① Exchange of shares in SPV by sponsor for units of Business Trust

Business trust ← T/F issues shares held in SPV ← Sponsor

Business trust → Receives units of Trust → Sponsor

Sponsor → Holds Shares → SPV

Taxability in the hand of sponsor.

- 47(xvii) → such exchange is not a T/F. So, no CG.
  → CG will be taxable when sponsor sell such units.
- T/F of units :. CG applicable
  - If STCG → 111A applies. → Tax @ 15%.
  - If LTCG → 10(38) applies → Exempt.
- 49(2AC) – COA of units = COA of shares by sponsor
- 2(42A) – POH of units = POH of Shares + POH of units.

③ Interest Payments to N.R lenders on ECBs by the business trust

NR lender ← BT Borrows money in Foreign currency from NR lender → Business trust

BT Pays interest to NR lender

NR lender → 115A → interest received from B.T is taxable in the hands of NR lender @ 5% U/s 115A

Business trust → 194 LC → B.T has to pay int on money borrowed from NR lender. BT has to deduct TDS @ 5%.

② Interest / dividend received by Business Trust from SPV

Unit holder → Invests in → Business trust → has controlling interest → SPV

SPV → T/F interest income → Business trust → distribution of Interest to → Unit holder

① SPV → 194A(3)(xi) → not required to deduct T.D.S on int paid to BT

② Business trust → 10(23FC) → interest income from SPV is not taxable in the hands of BT

③ → 194 LBA → BT required to deduct T.D.S on interest distributed to UH
- For Residents – @ 10%
- For NR, FC – @ 5%

④ Unit holder → 115A(1)(iia) → interest income from B.T is taxable in the hand of U.H.
- For Residents – Normal Rate
- For NR, FC – @ 5%

UH ← dividend distribution ← BT ← T/F dividends ← SPV

① SPV → DDT → If BT holds 100% E/S/C of SPV, DDT is exempt U/s 115-O(7)

If BT does not hold 100% E/S/C of SPV, DDT is Payable by SPV U/s 115-O

dividend out of:
- Current income → After Acq of 100% E/S → Exempt from DDT
- Accumulated & current Profit upto the date of 100% Acq → liable for DDT

② BT → dividend received from SPV in both cases is exempt in the hands of B.T – U/s 10(23FD)

③ UH → 10(23FD) → dividend income received from BT is exempt from tax in the hands of unit holders

If dividend exceeds ₹10L, then excess of ₹10L is taxable in the hands of BT @ 10%

U/s 115BBDA & 115BBDA shall not be applicable to UH

(4) Rental income of REIT from directly owned Real estate asset

Unit holder ← distributes Rental income ← Business trust / REIT

Business trust → owned directly by BT → Real Estate Asset

Real Estate Asset → Rent → REIT

(4) Unit holder

Rental income distributed by BT is deemed income of U.H, Taxable @

- For Resident – NORMAL ~~Prescribed~~
- For NR. – Prescribed rates.

(3) 194 LBA

On distribution of Rental income to UH REIT/BT has to deduct T.D.S

- To Resident – @ 10%
- To NR. – %

(2) 10 (23FCA)

Any income of B/T/REIT from real estate asset is exempt in the hand of BT/REIT

(1) 194-I

T.D.S is not required to be deducted on Rental income credited to REIT

Real Estate Asset is being rented, leased (or) let out by BT

(5) ~~Transfer~~ CG on disposal of assets by BT

Unit holder ← distribution of CG by BT to UH ← Business trust

T.D.S Not deductable.

Unit holder → 10 (23FD)

CG distributed by BT is exempt in the hands of UH

Business trust

On disposal of Assets by BT, CG is chargeable to BT

	LTCG		STCG
STT Paid 10(38)	Exempt	STT Paid (111A)	@ 15%
NO STT 112	@ 20%	No STT @ MMR	35.535

(6) Transfer of listed units of the BT by UH

- If a UH transfer(sale) the units of B.T, STT is leviable on trading of listed units on RSE.

2(42)A • POH to qualify a unit to be a LTCA is >36 mts

10(38) • LTCG is exempt in the hands of UH

111 A • STCG is taxable @ 15%

(7) other income of BT

Unit holder ← distribution of other income to U.H by BT on which taxed @ MMR ← Business trust

Unit holder → 10 (23FD)

Other income distributed to U.H by BT is Exempt in the hand

Business trust → 115UA(2)

Any other income of B.T is taxable @ MMR – 35.535%

(8) General/other Points

1) Any income 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 unit holder as it had been received by, (or) accrued to, the business trust.

2) Example of income chargeable @ MMR

- STCG on sale of development properties
- interest on investment in unlisted debenture