Taxation Scheme for Real Estate Investment Trust (REIT) and Infrastructure Investment Trust (Invit)

Effective from: A.Y.2015-16

Sec 115UA: Scheme for taxation of Real Estate Investment Trust (**REIT**) and Infrastructure Investment Trust (**Invit**) which are required to be listed on a recognized stock exchange in accordance with the regulations made under the SEBI Act, 1992-

A) Tax implications in the hands of Business Trust

i) **Taxability of Interest Income from SPV**: Sec 10(23FC) **exempts** any income of a business trust by way of **interest received** or receivable **from** a Special Purpose Vehicle (**SPV**).
Note:

a) SPV means an **Indian company** in which the business **trust holds controlling interest** and any specified **percentage of shareholding** or interest, as may be required by the regulations under which such trust is granted registration (**not less than 50%** as per the current REIT regulations).

b) SPV is not required to deduct tax at source on interest paid to business trust.

c) Dividend Income which are subject to DDT is also exempt u/s 115O.

d) Any other income of the trust is chargeable to tax at the maximum marginal rate (i.e., @33.99%).

ii) **Taxability i.e. Capital gain on disposal/ transfer of assets by the business trust**

- In case of long-term capital gains, the provisions of sec 112 would apply;
- In case of short-term capital gains on sale of listed shares, the provisions of sec 111A would apply;

  Short-term capital gains, other than the gains subject to tax u/s 111A, would be subject to maximum marginal rate (i.e., @33.99%).

B) Tax implications in the hands Unit Holders

i) **Taxability of Distributed Income**:

a) Any **income distributed** by a business trust to its unit holders **shall be** deemed to be of the same nature and **in the same proportion in the hands of the unit holder**, **as** it had been **received by**, or accrued to **the business trust**.

b) The distributed income of the business trust, to the extent it comprises of **interest** referred to in sec 10(23FC), is **deemed to be the income** of the **unit holder** in the previous year of distribution and shall be taxable **@5%,** in case of unit holders, being non-corporate **non-residents** or foreign companies; and at **normal rates** of tax, in case of **resident** unit holders.

c) Any distributed income u/s 115UA **other than interest** referred to in sec 10(23FC), received by **unit holders** is **exempt** in their hands u/s 10(23FD).

ii) **Taxability i.e. Capital gain on transfer of listed units of the business trust by the unit holders**: Same as taxability on transfer of debt oriented Mutual Funds.

C) Tax implications in the hands of sponsor:

a) Taxability on **exchange of shares** in SPV by sponsor **for units** of Business Trust

b) Such exchange is not treated as a transfer. Hence, taxability of capital gains on such transfer **deferred** to the **time of disposal of units** by the sponsor;

c) **Long-term capital gains** would be taxable **@20%** and **short-term capital gains** would be subject to the **normal rates** of tax in the hands of the sponsor.

Note:

i) **Exemption** u/s 10(38) and u/s 111A would **not** be available to the sponsor at the time of disposal of units.

ii) For computing capital gains in the hands of the sponsor, **cost** of acquisition **of units** would be **deemed** to be the **cost** of acquisition **of shares** to the sponsor;

iii) For computing capital gains in the hands of the sponsor, **the period of holding** of units to include (commence from) the **period of holding of shares** for determining whether the capital gains is long-term or short-term.