

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
RAJYA SABHA
UNSTARRED QUESTION NO-3443
TO BE ANSWERED ON- 01/04/2025

REVOCATION OF MFN CLAUSE IN INDO-SWISS TREATY

3443. SHRI SAKET GOKHALE:

Will the Minister of FINANCE be pleased to state:

- (a) whether Indian firms operating in Switzerland will now pay a 10 per cent tax on dividends and other incomes, up from the earlier 5 per cent, due to the suspension of the Most Favored Nation (MFN) clause by Switzerland in the Double Taxation Avoidance Agreement (DTAA); and
- (b) the effect of this suspension of MFN clause on Swiss firms operating in the country and whether this would impact investments from Switzerland in India?

ANSWER

THE MINISTER OF STATE FOR FINANCE

(SHRI PANKAJ CHAUDHARY)

(a) The India-Switzerland Double Taxation Avoidance Agreement (DTAA) provides for source country taxation of dividends at 10%. On 13 August, 2021, the Government of Switzerland had issued a Statement unilaterally applying an interpretation of paragraph 5 of the Protocol of the India-Swiss DTAA, which is also referred to as MFN clause, in a manner that was not shared by the Government of India. This Statement, pertaining only to rate of taxation of dividend income, reduced the rate of source country taxation of dividend in Switzerland to 5% instead of the rate of 10% agreed by both countries in the DTAA. This had the effect of reducing the rate of source taxation in Switzerland of dividend received by Indian companies from Switzerland as well as reducing the double taxation relief provided by Switzerland to Swiss companies on dividend received from India and taxed in India to 5% instead of 10% agreed in the DTAA.

On 11 December, 2024, Switzerland withdrew this unilateral Statement through another Statement, which is titled “Suspension of the application of the most favoured nation clause of the protocol to the Agreement between the Swiss Confederation and the Republic of India for the avoidance of double taxation with respect to taxes on income”, thereby restoring the tax rate on dividend in the source country to 10% as agreed by both countries in the DTAA.

As a result of this withdrawal of the August 2021 unilateral Statement, the rate of source taxation in Switzerland of dividend received by Indian companies from Switzerland as well as the double taxation relief provided by Switzerland to Swiss companies on dividend received from India has been restored to the rate of 10%, as agreed by both countries in the DTAA, with effect from 1 January, 2025. The Swiss Statement takes into account the decision of the Hon'ble Supreme Court of India dated October 19, 2023, in the case of M/s Nestle SA, on the interpretation of the MFN clause.

(b) The unilateral Statement issued by the Government of Switzerland on 13 August, 2021 restricted the double taxation relief provided to Swiss companies receiving dividend from India to 5% instead of 10% as agreed by it in the DTAA. Since these companies receiving dividend from India were taxed at 10% in India as per the DTAA, of which only 5% was relieved by Switzerland, it resulted in double taxation of Swiss companies. This has now been remedied by the reversal of unilateral Statement by the Government of Switzerland by its Statement on 11 December, 2024, which it refers to as the suspension of the application of the MFN clause. As a result of this Statement, the Swiss companies receiving dividend from India will now be able to get double taxation relief in Switzerland on the 10% tax paid by them in India, thereby leading to full relief from double taxation. This is expected to incentivize more investments from Switzerland to India.
