SEPTEMBER 2026

RATIFICATION OF THE NEW PROTOCOL TO THE MAURITIUS-INDIA TAX TREATY

THIS MEMO PROVIDES A CONCISE OVERVIEW OF THE RATIFICATION OF THE NEW PROTOCOL TO THE MAURITIUS-INDIA DOUBLE TAXATION AVOIDANCE TAX AGREEMENT (DTAA) OF 29 JULY 2026.

KEY CHANGES INTRODUCED BY THE 2026 REGULATIONS

The original DTAA was primarily intended to avoid double taxation and to promote trade and investment. The new preamble expressly states that the Convention is intended to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through "*tax evasion or avoidance, including treaty shopping*".

This provides tax authorities with stronger support for a purposive interpretation of the treaty where structures are viewed as treaty-shopping arrangements.

INTRODUCTION OF ARTICLE 27B – PRINCIPAL PURPOSE TEST (PPT)

The new amendment is the addition of Article 27B. Treaty benefits shall not be granted where it is reasonable to conclude that obtaining the benefit was one of the principal purposes of an arrangement or transaction, unless granting the benefit is consistent with the object and purpose of the relevant treaty provisions.

PRACTICAL IMPACT

The 2016 Protocol added Article 27A, Limitation of Benefits (LOB), primarily for the transitional capital gains concession available from 1 April 2017 to 31 March 2019. It denied benefits to shell or conduit companies and imposed expenditure tests.

The PPT does **not replace** Article 27A. Both provisions coexist and, therefore, taxpayers need to consider both the existing LOB provisions and the new PPT standard.

Mauritius entities claiming India treaty benefits under the DTAA should ensure they can demonstrate, depending on their circumstances and among others:

- Genuine commercial rationale for the structure
- Adequate economic substance in Mauritius
- Active management and decision-making in Mauritius
- Appropriate personnel and operational expenditure
- Documentary evidence supporting non-tax business purposes

CONCLUSION

The 2026 Regulations are not a substantive renegotiation of the Mauritius-India DTAA. They principally implement the 2024 Protocol, whose key effect is the introduction of the Principal Purpose Test (PPT) and an anti-treaty-shopping preamble.

For most businesses, the headline tax provisions introduced in 2016 remain unchanged. However, the PPT significantly strengthens the ability of the Mauritius Revenue Authority and Indian tax authorities to deny treaty benefits where obtaining benefits under the DTAA are the principal purposes of the structure or transaction. Consequently, **substance and commercial justification have become even more important for Mauritius entities carrying out their activities in India and receiving income from India.**

The Tiger Global decision, whereby the Indian Court upheld the tax authorities' challenge and took a **substance-over-form approach,** reinforces these same principles by emphasising that treaty benefits may be scrutinised where the structure lacks sufficient commercial substance, effective decision-making and a genuine non-tax business rationale. According to commentary on the judgment:

> A valid TRC alone does not automatically guarantee treaty benefits

> Authorities may scrutinise who exercises real control and decision-making

> Commercial substance and genuine business purpose are critical

> Anti-avoidance principles can override purely formal treaty positions

NEXT STEP

We recommend that you seek advice from your tax advisors on the potential impact of the 2026 Regulations and any measures that may be required in relation to your Mauritius-based corporate structures with activities in, or income derived from, India.

HOW WE CAN ASSIST

For more information, please contact your usual Trident Trust representative or our office at mauritius@tridenttrust.com.