

India-Mauritius Tax Treaty: The Principal Purpose Test Is Now Part of Indian Law

CBDT Notification No. 135/2026 gives effect to the 2024 Protocol and the new Article 27B, "Entitlement to Benefits"

Cross-Border Structuring · Mauritius Holding Companies · Treaty Benefits



What Happened

The Central Government has notified that all provisions of the Protocol amending the India-Mauritius Double Taxation Avoidance Convention shall be given effect to in the Union of India.

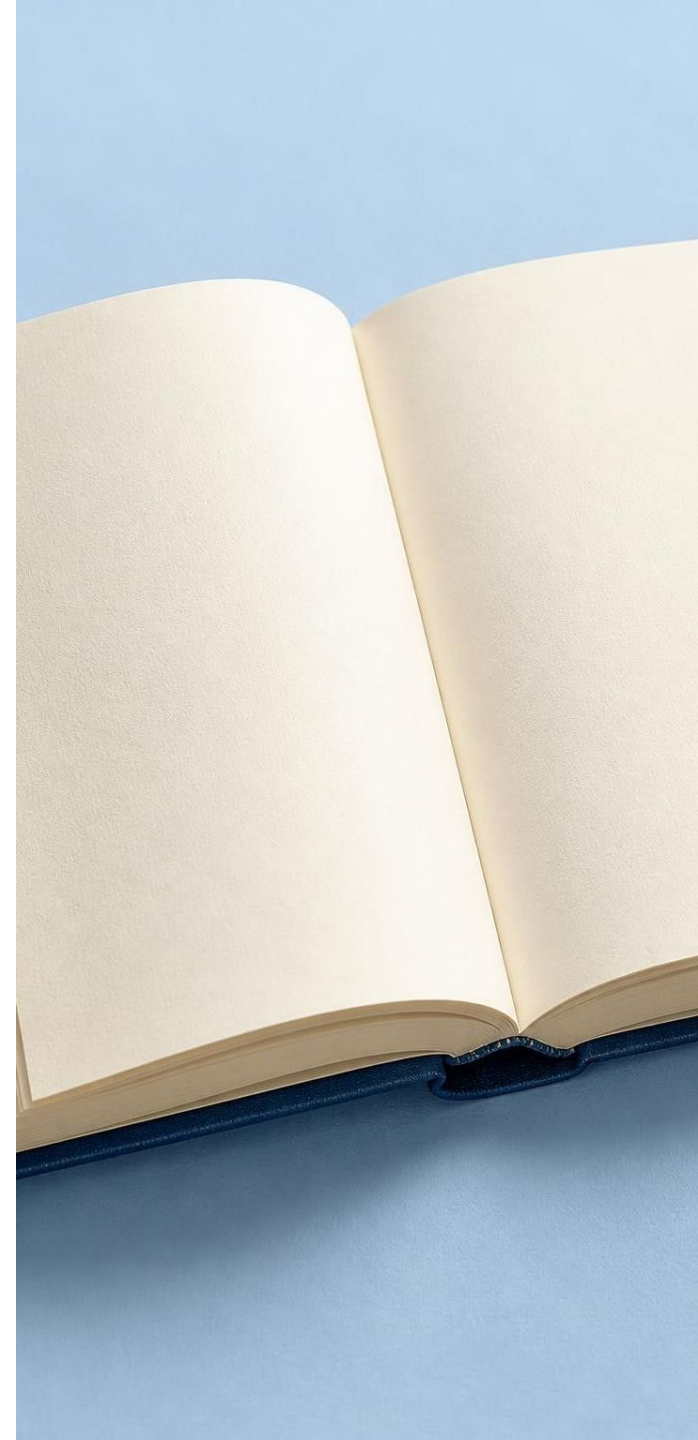
Item	Detail
Instrument	CBDT Notification No. 135/2026, S.O. 5611(E)
Date of notification	13 October 2026
Power used	Section 159(1) of the Income-tax Act, 2025
Protocol signed	Port Louis, 7 March 2024
Protocol in force	10 August 2026
Convention amended	Signed 24 August 1982, as amended by the Protocol of 10 May 2016

The Protocol in Three Articles

Article 1: New Preamble. The treaty is now meant to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance, including treaty-shopping arrangements for the indirect benefit of residents of third jurisdictions.

Article 2: New Article 27B. Inserted after Article 27A. A treaty benefit is not granted for an item of income where obtaining that benefit was one of the principal purposes of the arrangement or transaction behind it.

Article 3: Entry into force. The Protocol enters into force on the date of the later of the two countries' notifications, and has effect from that date.



The Dates That Matter

10 August 2026: the Protocol has effect from its entry into force, "without regard to the date on which the taxes are levied or the taxable years to which the taxes relate" (Article 3(2)).

Income between 10 August and 13 October 2026 falls inside that period.

Event	Date
Protocol signed at Port Louis	7 March 2024
Protocol entered into force (later of the two notifications)	10 August 2026
India's notification giving effect (S.O. 5611(E))	13 October 2026

Article 27B, Read Clause by Clause

"Notwithstanding the other provisions of this Convention": the test overrides every other article of the treaty.

"a benefit under this Convention": any treaty benefit, not one type of income only.

"in respect of an item of income": each dividend, interest payment, gain or other receipt is tested on its own.

"reasonable to conclude, having regard to all relevant facts and circumstances": the whole picture, not a single fact.

"one of the principal purposes": the benefit need not be the only or the main purpose.

"any arrangement or transaction that resulted directly or indirectly in that benefit": the test looks behind the income to the arrangement.

When the Benefit Is Denied, and When It Stays

Benefit denied when:

- It is reasonable to conclude that obtaining the benefit was one of the principal purposes of the arrangement or transaction
- The conclusion is drawn having regard to all relevant facts and circumstances
- The arrangement produced the benefit directly or indirectly

Benefit still available when:

- It is established that granting the benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of the Convention
- That object and purpose is now read with the new Preamble, which names treaty-shopping for the indirect benefit of third-country residents

Who Should Look at This Now



Mauritius holding companies and funds: any treaty benefit claimed on dividends, interest, gains or other income from India from 10 August 2026.



Foreign investors and founders investing into India through Mauritius: the new Preamble expressly refers to treaty-shopping for the indirect benefit of residents of third jurisdictions.



Indian companies paying a Mauritius resident: a treaty rate applied on a payment is a benefit under the Convention, so it is within Article 27B.

Four Points to Keep in Mind

1. No date carve-out.

The Protocol text contains no exception for investments or arrangements made before any date.

2. One purpose is enough.

Obtaining the benefit need only be one of the principal purposes, not the main one.

3. Item by item.

Each item of income is tested on its own, with the arrangement behind it.

4. Effect predates the notification.

The Protocol has effect from 10 August 2026, not from 13 October 2026.

Your Action Plan

Step 1: List every item of income from India received by a Mauritius entity on or after 10 August 2026 on which a treaty benefit was claimed or applied.

Step 2: For each item, identify the arrangement or transaction behind it.

Step 3: Record the commercial and non-tax reasons for the Mauritius entity and each arrangement, with contemporaneous documents.

Step 4: Payers: revisit treaty-rate withholding on payments to Mauritius residents from 10 August 2026 and ask the payee for the facts that support its entitlement.

Step 5: Do not rely on the date of the original investment to keep a structure outside Article 27B.

Reviewing a Mauritius holding structure or payments to a Mauritius shareholder?
Book a quick call with A S Banka Advisors Private Limited.



Source: Ministry of Finance (Department of Revenue), CBDT Notification No. 135/2026, S.O. 5611(E), 13 October 2026, [incometaxindia.gov.in](https://www.incometaxindia.gov.in)