

Did you know?



British
High Commission
New Delhi

pwc

Tax treaty benefits may be denied to transparent UK entities, thereby increasing the cost.

Issue 3: Applicability of India-UK DTAA to partnership firms

As per the prevailing DTAA between India and the UK, the term 'person' has been defined to include '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.'

As per the domestic laws of the UK, partnership firms are pass-through entities and not taxable per se. The income of a UK partnership is taxed in the hands of the partners. Given that UK partnership firms are per se not a taxable unit, there is ambiguity on the applicability of the India-UK DTAA for UK partnership firms.



Impact

This results in a dispute on taxability of transparent UK entities in India leading to uncertainty in their tax outcomes. Entities that are impacted include law firms and many infrastructure and technology companies (particularly from mid-market). They either stay away or seek grossed-up reward, which raises cost for Indian entities.

Proposed solution

The eligibility of Indo-UK partnership firms to DTAA benefits has been upheld by a recent judgment of the Calcutta High Court in the case of P&O Nedlloyd Ltd & Ors (W.P. no. 457 & 458 of 2005). The judgment seems to have adopted a reasonable interpretation of the DTAA. Suitable clarification may be issued by the Central Board of Direct Taxes accepting the judgment.

PwC-India British High Commission joint tax project seeks to understand direct tax issues faced by UK-based companies in India