

**PRESS INFORMATION BUREAU
GOVERNMENT OF INDIA**

**FINANCE MINISTRY ISSUES CLARIFICATION REGARDING TAX RESIDENCY
CERTIFICATE (TRC)**

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Concern has been expressed regarding the clause in the Finance Bill that amends Section 90 of the Income-tax Act that deals with Double Taxation Avoidance Agreements. Sub-section (4) of section 90 was introduced last year by Finance Act, 2012. That sub-section requires an assessee to produce a Tax Residency Certificate (TRC) in order to claim the benefit under DTAA.

DTAAs recognize different kinds of income. The DTAAs stipulate that a resident of a contracting state will be entitled to the benefits of the DTAA.

In the explanatory memorandum to the Finance Act, 2012, it was stated that the *Tax Residency Certificate containing prescribed particulars is a necessary but not sufficient condition for availing benefits of the DTAA*. The same words are proposed to be introduced in the Income-tax Act as sub-section (5) of section 90. Hence, it will be clear that nothing new has been done this year which was not there already last year.

However, it has been pointed out that the language of the proposed sub-section (5) of section 90 could mean that the Tax Residency Certificate produced by a resident of a contracting state could be questioned by the Income Tax Authorities in India. The government wishes to make it clear that that is not the intention of the proposed sub-section (5) of section 90. The Tax Residency Certificate produced by a resident of a contracting state will be accepted as evidence that he is a resident of that contracting state and the Income Tax Authorities in India will not go behind the TRC and question his resident status.

In the case of Mauritius, circular no. 789 dated 13.4.2000 continues to be in force, pending ongoing discussions between India and Mauritius.

However, since a concern has been expressed about the language of sub-section (5) of section 90, this concern will be addressed suitably when the Finance Bill is taken up for consideration.
