

SATURDAY INTERNATIONAL TAX GYAN !!!

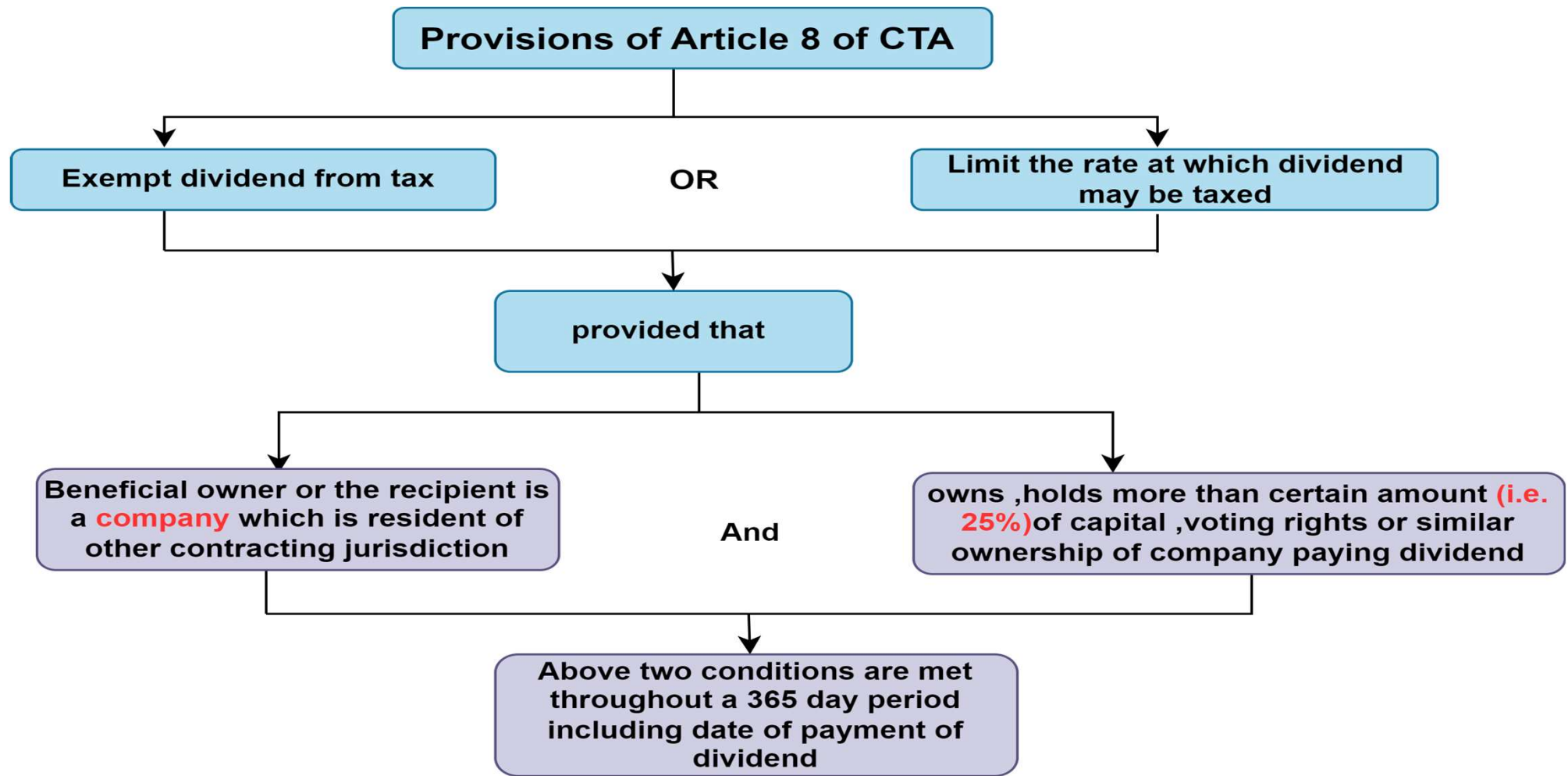
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MLI For Beginners PART- 11



ARTICLE – 8 Dividend Transfer Transaction

Date : 08.04.2023



NOTE : Minimum holding period shall apply in place of or in absence of minimum holding period in CTA

Dividend Stripping

Dividend stripping refers to a practice of buying shares for a short period before the dividends are declared, known as cum-dividend, and then selling them when they go ex-dividend.

Company S
Resident of Singapore



Holds 15% of the capital
on 30th April



Company S increases its holding by 12% or more to make its holding more than 25% in order to get the benefit of lower tax



Now, company S will get the benefit of reduced rate of taxation i.e. 5%

Company R
Resident of UK



Company R is going to declare the dividend on 31st May

To counteract such manipulations contracting states may find it appropriate that this holding was not acquired primarily for the purpose of taking advantage of reduced rate of tax

Reservation Clause

A party may reserve the right:

- ❖ For the entirety of this article not to apply to its CTA;
- ❖ For the entirety of this article not to apply to its CTA to the extent

1

a minimum holding period;

2

a minimum holding period shorter than 365 day period ;

3

a minimum holding period longer than 365 day period



India's Position



Country	Whether notified by India	Position adopted by the other country	Impact on India's CTA with the Country
Singapore	Yes	Opt out	No Impact
Cyprus	No	Opt out	No Impact
Slovak Republic	Yes	Opt In	Para 1 of MLI Article 8 to apply
Australia	No	Opt In	No Impact
Canada	Yes	Opt out	No Impact
Korea	No	Opt out	No Impact
UK	No	Opt out	No impact
Japan	No	Opt out	No Impact

Taxation of Dividend In India



Till Introduction of Finance Bill 2020

Shareholders shall not be liable to pay any tax on the dividend income, hence discussion on Article 10 of treaties and therefore Article 8 of MLI was academic in respect of India being a source country of the dividends.

After Finance Bill 2020

India returned to the classical system of taxation in respect of dividends, whereby dividends are taxed in the hands of shareholders not the company, and hence abolished the Dividends Distribution Tax (DDT).

NOTE : Now that dividend is taxable in India in the hands of recipient, the person paying dividend needs to check the applicability of tax on same and the applicability of DTAA and MLI on same.

Documents can be referred for Interpretation of MLI

Basic Documents:

- BEPS Action Plan 15
- Explanatory Statement to MLI
- MLI Positions adopted and deposited by Various MLI signatories with OECD
- Report on BEPS Action Plan 2,6,7,14
- Existing tax treaty
- OECD Model Convention of Tax treaty and OECD Commentaries
- Synthesized text of MLI between parties to CTA

Other Documents available on OECD website:

- [List of Signatories and parties to MLI](#)
- [Frequently Asked Questions \(FAQs\) on MLI](#)
- [Flow chart on matching of reservations and notifications of MLI](#)
- [Legal note on functioning on MLI under public international law](#)
- [Step by step on applying the MLI](#)
- [MLI Matching Database](#)

Link of OECD Website: <https://www.oecd.org/>

Reference of Previous SITG of MLI for beginners Series

S.No	Particulars	Link
1.	Basic (BEPS)	Click here
2.	Introduction to MLI	Click Here
3.	Structure and Framework of MLI	Click here
4.	India's position on MLI	Click Here
5.	Dual Residency of Entities (Article 4)	Click Here
6.	Application of Methods for Elimination of Double Taxation (Article 5)	Click here
7.	Purpose of CTA (Minimum Standard) (Article 6)	Click here
8.	Incorporation of Strict Anti-Treaty abuse Rules [Part-I] (Article 7)	Click here
9.	Incorporation of strict Anti-Treaty abuse Rules [Part-II] (Article 7)	Click here
10.	GAAR v/s PPT [Part-III] (Article 7)	Click here

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