



Clarification regarding taxability of income earned by a non-resident investor from off-shore investments in investment fund routed through an Alternative Investment Fund

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**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF DIRECT TAXES
NEW DELHI**

CIRCULAR NO

12/2023, Dated: July 12, 2023

Subject: Clarification regarding taxability of income earned by a non-resident investor from off-shore investments in investment fund routed through an Alternative Investment Fund -reg.

CBDT Circular [No.14/2019](#) dated 03.07.2019 was issued to clarify the taxability of income earned by a non-resident investor from outside India (off-shore investment) routed through investment fund as defined in Explanation 1(a) to Chapter XII-FB of the Income-tax Act, 1961 (the Act). This Circular was made applicable to Category I or Category II Alternative Investment Funds (AIFs). regulated under Securities and Exchange Board of India (SEBI) regulations.

2. By Finance Act. 2023. the definition of 'investment fund' under the Income-tax Act, 1961 was amended to include reference to International Financial Services Centres Authority (Fund Management) Regulations. 2022 under International Financial Services Centres Authority (IFSCA) Act, 2019.

3. In view of the aforesaid amendment in the definition of 'investment fund'. para 3 of the Circular [No.14/2019](#) dated 03.07.2019 is to be read as under:

"3. Chapter XII-FB contains special provisions relating to tax on income of investment funds and income received from such funds. Under Chapter XII-FB. section 115UB of the Act ('Tax on income of investment fund and its unit holders') is the applicable provision to determine the income and taxability of investment funds & their investors. In this context, 'investment fund' is defined in Explanation I of Chapter XII-FB to mean any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership ora body corporate which has been granted a certificate of registration as a Category I or Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations. 2012, made under the Securities and Exchange Board of India Act. 1992 (15 of 1992) or regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019). Thus. provisions of section 11 SUB apply only to Category I or Category II AIFs regulated by Securities and Exchange Board of India (SEBI) or International Financial Services Centres Authority (IFSCA)."

4. All the other contents of the Circular dated 03.07.2019 remain same. It may be circulated widely for information of all stakeholders and Departmental officers.

5. Hindi version to follow.

[F.No.225/79/2019-ITA-II]

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