



# Income Tax Department

Government of India

## DOMINIONS RULES, 1956

### 75. Income-tax (Double Taxation Relief) (Dominions) Rules, 1956 providing for grant of double taxation relief with certain dominions - Present position thereunder

#### CLARIFICATION I

1. In exercise of the powers available under section 49A of the 1922 Act, the Government of India had issued a Notification dated 23-6-1956 called the Income-tax (Double Taxation Relief) (Dominions) Rules, 1956 [Annex], providing for grant of relief in respect of income on which tax has been paid both in India and in any of the following Dominions:

1. Kenya	6. Nigeria
2. Tanganyika	7. Sierra Leone
3. Uganda	8. Gambia
4. Zanzibar	9. Mauritius
5. Gold Coast	

These rules being consistent with the corresponding provisions of the 1961 Act continued to be operative by virtue of the provisions contained in section 297(2)(k).

2. The following countries have, however, stated that the agreements on the basis of which the said rules were applicable are no longer binding on them after the date of their attainment of independence as shown against each:

1. Uganda	9-10-1962	3. Kenya	12-12-1963
2. Gambia	18-2-1965	4. Tanzania	9-12-1961
		(Tanganyika & Zanzibar)	

Thus, there is no subsisting agreement, between India and the above-named four countries for the avoidance of double taxation of income after the dates shown above. The cases of Indian residents will, therefore, be covered by the provision for grant of unilateral relief under section 91. This will be applicable in respect of the assessment years commencing from the assessment year immediately following the financial year in which a particular country attained independence. Thus, the provision for unilateral relief will become applicable in case of income in these countries for and from the assessment year as indicated below:

	Assessment year
1. Uganda	1963-64

2. Gambia	1965-66
3. Kenya	1964-65
4. Tanzania (Tanganyika & Zanzibar)	1962-63

3. The Government of Sierra Leone has informed that it has no objection in principle to continue the arrangements with India as contained in the Income-tax (Double Taxation Relief)(Dominions) Rules, 1956. Hence, *the said rules will continue to remain in force in relation to Sierra Leone.*

4. *The position in respect of the remaining countries, viz., Gold Coast, Nigeria and Mauritius is being ascertained.*

**Circular :No. 116 [F. No. 145/32-FTD], dated 10-7-1973.**

#### ANNEX - TEXT OF INCOME-TAX (DOUBLE TAXATION RELIEF) (DOMINIONS) RULES, 1956

In exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (11 of 1922), and in supersession of the Notification of the Government of India in the late Finance Department (Central Revenues), No. 1, dated the 4th January, 1941, the Central Government makes the following rules for the granting of relief in respect of income on which tax has been paid both in the taxable territories and in certain of Her Majesty's Dominions, namely:—

1. (1) These rules may be called the Income-tax (Double Taxation Relief) (Dominions) Rules, 1956.

(2) They extend to the taxable territories as defined in section 2(14A) of the Indian Income-tax Act, 1922 (11 of 1922).

2. In these rules unless the context otherwise requires,—

- (a) "Dominion" means any of the territories specified in the first column of the Schedule annexed to these rules;
- (b) "Dominion income-tax" means tax charged for any year in accordance with the provisions of the Dominion enactment specified in the second column of the said Schedule;
- (c) "Dominion rate of tax" has the meaning assigned to it in the section of the respective Dominion enactment specified in the third column of the said Schedule;
- (d) the expression "Indian income-tax" means income-tax and super tax charged in accordance with the provisions of the Indian Income-tax Act, 1922 (11 of 1922);
- (e) the expression "Indian rate of tax" means the amount of Indian income-tax exclusive of super tax after deduction of any relief due to a claimant under the other provisions of the Indian Income-tax Act, 1922 (11 of 1922), but before deduction of any relief due to him under these rules, divided by his total income after deducting therefrom any income (including income from a share in an unregistered firm) exempted from tax by or under the provisions of the said Act, added to the amount of Indian super tax before deduction of any relief due to the claimant under these rules divided by his total income.

3. If any person who has paid by deduction under section 18 of the Indian Income-tax Act, 1922 (11 of 1922), or otherwise Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid by deduction or otherwise Dominion income-tax for that year in respect of the same part of his income, he shall be entitled to a refund of a sum calculated on that part of his income or a rate to be determined as follows :

(i) if he is resident in the taxable territories the rate at which refund is to be given shall be—

- (a) the Dominion rate of tax, when that rate does not exceed half of the Indian rate of tax;
- and

- (b) half the Indian rate of tax, in any other case;
- (ii) if he is not resident in the taxable territories the rate at which refund is to be given shall be—
- (a) half of the Dominion rate of tax when that rate does not exceed the Indian rate of tax; and
- (b) in any other case, the amount by which the Indian rate of tax exceeds half of the Dominion rate of tax:

**Provided** that in no case shall the rate at which such refund is calculated exceeds half the Indian rate of tax appropriate to the income of the person entitled to relief or be greater than the excess of the lower of the Indian and the Dominion rate of tax over the rate at which relief is given in the Dominion.

4. (1) The application for refund of income-tax under these rules shall be made as follows:—

- (i) if the applicant is resident in the taxable territories, to the Income-tax Officer of the district in which the applicant is chargeable directly to income-tax, or if he is not chargeable directly, to the Income-tax Officer of the district in which he ordinarily resides;
- (ii) if the applicant is resident outside the taxable territories, to the Income-tax Officer appointed by the Central Board of Revenue.

(2) Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by post, and shall as far as circumstances permit, be in Form I appended to these rules.

5. No claim to any refund of Indian income-tax or super tax under these rules shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into the taxable territories.

6. An applicant for refund under these rules may appeal to the Appellate Assistant Commissioner of Income-tax from any order of the Income-tax Officer disallowing the claim for refund either wholly or in part.

7. The appeal shall be presented within thirty days of the date on which the order of the Income-tax Officer was communicated to the applicant and shall, as far as circumstances permit, be in Form II appended to these rules.

## CLARIFICATION 2

1. Attention is invited to paragraph (4) of Board's Circular No. 116, dated 10-7-1973 [*Clarification 1*] on the above subject.

2. The position in respect of *Ghana (formerly Gold Coast), Nigeria and Mauritius* has since been ascertained. The Governments of these three countries *have stated that after the date of attainment of independence by them, they do not consider that any agreement on the question of avoidance of double taxation of income subsists between them and the Government of India.* Ghana and Mauritius attained independence on March 6, 1957 and March 12, 1968, respectively, while Nigeria became independent on October 1, 1960. There is, thus, no subsisting agreement between India and these three countries for the avoidance of double taxation of income after the dates indicated above. The cases of Indian residents will, therefore, be covered by the provision for grant of unilateral relief under section 91. This will be applicable in respect of the assessment years commencing from the assessment year immediately following the financial year in which a particular country attained independence. Accordingly, *the provision for unilateral relief will become applicable in the case of income in these countries for and from the assessment year as indicated below:*

	Assessment year
1. Ghana	1957-58

2. Nigeria	1961-62
3. Maruitius	1968-69

**Circular:** No. 172 [F.No. 501/21/73-FTD], dated 8-7-1975.

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