said amending Protocol is 26<sup>th</sup> March, 2018, being the date of the later notification of the completion of domestic requirements for the entry into force of the said amending Protocol, in accordance with Article 3 of the said amending Protocol;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of the said amending Protocol, as annexed hereto, shall be given effect to in the Union of India.

**ANNEXURE**

**'PROTOCOL**

**AMENDING THE AGREEMENT**

**BETWEEN**

**THE GOVERNMENT OF THE REPUBLIC OF INDIA**

**AND**

**THE GOVERNMENT OF THE STATE OF KUWAIT**

**FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH  
RESPECT TO TAXES ON INCOME**

The Government of the Republic of India and the Government of the State of Kuwait,

Desiring to amend the Agreement between the Government of the Republic of India and the Government of the State of Kuwait for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at New Delhi on the 15<sup>th</sup> day of June 2006 (in this Protocol referred to as "the Agreement")

Have agreed as follows:

**Article 1**

Subparagraph b) of paragraph (3) of Article 2 (Taxes Covered) of the Agreement shall be deleted and replaced by the following:

"b) in the case of Kuwait:

- (1) the corporate income tax;
- (2) the income tax as per Law No. 23 of 1961;
- (3) the tax subjected according to the Supporting of National Employees law.  
(hereinafter referred to as "Kuwaiti tax").

**Article 2**

Article 26 of the Agreement shall be deleted and replaced by the following:

"Article 26

**EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information (including documents and certified copies thereof) as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information (including documents and certified copies thereof) which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

6. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this paragraph."

**Article 3****ENTRY INTO FORCE**

The Contracting States shall notify each other in writing through diplomatic channels of the completion of their domestic requirements for the entry into force of this Protocol. This Protocol, which shall form an integral part of the Agreement, shall enter into force on the date of the later of these notifications, and thereupon shall have effect from the date of entry into force of this Protocol.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Protocol.

Done at Kuwait on Sunday, 15<sup>th</sup> day of January, 2017 corresponding to the 17 Rabi-II 1438H, in two originals each in the Hindi, Arabic and English languages, all texts being equally authentic. In case of divergence, the English text shall prevail.

For the Government of the  
Republic of India

**Sunil Jain**  
Ambassador of India  
Kuwait

For the Government of the  
State of Kuwait

**Khalifa M. Hamada**  
Under Secretary for  
Ministry of Finance.

[Notification No. 21/2018/F.No.501/03/88-FTD-II]

RAJAT BANSAL, Jt. Secy.