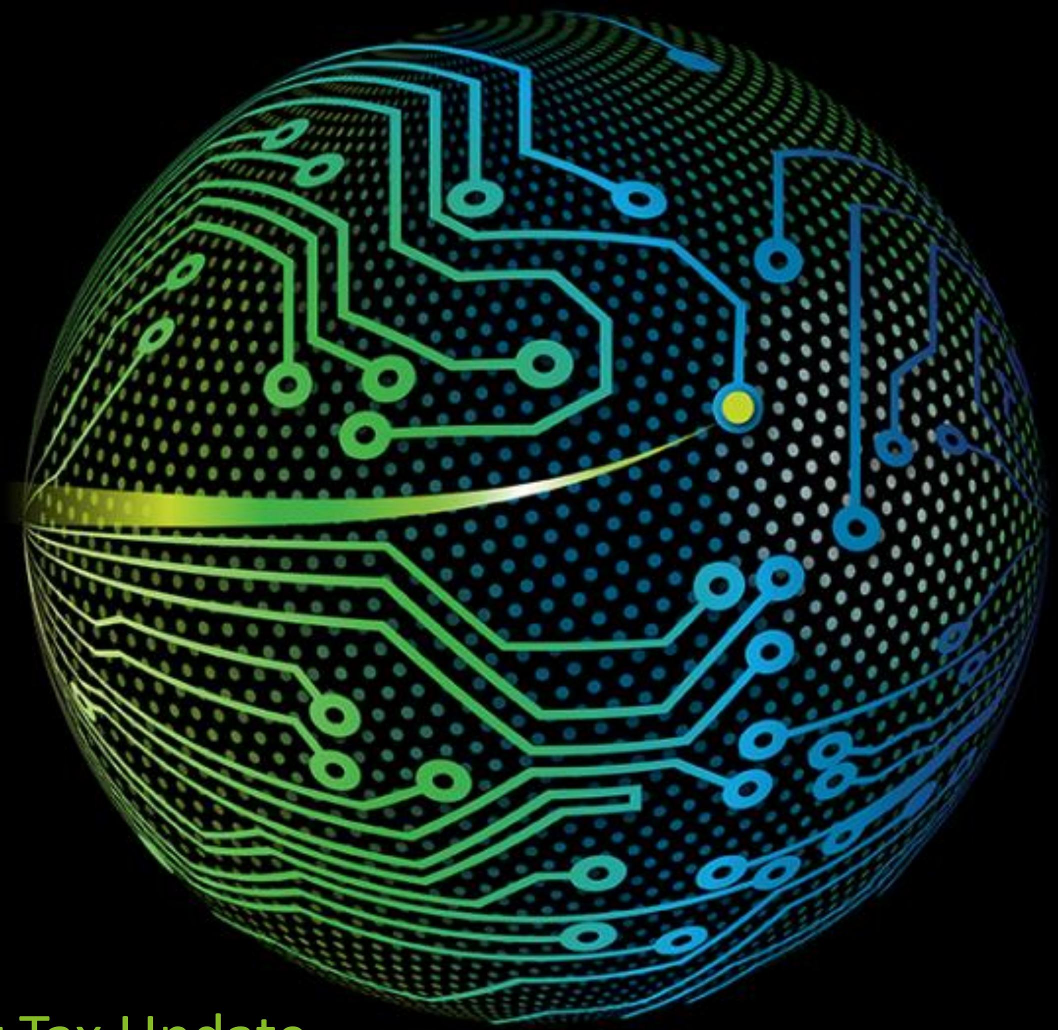
Deloitte.



Investment Management Tax Update

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18 March 2024

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Investment Management Tax Update Panellists:

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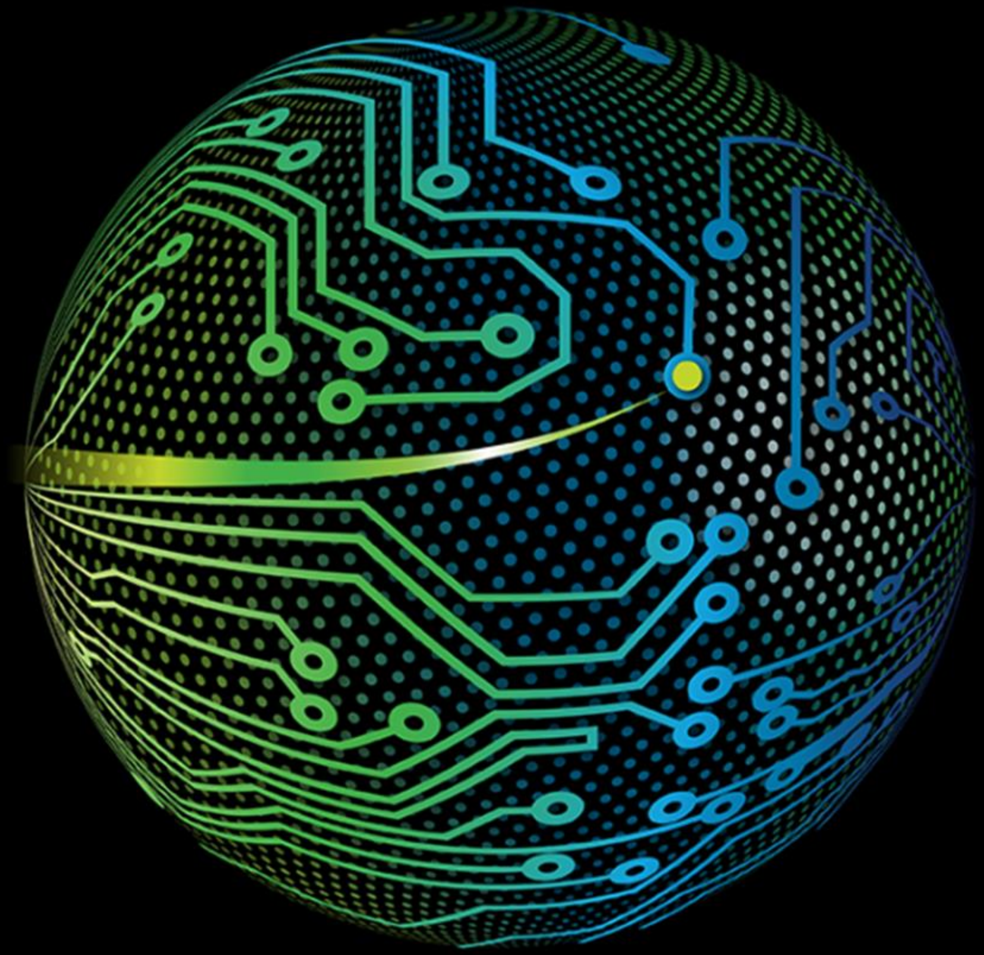
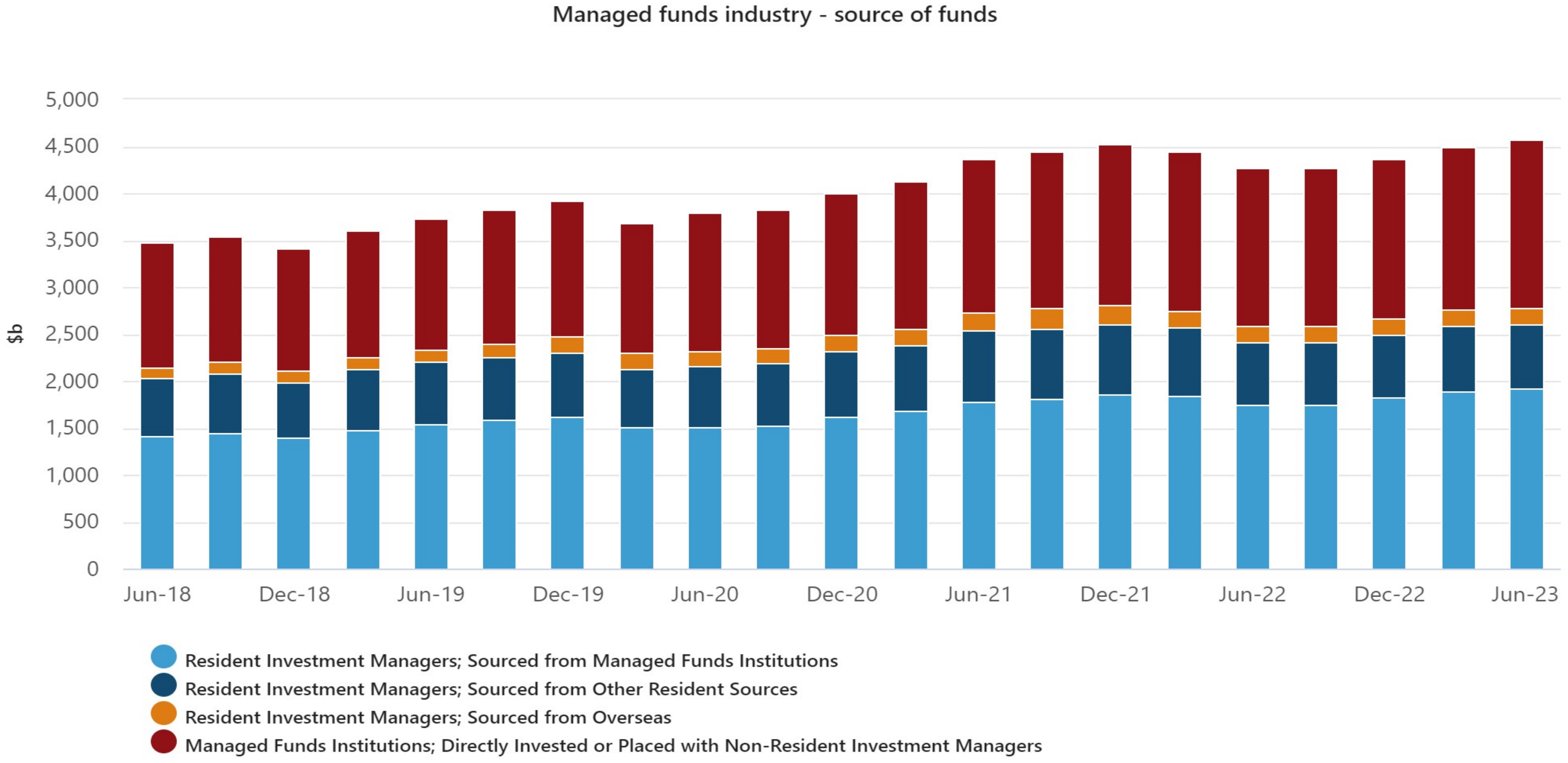


Agenda

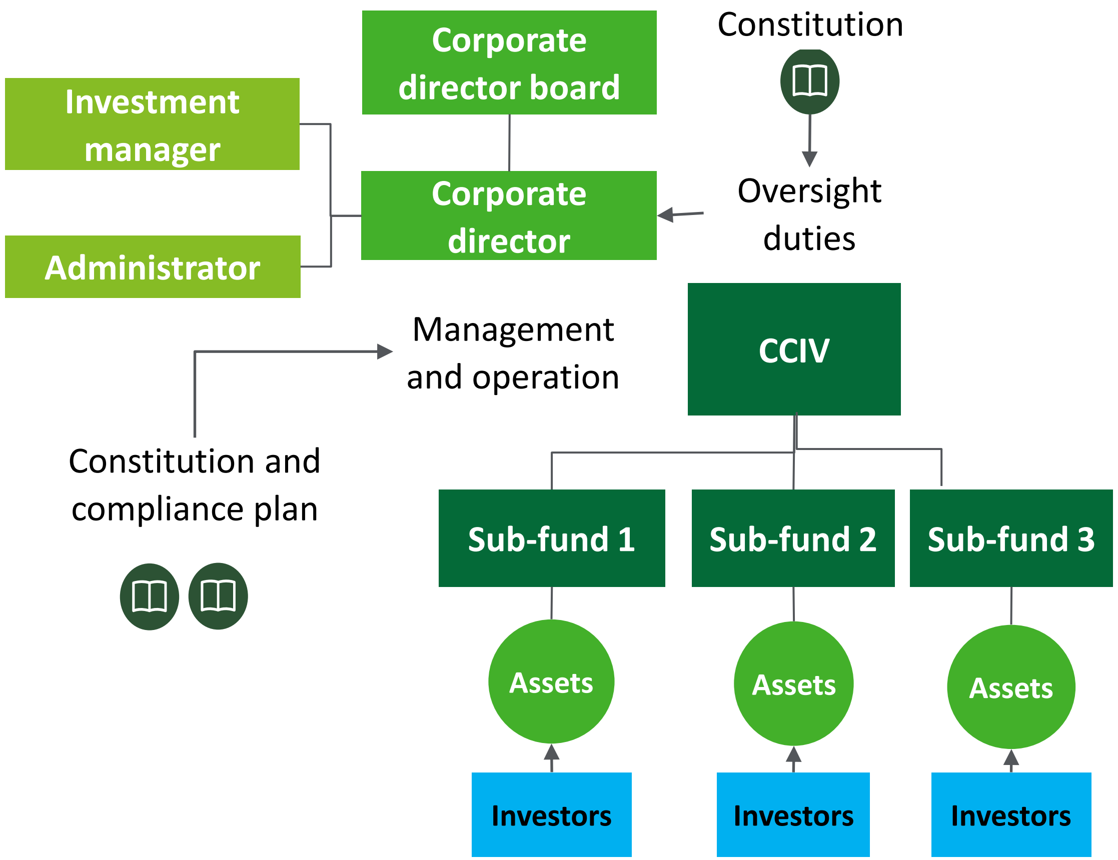
01	**Macro overview**	Australian investment management industry
02	**Traditional funds**	Status of new fund structure (CCIV)
03	**Alternative funds**	Proposed new debt limitation rules (from 1 July 2023)
04	**Tax authority activity**	Australian Tax Office reviews & 1 July 2024 deadline

Macro Overview
Australian Managed Funds Industry—source of funds



Source: Australian Bureau of Statistics, Managed Funds, Australia June 2023

Corporate Collective Investment Vehicle (CCIV)



CCIV regime

- Legal form shares
- Tax transparent vehicle (taxed like a trust)
- Vehicle is intended to be:
  - More familiar for foreign investors
  - Support the Asia Region Funds Passport Regime
- CCIV can be retail or wholesale

Limited partnership collective investment vehicle

- Impact of change in Government
- No longer proceeding (Federal Budget 2022-23)

ATO Guidance

- ATO Law Companion Ruling 2023/D1 (Draft) released 1 November 2023

Proposed debt limitation rules

Purpose and status

Issue	Details
Rationale	• Closer alignment with Organisation for Economic Co-operation and Development (OECD)
Purpose	• Existing “thin capitalisation” balance sheet test (to be replaced) • New earnings-based test
Status	• Pending
Proposed start date	• 1 July 2023

Proposed debt limitation rules

Purpose and status

Test	Considerations
Fixed ratio test (FRT)	• 30% of Tax Earnings before interest, taxes, depreciation and amortisation (EBITDA) • Denial not permanent • Cannot carry forward "excess" if elect out of FRT
Group ratio test (GRT)	• Potentially beneficial to Australian entities with global group consolidated interest to EBITDA ratio above 30% • No carry forward for disallowed deductions (disadvantage compared to FRT) • Issues with accounting consolidation requirements
Third party debt test	• All deductions under eligible third-party debt are deductible • No carry forward of disallowed deductions
Debt creation rules	• Anti-avoidance measure • No purpose test • Transitional rule for financial arrangements entered before 22 June 2023

Tax Governance Journey

Stage 1	Stage 2	Stage 3

01

❑**Tax Governance Framework**
Board Approved aligned to ATO's best practice

02

❑**Gap Analysis**
Assessment of tax control framework and controls against the ATO board-level and managerial-level control framework

03

❑**Supporting policies and Procedures that align to the 7 key controls**
E.g. Board reporting, income tax & Goods and Services Tax (GST) procedural documents, checklists, tax risk register

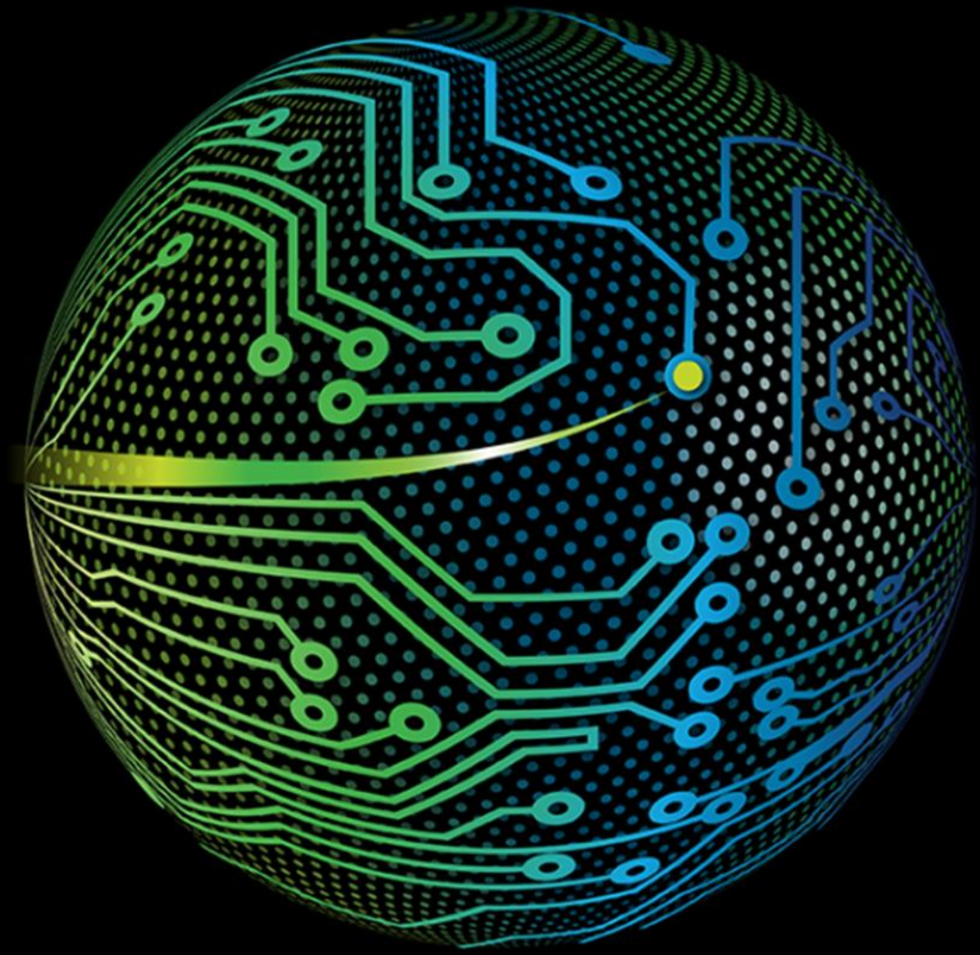
04

❑**Commitment to Testing**
Board/sub-committee approval of tax control testing commitment and high-level plan

05

❑**Testing of tax controls**
Testing of tax risk management framework and controls by reference to ATO guidance

China



Development of foreign investment in China capital market

Regulatory trends on foreign investments into China Capital Market:

- Encourage foreign investment: Various measures to facilitate cross-border foreign capital flows to encourage foreign investment in China capital markets
- Draft private fund manager measures applying to foreign invested fund managers

Foreign direct investment into China Capital Market—direct 2nd market investment:

- Channels:
  - — QFI & Stock Connect & Bond Connect, CIBM Market
  - — GBA—Cross border wealth management connect scheme (跨境理财通) applicable to qualified Individual investors directly

- China Onshore established fund managers
  - — PFMs—34 WFOE PFMs by end of 2023
  - — FMCs—9 WFOE FMCs by 2023
  - — Wealth Management subsidiaries—Joint Venture with Chinese banks—7 by 2023
  - — Wholly foreign owned Securities firms—9 foreign majority or wholly owned by 2023, SC got the approval in 2023

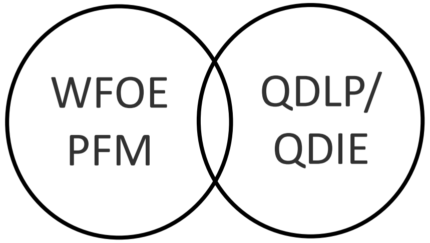
Foreign investment into China Capital Market—Private Equity and alternative investments:

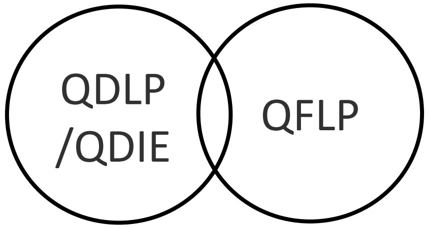
- QFLP still quite active
- QDLP (domestic incorporated by foreign fund manager, raising funds locally and investing overseas market)
- Offshore funds affected due to the impact of weakness of IPO market

Development of foreign investment in China capital market (cont.)

Direct capital market investment				PE & alternative investments	
QFI & stock connect & bond connect & funds recognition & CIBM	**Onshore Funds managed by PFM WFOE**	**Onshore funds managed by FMC**		**QFLP**	**Offshore funds**
• Foreign fund managers with QFI license • Approved connect & CIBM investors	• Local incorporated fund managers with foreign shareholder(s)	Local incorporated fund managers with foreign shareholder(s)	**Fund Manager**	• Locally incorporated fund managers with foreign shareholder(s)	• Foreign fund managers
• Offshore funds	• Funds raised onshore	Funds raised onshore	**Source of funds**	• Fund raised onshore and offshore	• Fund raised offshore
• Foreign investors	• Domestic investors/QFI* *QFIs are allowed to invest in according to new QFI rule	Domestic investors/QFIs	**Investors**	• Foreign/domestic investors	• Foreign/domestic investors

Foreign fund managers considering both PFM and QDLP or both QDLP and QFLP





Tax Implications/developments on different investment structure/routes

QFI changes in recent years and tax updates

- China Government encouraged foreign investment in China market and has gradually released the restrictions from regulatory perspective for QFIs.
  - — Remove the quota restriction for QFI
  - — Relax eligibility requirements by removing the net assets requirement, minimum business operating period requirement, etc.
  - — Expand the investment scope (such as PFM fund, commodity futures, bond repo, Margin financing, securities financing, and securities lending etc.)
  - — Give more flexibility in terms of cash inflow/outflow—commitment letter
- Tax reporting/clearance updates
  - — No specific timeline for tax clearance for QFIs
  - — Funds can be repatriated with tax completion commitment letter
  - — More QFIs voluntarily conduct periodic tax clearance/reporting
  - — Tax treatments—Uncertainties around CIT on gain realised from trading of bonds, mutual funds, funds launched by private fund management companies; Uncertainties on expanded financial instruments such as bond repo, ABS, securities lending, commodity future, etc.

Tax Implications/developments on different investment structure/routes (cont.)

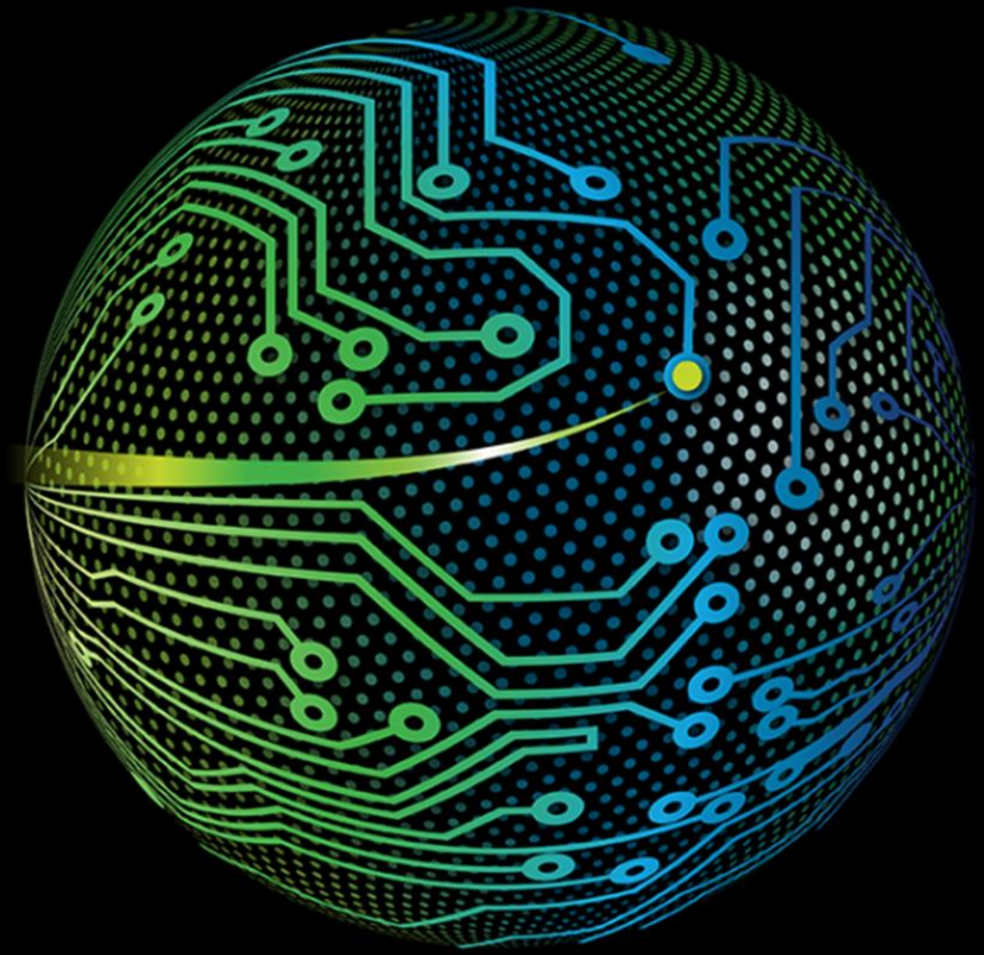
Private Equity & alternative investment into China

- **Offshore fund structure**
  - Location of fund, fund management activities
  - China PE risk and TP issue for China advisory WFOE
  - China tax implication on exit—bulletin 7 implication and treaty benefit application
- **QFLP**
  - 10% withholding tax or 25% on permanent establishment for the income derived by foreign LP? Recent case denying 10% WHT
  - Treaty benefit application to income distributed to foreign LP?
  - Transfer pricing issue on carry and management fee if China onshore GP/Mgt Co is related party of offshore LP
  - Real Estate Investment—QFLP connect Real Estate Investment (with more exit such as C-REITs)

QDLP—overseas market investment

- Transfer pricing issue on carry and management fee when China onshore GP/Mgt Co is related party of offshore LP
- Treaty tax application for QDLP investments in overseas market?
- Foreign Tax credit for tax paid/withheld by offshore investments?

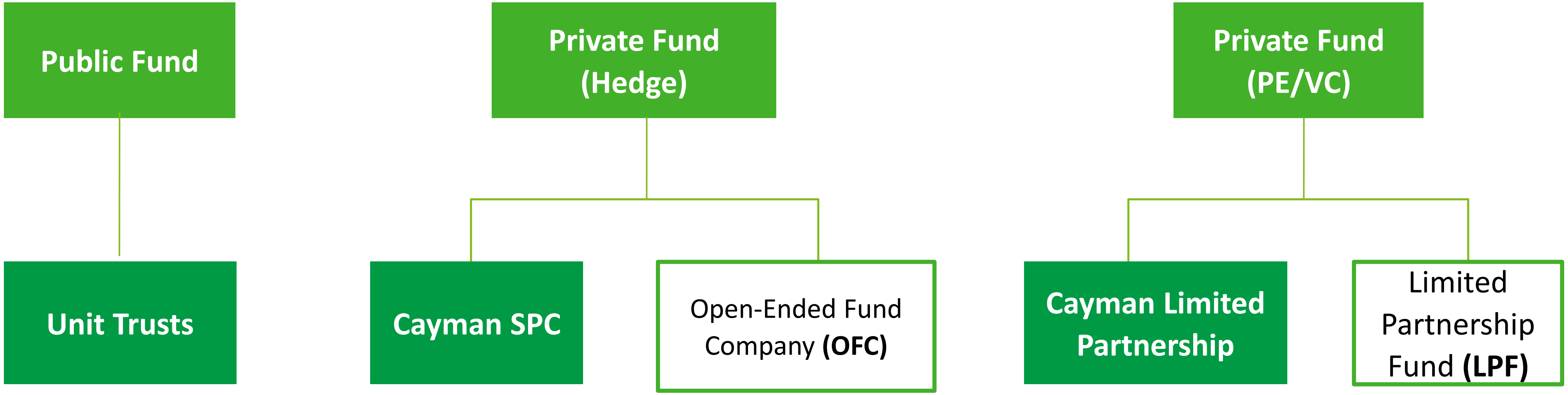
Hong Kong



Hong Kong (HK)

Local market overview

- Increasing number of HK domiciled funds, either in the form of LPF or OFC
- Government subsidy on setup of OFC—applications until 9 May 2024

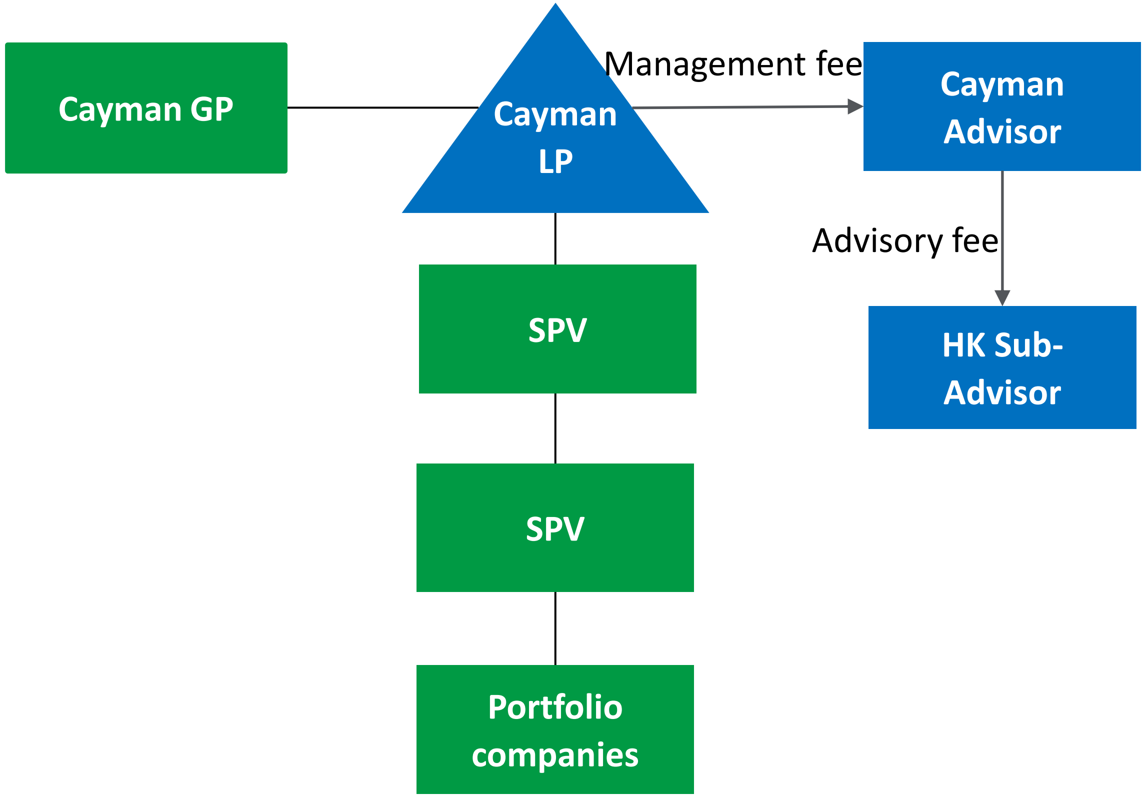


*Effective on 30 July 2018

*Effective on 31 August 2020

Hong Kong

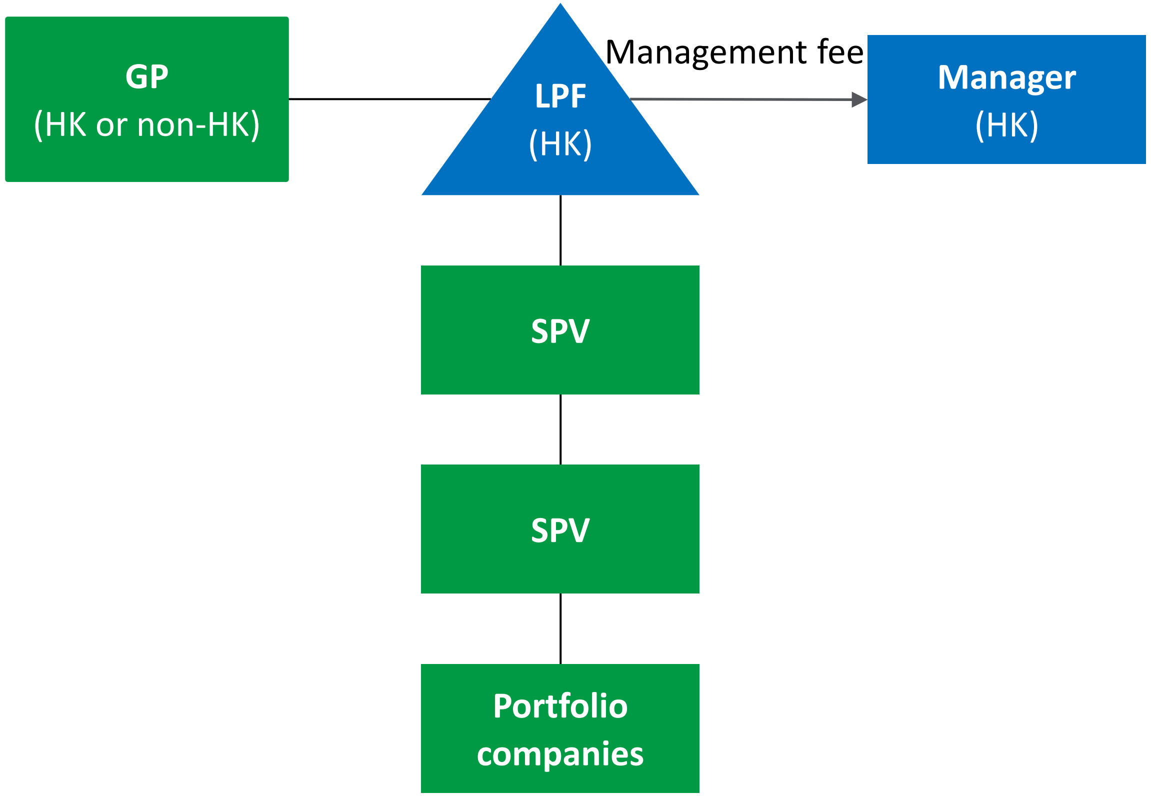
Typical offshore fund structure



Potential tax issues

- Typical structure with Cayman Advisor and HK Sub-Advisor
- Economic substance issue in Cayman
- Transfer pricing issue for the fee arrangement between Cayman Advisor and HK Sub-Advisor
- Treatment of carried interest
- Unlikely able to assess tax treaty benefit

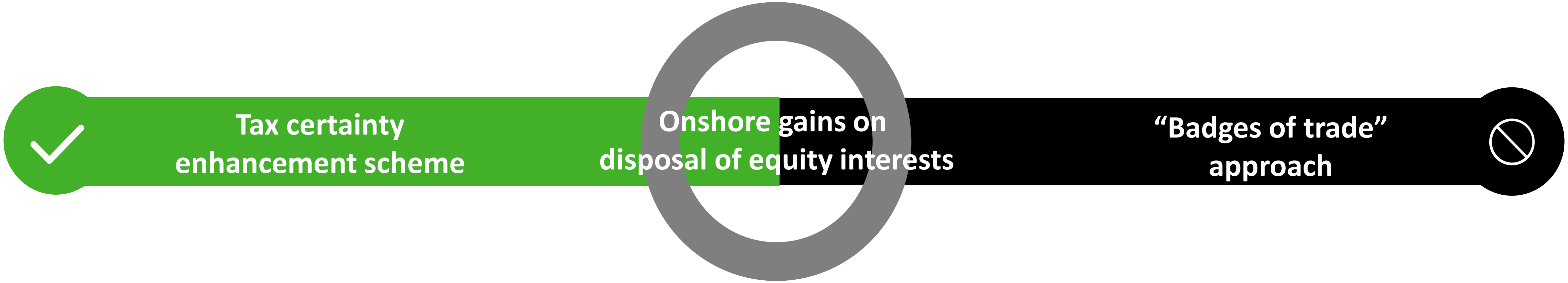
Hong Kong
Limited Partnership Fund (LPF) structure



Call for "onshorisation"

- From a tax perspective, the ideal picture (subject to fulfillment of requisite conditions) should be:
  - **Fund level—**no separate tax regime specifically for LPF; the unified HK tax exemption regime for funds (UFE) equally applies to LPF
    - HK LPF is tax-exempt under UFE
  - **Management fee—**subject to Hong Kong profits tax at the corporate rate of 16.5% in general, but with potential non-taxable offshore claim on the portion attributable to activities conducted outside HK
  - **Carried interest—**potentially subject to Hong Kong tax exemption under the tax concession regime for carried interest
  - **Tax treaty benefits—**accessibility to HK's tax treaty network with increased functions and substance in HK

Onshore capital gain safe harbour



- Onshore gains on disposal of equity interests would be regarded as capital in nature and non-taxable, if certain conditions are met.

Conditions

An investor entity must have

- held at least **15%** of the total equity interest in the investee entity
- for a continuous period of at least **24 months** immediately prior to the date of disposal of such interest.

Flexible arrangements

- **Group basis** in determining the 15% holding threshold
- **Disposal in tranches** will be allowed, subject to a 24-month restriction

- Otherwise, the current "badges of trade" approach would apply in determining the nature of the gains.

Onshore capital gain safe harbour (cont'd)

Exclusions

- Investor entities engaging in **insurance business**
- Equity interests previously regarded as **trading stock** for tax purpose
- Non-listed investee entities engaging in **property-related businesses** (i.e., property trading, property holding and property development)

Miscellaneous

Administrative procedures

- By **election**

Disposal losses

- The regime is **not applicable** to disposal losses

Implementation timetable

- Apply to disposal occurs **on or after 1 Jan 2024** and disposal gain accrues from the **year of assessment 2023/24**

Foreign source income exemption (FSIE) regime

Scope

Specified foreign-sourced income

- Dividend
- Interest
- Intellectual property (IP) income
- Disposal gain

Received in Hong Kong

By an MNE entity carrying on a business in Hong Kong

Exclusions

- Interest, dividend and disposal gain
  - — derived from or incidental to the profit producing activities under **a preferential tax regime**
  - — derived by **a regulated financial entity** from its regulated business
- Disposal gains derived by **traders** of non-IP assets

Deemed taxable if fail to meet certain requirements

Economic Substance

(for interest, dividend, disposal gain on non-IP assets)

Specified economic activities in Hong Kong with

- Adequate no. of qualified employees
- Adequate amount of operating expenditures
  - — Reduced economic substance requirement for pure equity holding company
  - — Outsourcing of specified economic activities permitted

Nexus

(for IP income, disposal gain on IP assets)

- Income from a **qualifying IP** (i.e. patent and copyrighted software)
- Tax exemption based on **R&D fraction** i.e. in proportion to qualifying R&D expenditures to develop the IP
- Qualifying expenditures cover **R&D activities in or outside HK** or outsourced to resident related parties in HK

Further mitigation measures

Participation Requirement

(for dividend, disposal gain on equity interests)

- Satisfy the qualifying conditions:
  - — HK resident person / non-HK resident with a permanent establishment in HK; and
  - — Holds not less than **5%** of equity interests in the investee company for a period of not less than **12 months** immediately before the income accrues
- Subject to **specific anti-abuse rules**

Double Tax Relief

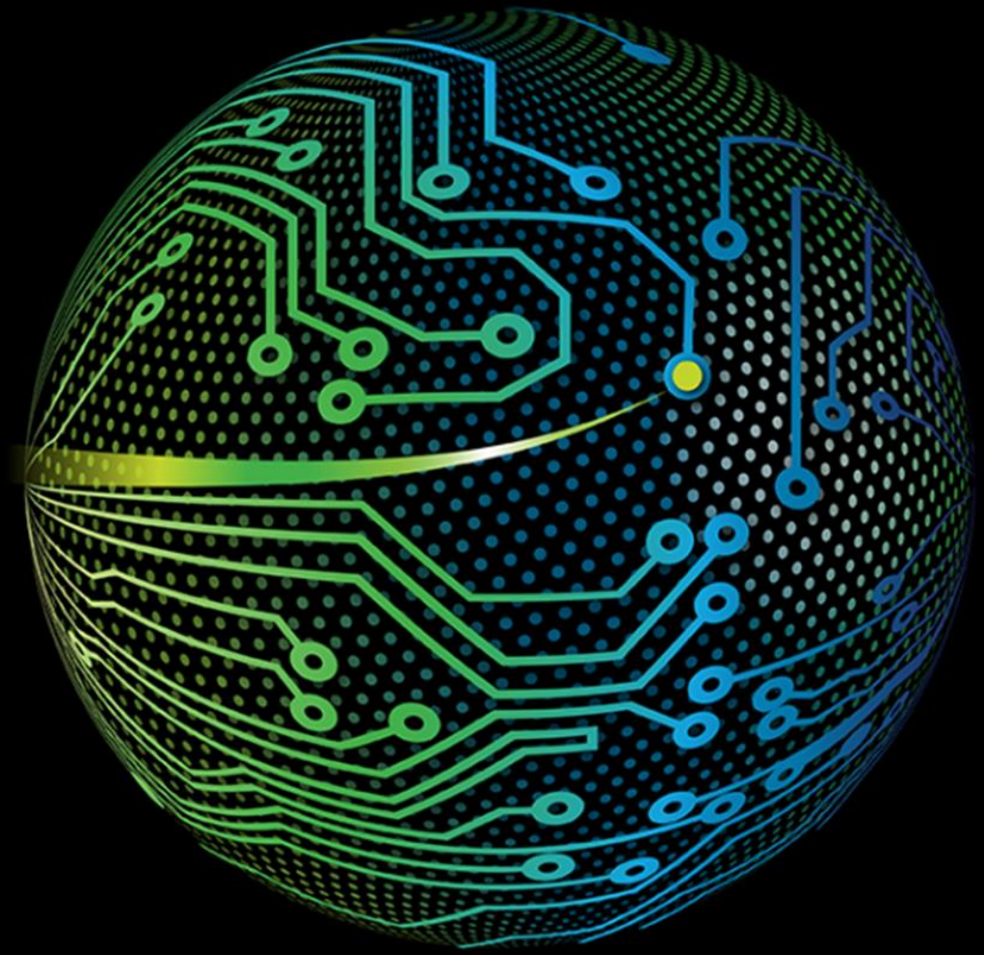
- Foreign tax credit
- Unilateral tax credit
- Look-through approach for dividends

Intra-group transfer deferral

(for disposal gain on non-IP assets)

Tax considerations deferred until sold to a non-associated party

India



Agenda

01 Investing under the Foreign Portfolio Investor route

02 Alternative Investment Funds in India and in the IFSC

Investing under the Foreign Portfolio Investor route

Interim Budget 2024*—Key tax updates

01

Withdrawal of small and disputed direct tax demands

Outstanding direct tax demands of up to INR 25,000 (~$300) pertaining to the period up to FY 2009-10; and up to INR 10,000 (~$120) pertaining to the period FY 2010-11 to FY 2014-15, to be foregone

02

Tax benefits extended for SWFs and pension funds

Tax benefits provided on dividend, interest and capital gains from investment in infrastructure sector further extended by one year up to **March 31, 2025**

03

Tax holiday for start-ups extended

Existing three-year holiday for start-ups extended to start-ups incorporated by **March 31, 2025**

04

Tax benefits for aircraft and leasing companies extended

Allowing one more year for aircraft and leasing companies to setup units in IFSC GIFT City to avail tax benefits i.e., until **March 31, 2025**

05

Exemption on transfer of leased aircraft or ship

Transfer of an aircraft or ship which is leased by an IFSC unit commencing operations on or before **March 31,2025** is exempt.

06

Extension to banks to set up investment division

Extension of one year given to banks to setup investment division in IFSC GIFT City up to March 31,2025 for availing capital gains tax exemption from investment in non-equity securities (in India or abroad) either directly or through a Cat III AIF

* The full budget for FY 24-25 will be presented in Parliament in July/August 2024 after the General Elections

Recent notable tax judgements

TRC sufficient evidence to claim treaty benefits

Facts of the case:

- A Singapore company (holding a valid TRC) claimed exemption on capital gains arising from equity shares of Indian companies under the India-Singapore DTAA.
- A reassessment notice was issued by the tax officer, alleging that the company was:
  - A shell/ conduit company with minimal business activity in Singapore and no substantial ongoing operations.
  - US based company based on its management's location
- Since the India-US DTAA does not provide for capital gains tax exemption, the tax officer denied the capital gains exemption.

Held[1]:

- The tax officer was not right to deny the exemption to the taxpayer as the TRC is statutorily the only evidence required to be eligible for the benefit under the DTAA
- The tax officer cannot go behind the TRC issued by the other tax jurisdiction as the same is sufficient evidence to claim treaty eligibility, residence status, and legal ownership.

Recent developments:

- The Supreme Court has passed a stay order on the Delhi High Court ruling
- A notice is issued in SLP filed against Blackstone in the Supreme Court

[1] The Supreme Court has passed a stay order on the Delhi High Court ruling (#ACIT v. Blackstone Capital Partners (Singapore) Vi Fdi Three Pte. Ltd - [2024] 158 taxmann.com 261 (SC))

Recent notable tax judgements

Capital gains set off mechanism

Facts of the case:

- An FPI set off STCL (15% bracket) against its STCG for FY 2015-16 in the following order:
  - — STCG chargeable to tax at 30%;
  - — STCG chargeable to tax at the rate of 15%;
  - — Balance STCL against LTCG and balance c/f to subsequent years
- The tax officer rejected the aforesaid manner of set-off of STCL and brought to tax the STCG taxable at 30%.

Held:

Placing reliance on earlier rulings[1] ,it was held that the taxpayer had complied with the relevant provision of the Act as computation of STCG was similar and only the tax rate was different and hence was allowed set off STCL (relating to assets taxable at 15%) against the STCG taxable at 30%.

[1] DCIT v. J.P. Morgan Fund—ITA No. 2862/Mum/2022 **and** JCIT vs Montgomery Emerging Markets Fund (2006) 100 ITD 217 (Mum-Trib.), Seth Shiv Prasad vs CIT [1972] 84 ITR 15 (Allahabad HC) and CIT v. Lady Kanchanbai [1962] 44 ITR 242 (MP-HC)

Recent notable tax judgements

Tax proceedings against a closed fund akin to passing order against a dead person

Facts of the case:

- The taxpayer (an erstwhile director of struck-off private company) received a notice to reassess the company for tax year ended March 31,2015 for which an assessment order was issued in 2022.
- The taxpayer filed a writ petition with the High Court stating that an assessment order could not be passed against a company which has already been struck-off. It was only after the revival of the company, that the tax authorities could get power to undertake assessment proceedings.
- However, based on the provisions of the Indian Income tax laws, the tax authorities contended that an assessment could be initiated against the principal officer of a struck-off company.

Held:

Analysing the relevant provisions of the Indian Companies Act, 2013, the case was held in favor of the taxpayer stating that tax authorities should first revive the struck-off company within the specified procedures and timelines and only then re-initiate assessment proceedings as once a company is struck-off, concluding an assessment is akin to passing of order against a dead person.

Recent notable tax judgements

Taxpayer allowed to claim STCG as exempt under tax treaty and carry forward LTCL under the domestic tax law

Facts of the case:

- A Mauritius entity earned STCG and incurred LTCL on alienation of shares of Indian companies.
- In its India tax return, the taxpayer had claimed STCG exempt from tax in India and carried forward the LTCL.
- The tax officer rejected the claim of carry forward of losses, on the ground that since the capital gains derived by the taxpayer was exempt from tax in India, capital losses cannot be carried forward.
- The tax officer contended that taxpayer cannot take benefit of tax treaty exemption as well as provisions of the Indian domestic tax laws (carry forward of losses) under the same head (capital gains)

Held:

- Under the head capital gains, STCG/ STCL and LTCG/ LTCL are distinct and separate streams of income and thus, the benefit under the tax treaty can be applied to each stream of income separately.
- The Indian tax law provides different mechanisms for computation of STCG/ STCL and LTCG/ LTCL. Further, rules pertaining to taxability of such income and carry forward and set-off of losses are also different for STCG/ STCL and LTCG/ LTCL.
- Thus, the Indian tax law itself recognizes STCG/ STCL and LTCG/ LTCL as separate streams of income. Accordingly, the taxpayer is allowed to claim STCG as exempt under the tax treaty and carry forward LTCL under the provisions of Indian domestic tax law.

Recent regulatory updates for FPIs

Legal Entity Identifier

- LEI code is a unique global 20-character code to identify legally distinct entities that engage in financial transactions
- All non-individual FPIs to provide LEI details on a mandatory basis.
  - Existing FPIs: On or before January 23, 2024
  - New FPIs: At the time or registration
- LEI code is required to be active at all times. In case the LEI code has expired / lapsed, such FPIs' accounts will be blocked for further purchases till LEI code is renewed

Request for Quote Platform

- RFQ platform is a dedicated e-platform for debt securities enabling sophisticated, multi-lateral negotiations to take place on a centralized online trading platform
- W.e.f. October 01, 2023, FPIs are required to undertake at least 10% of their total secondary market trades by value in corporate bonds by placing/seeking quotes on the RFQ platform of stock exchanges, on a quarterly basis
- An initiator may request other participants for a quote in specified securities. The platform provides users a range of options to seek and respond to a quote, while keeping an audit trail of all the interactions

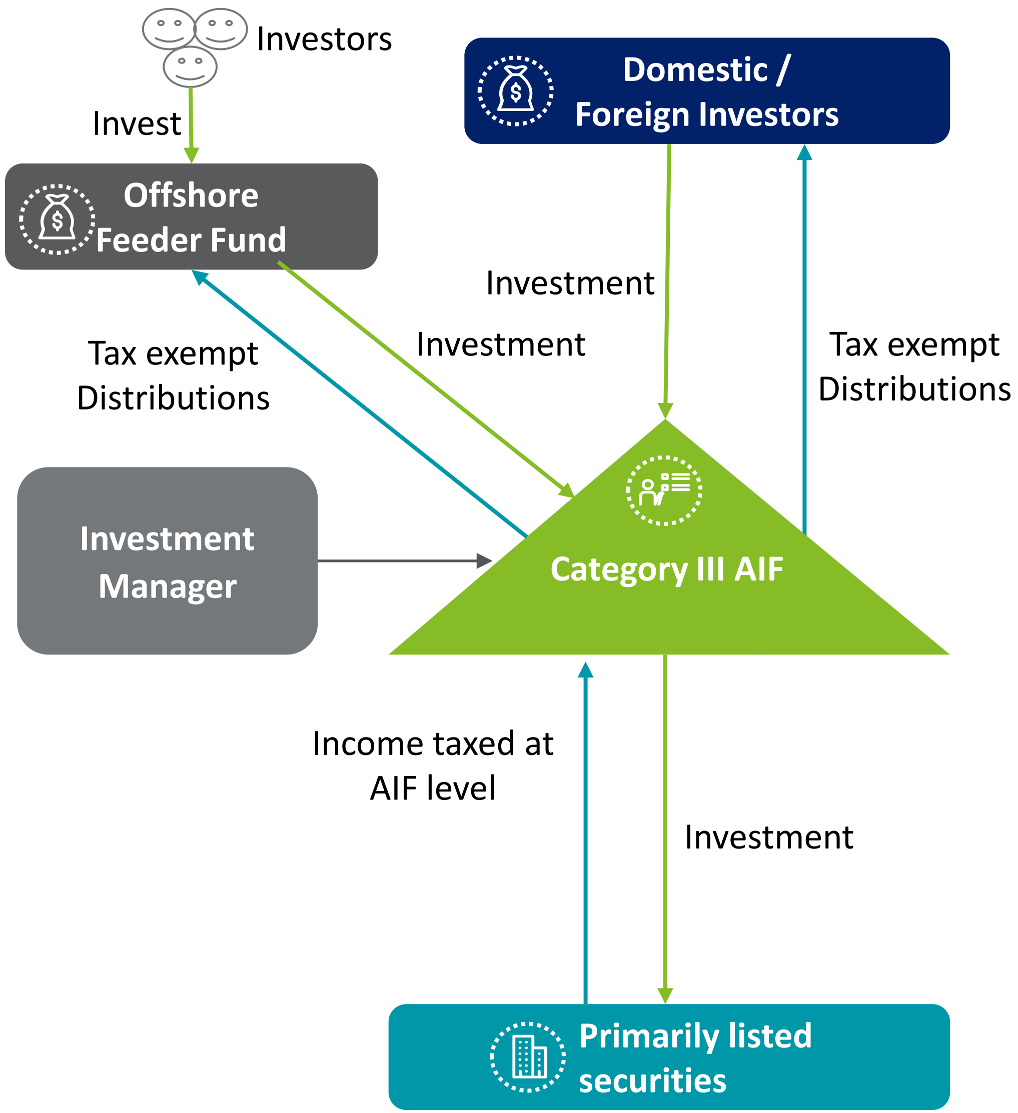
Additional disclosures mandated for certain FPIs and SOPs notified by SEBI for compliance

- SEBI in its circular dated 24 August 2023 mandated additional disclosures by certain objectively identified FPI*.
- Granular details of all entities holding any ownership, economic interest or exercising control in the FPI on a full look through basis, up to the level of all natural persons, without any threshold is to be provided.
- Subsequently, SEBI released Standard Operating Procedures (SOPs) to be implemented by custodians. The SOPs provides a detailed mechanism for DDPs /custodians to independently validate the conformance of FPIs with the prescribed conditions and exemptions including a list of documents /information /sources that can be relied upon for this purpose as well as the format for undertaking the mandatory disclosures.

*Holding more than 50% of their Indian equity Asset Under Management (AUM) in a single Indian corporate group or, Holding (individually, or along with their investor group) more than INR 250 billion (~US$ 3 billion) of their equity AUM in the Indian capital market

Alternative Investment Funds in India and in the IFSC

Category III AIF in India—structure and tax implications

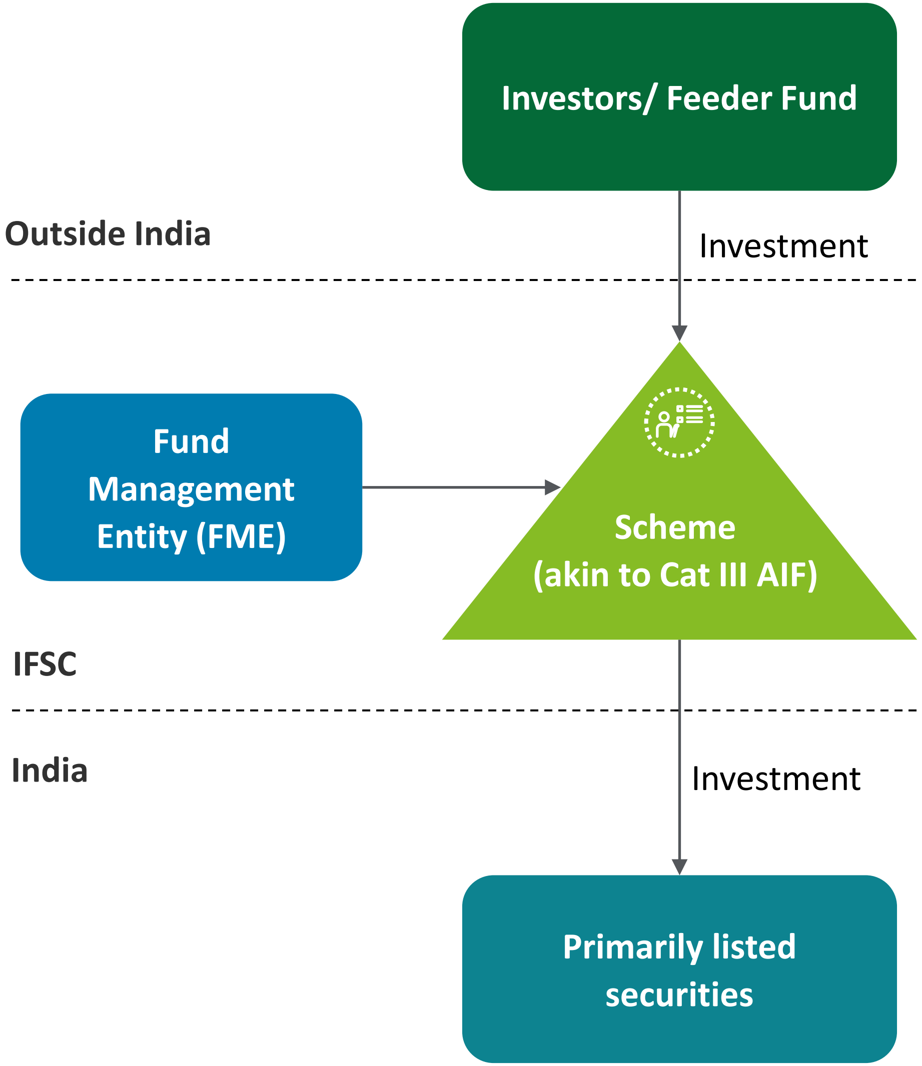


<u>**No separate code for taxation of Category III AIFs**</u>

- **Factors influencing taxation of category III AIF**
  - **Form of entity**: Trust or company or LLP;
  - **Nature of income**: Dividends, interest, capital gains, or business income;
  - **Nature of fund**: Open ended or close ended;
  - Pass through status generally not available.
- **In case of open-ended category III AIF -** Risk of being regarded as discretionary trust since investors can enter and exit at any time. Trust could also be regarded as a revocable trust
- **In case of close-ended category III AIF** - Possible to structure as a determinate trust
- **General Market practice** - Discharge tax at Fund level and claim income as exempt in the hands of the investors. Tax credit available for investors subject to laws of home country, Form K1 generally issued for US investors
- No exemption from indirect transfer tax

- **Tax rates for a Category III AIF**
  - **Long-term Capital Gains—**10%/ 20%;
  - **Short Term capital gains**—15%/ 30%;
  - **Dividend received from Indian companies—**30%;
  - **Interest on debt securities**—30%;
  - The above tax rates would be increased by applicable surcharge and cess.

Non-Retail Restricted Scheme (*akin* to Category III AIF) in the IFSC—structure and tax implications



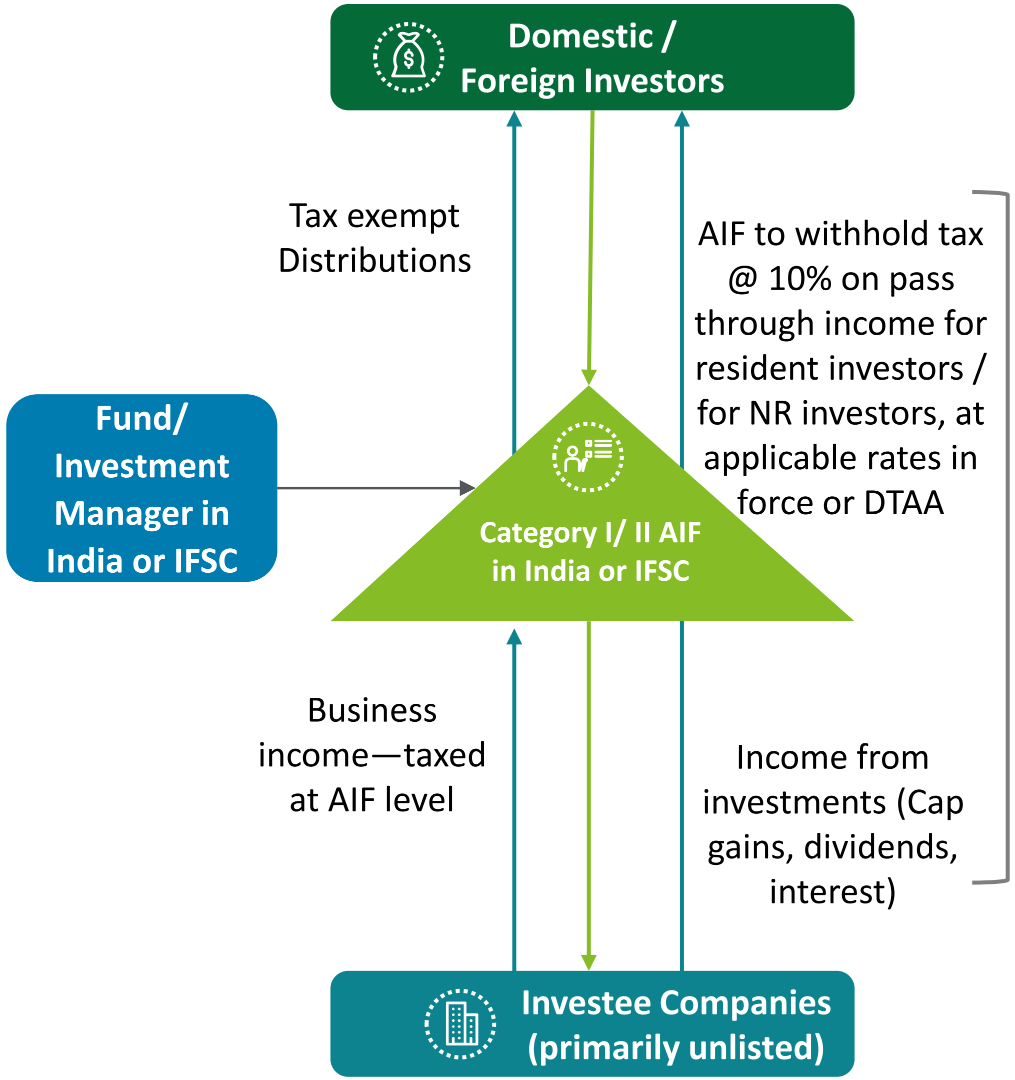
<u>Taxation aspects for Fund and the investors</u>

- Tax levied at Scheme level
- Tax in India only on income earned from Indian securities
- Exemption/ lower rate of taxation to the extent attributable to non-residents
  - **Tax rates on listed equity shares**: Long-term capital gains—10%, Short term capital gains—15% plus applicable surcharge and cess;
  - **Other securities not taxable:** No tax on gains arising from transfer of any other securities (debt, bonds, RETIs / INVITs, derivatives, Mutual Funds. SRs, etc.) or specified securities traded on the IFSC stock exchanges;
  - **Dividend and interest income**: 10% (flat rate);
  - **Interest on bonds listed on IFSC exchange**: 9% plus applicable surcharge and cess;
  - **Income from foreign securities**—Not taxable;
  - Income from securitisation trust classified as "business income" -
- Foreign investors not taxable on income earned from the AIF or gains arising on transfer of units of AIF. Tax credit available for investors subject to laws of home country, Form K1 generally issued for US investors
- No requirement to obtain PAN and filing Tax return in India for foreign investors

<u>Taxation holiday for FME</u>

- FME tax exempt for 10 consecutive years out of first 15 years
- No GST on management fees/ performance fees

Category I/ II AIF in India/ IFSC—structure and tax implications



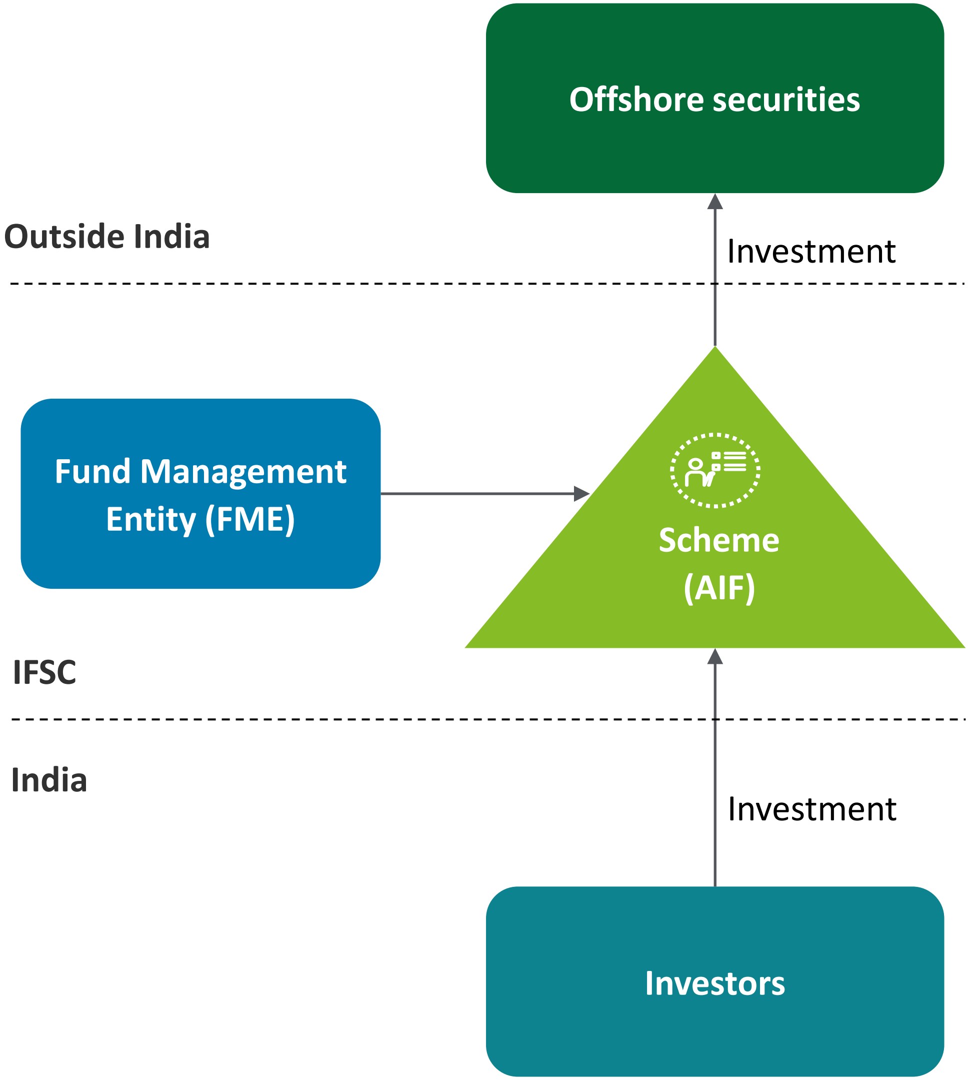
Taxation aspects for Fund and the investors

- **One level of tax—**income earned by AIF taxed in the hands of investors (except business income)
- **Business income—**taxable in the hands of AIF, exempt in the hands of investors
- Foreign investors can claim benefits of tax treaty, wherever available
- **Loss** (other than business loss) - allowed to investors on pass-through basis, if AIF unit held for at least 12 months
- **Withholding**: AIFs to withhold tax @ 10% on pass through income credited / distributed to investors (for non-residents, as per rates in force)
- **Reporting requirement**—Form 64C (Statement of income distributed by an AIF to unitholders) to be provided to the Investors; Form 64D (sstatement of income paid or credited by an AIF) to be filed with Income-tax Authority
- **In case of IFSC Category I/ II AIF**—Foreign investors not taxable on income earned from the AIF or gains arising on transfer of units of AIF. No requirement to obtain PAN and filing Tax return in India
- Tax credit available for investors subject to laws of home country, Form K1 generally issued for US investors

Taxation aspects for FME in case of IFSC Category I/II AIF

- FME tax exempt for 10 consecutive years out of first 15 years
- No GST on management fees/ performance fees

Outbound Fund structure—Scheme in IFSC for pooling from domestic investors



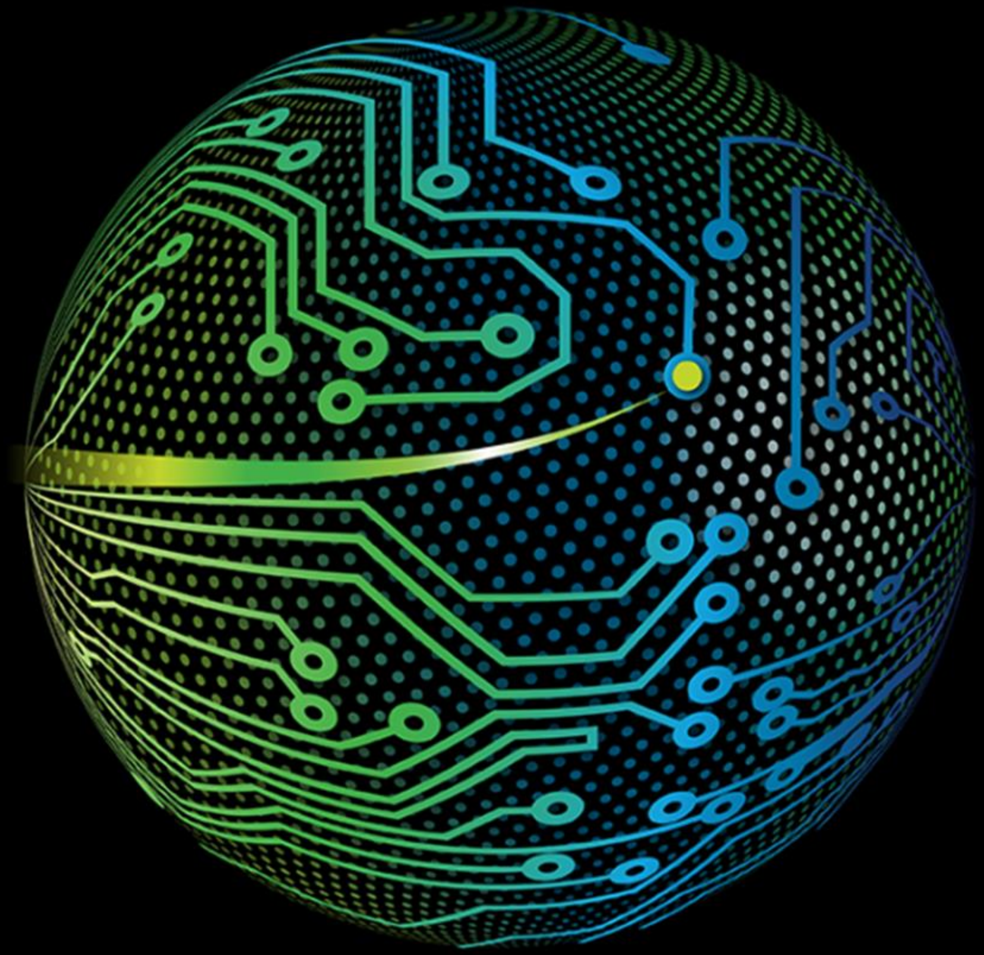
<u>Taxation aspects of Funds and its investors</u>

- No tax exemption for such Scheme set-up in the IFSC
- Tax regime for such Schemes would depend upon the category of the Scheme in IFSC
  - **Category III AIF in IFSC:** Tax levied and collected at Scheme level. No tax at investor level;
  - **Category II AIF in IFSC:** Pass through at the AIF level and taxable in the hands of investors (as explained earlier);
  - **Tax rates on securities: Long-term capital gains—**10%/ 20%, Short term capital gains—15%/ 30%/ 40% (plus applicable surcharge and cess);
  - **Dividend/ interest income:** 30% (plus applicable surcharge and cess).

<u>Investment Limits for resident Indian investors</u>

- **Maximum number of investors**: 1,000
- **Minimum contribution from investors**: Atleast USD 150,000 (USD 40,000 for employees/ directors/ partners of FME)
- **Maximum investment limit for resident Indian investors**:
  - **Individuals:** Can be made under the LRS route—limit of USD 250,000 per person per financial year. TCS @ 20% applicable;
  - **Other than individuals** - Investment permitted under the Overseas Portfolio Investment ('OPI') route - up to 50% of its net-worth as per latest audited balance-sheet.

Japan



Overview of Japanese tax issues for fund investment (inbound /outbound)

Investor taxation

Investment into Japan (Japan inbound investment)	Investment from Japan (Japan outbound investment)
Key Japanese tax considerations for non-Japanese investors	**Key Japanese tax consideration for Japanese investors**
• Permanent establishment (CIT ≈ 30% tax rate) • 25/5 Rules, including aggregation issues (CIT ≈ 26% tax rate) • Real Estate Holding Company ("**REHC**") (CIT ≈ 26% tax rate) • Japanese Consumption Tax ("**JCT**") (10%)	• Entity classification (transparent or opaque) • Japanese controlled foreign company ("**CFC**") rules

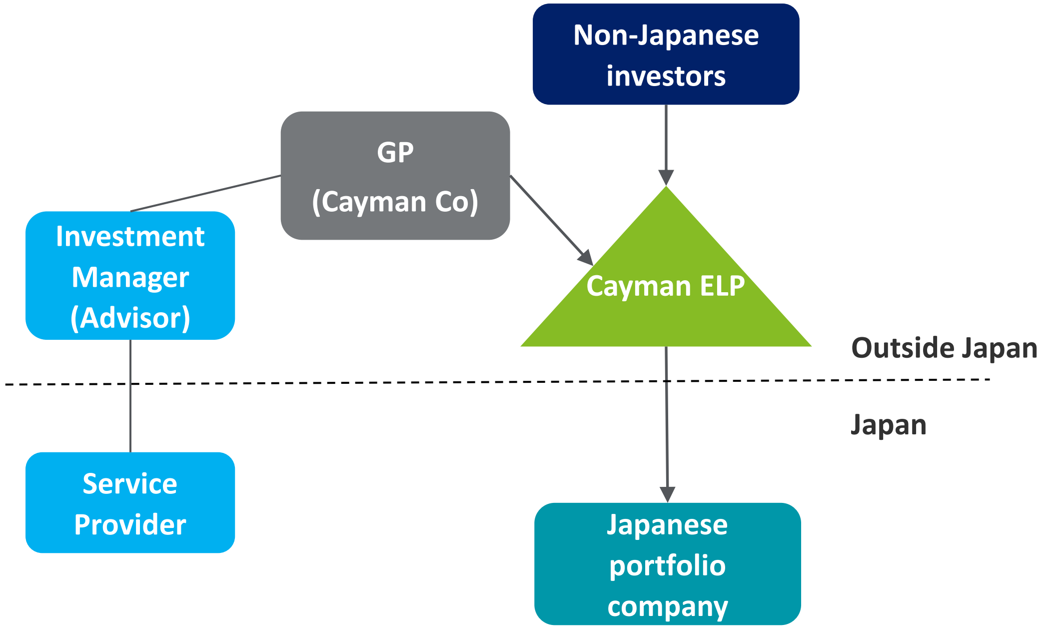
Fund manager taxation

Key Japanese tax consideration for individual carried interest recipient
After clarification of carried interest taxation by J-FSA, introduction of carried interest scheme is becoming popular

Investor taxation (Japan inbound investment)

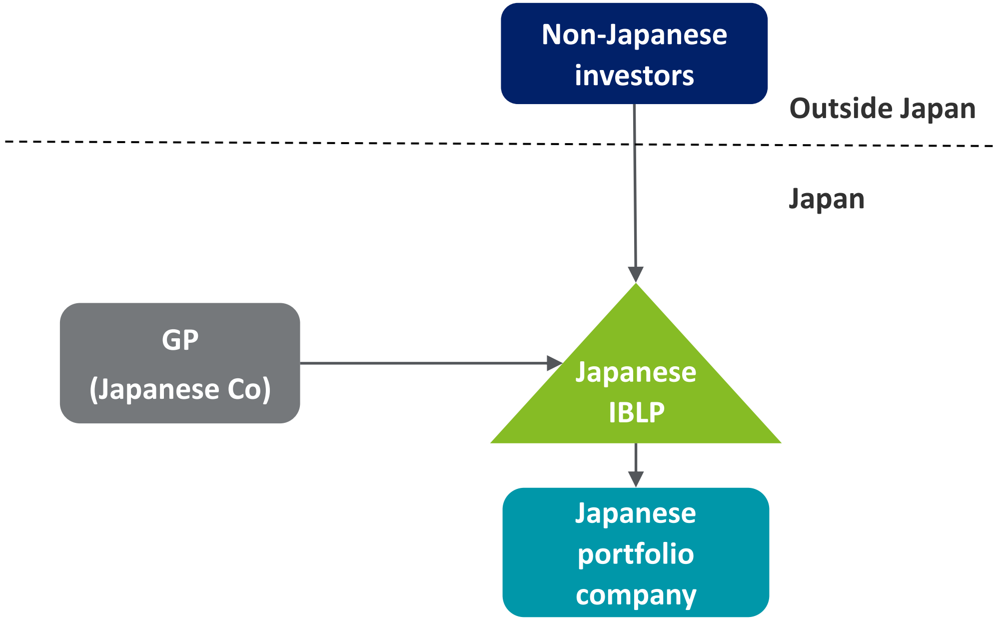
Typical fund structure for private equity investment for non-Japanese investors

Cayman ELP structure



Japanese tax issue	
PE exposure	Yes, need to manage
25/5, REHC, aggregation	Yes, need to manage
JCT on Management fees	No

Japanese IBLP structure



Japanese tax issue	
PE exposure	Deem to have a PE, PE exemption
25/5, REHC, aggregation	Yes, need to manage
JCT on Management fees	In principle, Yes

Fund Manager taxation

Carried Interest Clarification (summary of Financial Services Agency Statement)

Principles of partnership taxation

- Japanese general partnerships (Nin-i-Kumiai), Investment limited partnerships, limited liability partnerships, and similar foreign partnerships are subject to member taxation (pass-through taxation).

- In principle, profit and loss recognition is recognised in accordance with the **distribution ratio (pro-rata)** such as the ratio of investment, provided, however, that distributions can be made without pro-rata if there is **economic rationality** in view of the status of investment and the contribution of the partnership business.

In cases where there is economic rationality in the distribution of profits (i.e. 80:20 carried interest allocation), etc., clarification that shares are not subject to comprehensive taxation (progressive tax rates up to 55%) but are subject to separate taxation (20.315% flat rate) as "gains on the transfer of shares, etc."

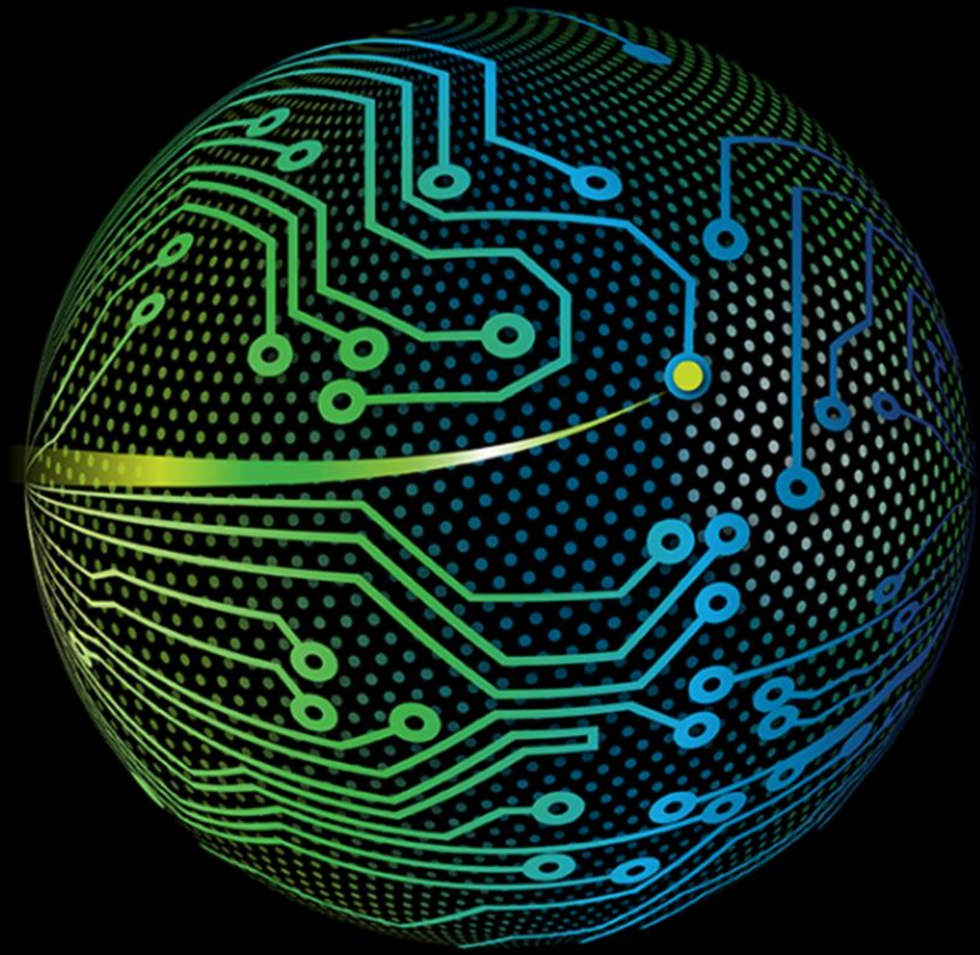
Assumptions

- The conclusion of partnership contracts and the management of partnership property are carried out in accordance with various laws and regulations.
- Fund manager contributes money and other assets to the investment partnership
- The allocation of the carry interest as a share of the partnership's profits to its partners
- Fund invests into shares and source of carried interests are capital gains

Essence of economic rationality

- The conditions of distribution set out in a partnership agreement are not arbitrary
- The content of the partnership agreement is based on common business practices
- Fund manager's contribution to the investment partnership business

Singapore



Key Budget 2024 Update

01

Implementation of Income Inclusion Rule (IIR) and Domestic To-up Tax (DTT)

In line with the BEPS 2.0 Pillar Two rules, Singapore will implement the IIR and DTT, which will impose a minimum effective tax rate of 15% on businesses' profits from financial years starting on or after 1 January 2025.

02

Extension and enhancement of the tax incentive schemes for funds managed by Singapore-based fund managers

The fund incentive schemes under Sections 13D, 13O and 13U of the ITA have been extended until 31 December 2029. The economic criteria for qualifying funds will be revised with effect from 1 January 2025.

03

Additional concessionary tax rate tier for Finance and Treasury Centre (FTC)

To ensure that tax incentives remain relevant and competitive, an additional CTR tier of 10% will be introduced under the FTC incentive with effect from 17 February 2024.

04

Introduction of Refundable Investment Credits (RIC)

The new RIC scheme encourages companies to make sizeable investments that bring substantive economic activities to Singapore, in key economic sectors and new growth areas. See details in the next slide.

05

CIT Rebate for YA 2024 and CIT Rebate Cash Grant

50% of corporate income tax payable for YA 2024, capped at S$40,000 (less CIT rebate cash grant received, if any) and a minimum benefit of S$2,000 in the form of a cash payout.

06

FRS 117 Insurance Contracts

The new accounting standard FRS 117 Insurance Contracts supersedes FRS 104 Insurance Contracts. This change is effective from YA 2024 (YA2025 for insurers with financial year end other than 31 December).

Key Budget 2024 Update

Extension and enhancement of funds tax incentive

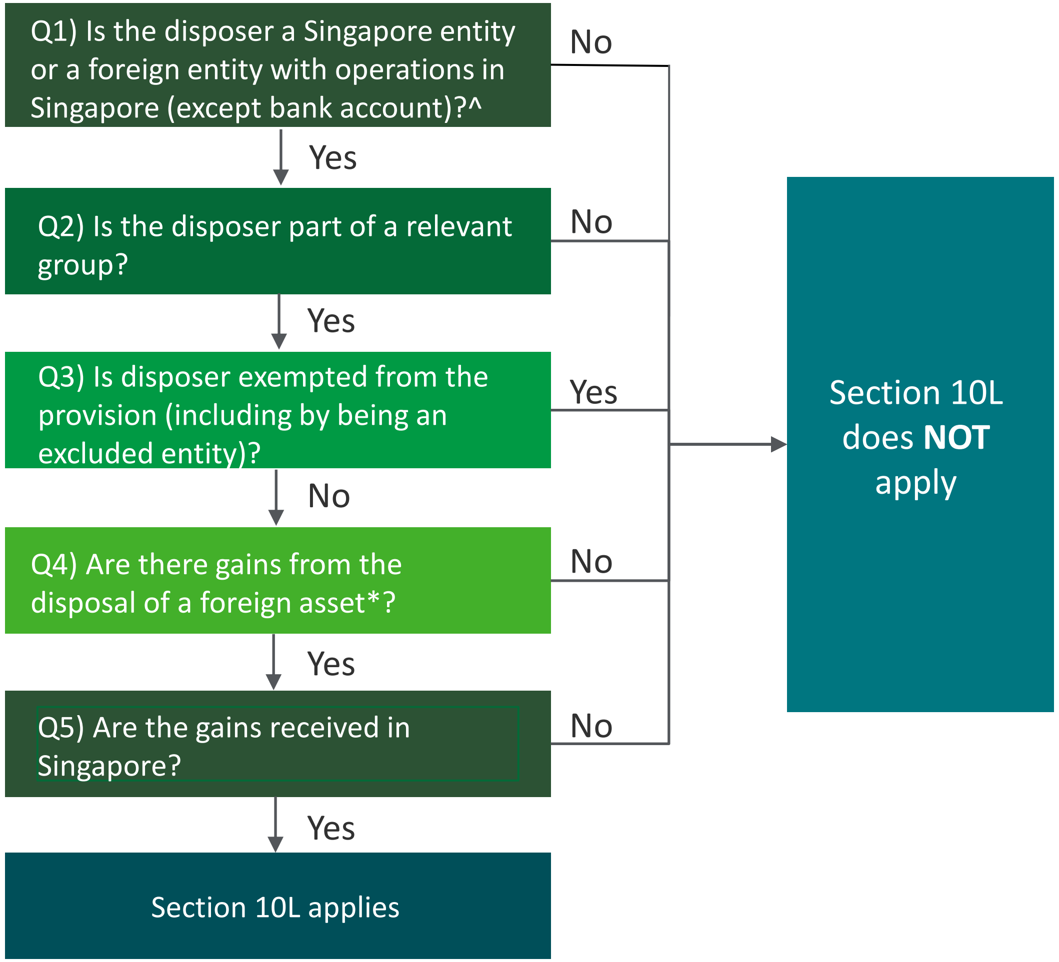
1. The fund incentive schemes under Sections 13D, 13O and 13U of the ITA have been extended until 31 December 2029 (previously to lapse after 31 December 2024).
2. Section 13O scheme will be enhanced to include Limited Partnership fund vehicles registered in Singapore.
3. The economic criteria for qualifying funds will be revised.

All changes will take effect from 1 January 2025. MAS will release additional details by Q3 of 2024.

	Offshore Fund Exemption (Section 13D of the Income Tax Act)	**Resident Tax Exemption (Section 13O of the Income Tax Act)**	**Enhanced Tier Fund Exemption (Section 13U of the Income Tax Act)**
Fund's legal form	Companies, trusts and individuals[3].	Companies **and Limited Partnerships** incorporated in Singapore.	Funds constituted in all forms[4] .
Investors	Non-qualifying investors would need to pay a financial penalty to the Singapore tax authorities.	Non-qualifying investors would need to pay a financial penalty to the Singapore tax authorities.[6]	No restrictions.
Assets under management (AUM)	No restrictions.	No restrictions.	Minimum of S$50 million at the point of application (committed capital concession available for real estate, infrastructure, private equity, debt, and credit funds).
Fund expenditure	No restrictions.	At least S$200,000 in expenses in a financial year.	At least S$200,000 in expenses in a financial year.
Fund administrator	No restrictions.	Singapore-based.	Singapore-based if the fund is a Singapore-incorporated and resident company.
Approval requirement	No approval needed from MAS	Approval required from MAS. No change in investment strategy allowed after approval.	Approval required from MAS. No change in investment strategy allowed after approval.

Section 10L
Overview

- A new tax in Singapore that covers gains that would otherwise be not chargeable to tax (i.e., capital gains), or would otherwise be tax exempt.
- Targets entities part of a multi-national group **preparing consolidated accounts**, where such entities do not have sufficient economic substance in Singapore.
- Specific exemptions are granted to various industries—but notably there are no specific exemptions to fund vehicles with the Section 13D/13O/13U incentives.



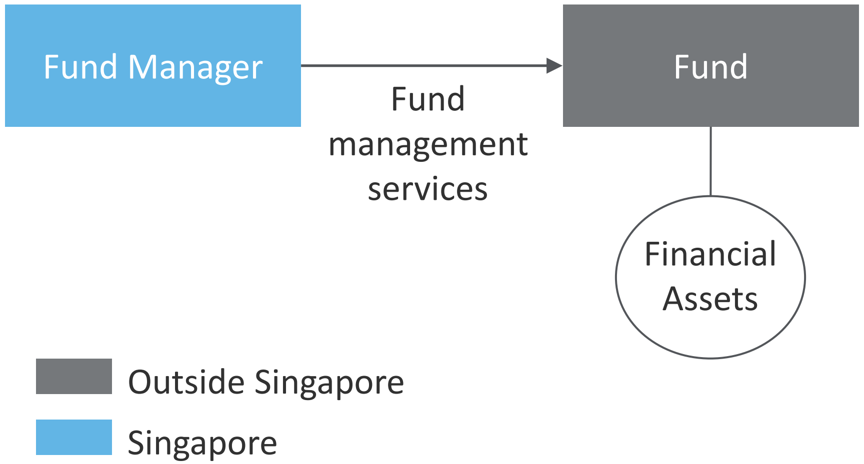
Key Concepts

Sufficiency of substance

"Example 1" under IRAS e-Tax Guide	"Example 2" under IRAS e-Tax Guide
Company G is an investment holding entity in Singapore that mainly invests in equities and provides loans to its related parties. As Company G provides loans in addition to investing in equities, it is a non-pure equity-holding entity. Company G disposes some shares in a foreign company in 2024. Company G has two full-time employees with relevant qualifications to manage the investments in Singapore and they make decisions in relation to the company's investments and financing arrangements. It also incurs $100,000 of local business expenditure (e.g., rental expense, staff costs, statutory expenses) in 2024. It will be considered to have met the economic substance requirement in 2024.	Company H is a small entity with an annual turnover of less than $5 million. It is not a pure equity-holding entity or an investment holding entity. It disposes some foreign assets in 2024. Company H employs one full-time employee in Singapore to carry out its core income generating activity and make key business decisions. It also incurs $50,000 of local business expenditure in 2024. It will be considered to have met the economic substance requirement in 2024.

Key Concepts

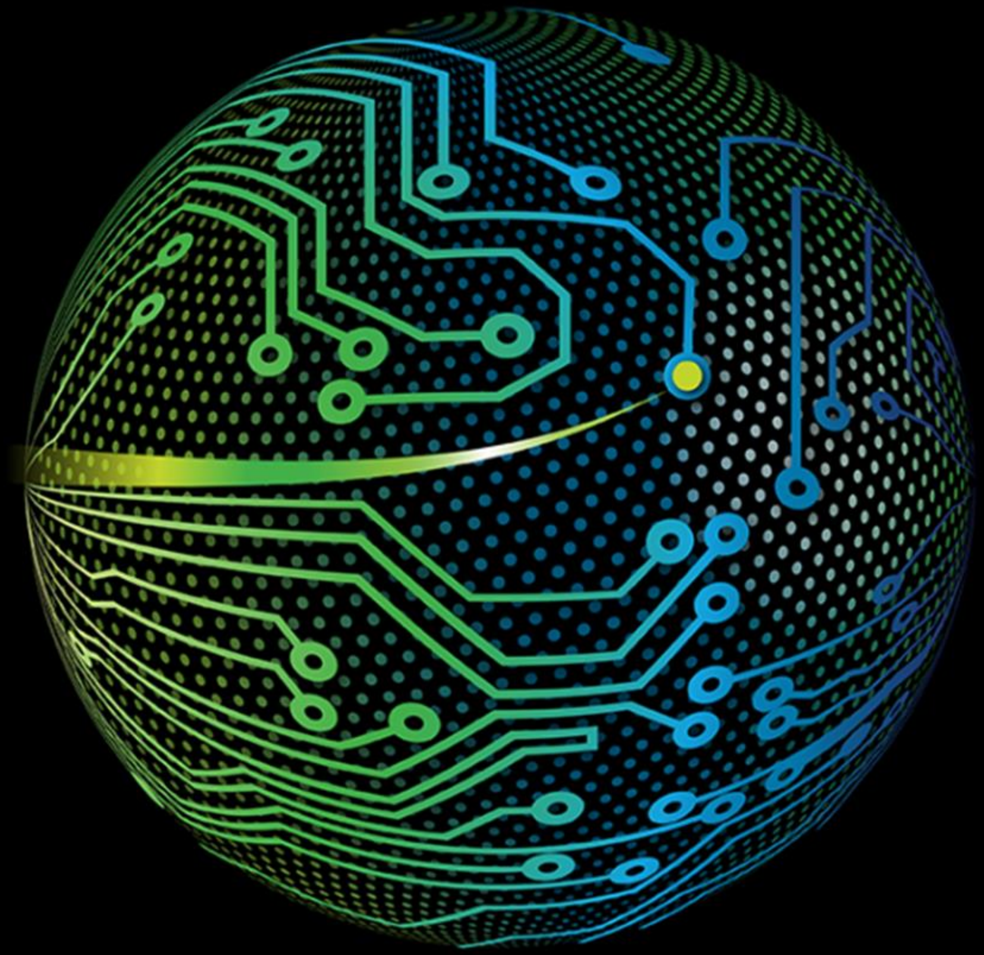
Sufficiency of substance



Outsourced arrangements

- In the context of the e-Tax Guide discussion on non-PEHEs, IRAS has stated that the economic substance requirement takes into account outsourcing arrangements, provided that the following conditions are met:
  - the economic activities are to be carried out by the outsourced entity in Singapore;
  - the outsourcing entity has a direct and effective control over the outsourced activities carried out by the outsourced entity on its behalf (i.e., the outsourcing entity has exercised adequate monitoring and control of the economic activities carried out by the outsourced entity); and
  - the outsourced entity providing the outsourced services must set aside dedicated resources (e.g., manhours) to provide the outsourced services.
- IRAS expects the outsourced entity to charge an arm's length fee.
- IRAS has stated that it is possible for one employee of the outsourced entity to provide support to more than one entity.
- The e-Tax Guide does not contemplate multiple layers of outsourcing.

South Korea



South Korea
OIV Regime

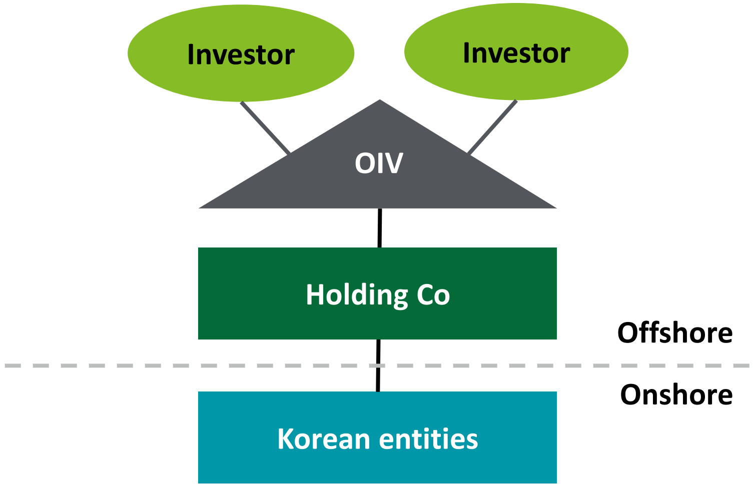
Summary of OIV Regime

The Korean Offshore Investment Vehicle (OIV) regime has been in existence for a few years now. Due to recent revisions that clarified the treatment of private equity funds as "flow through" vehicles rather than as beneficial owners themselves, the Korean tax authorities have mostly come to accept the OIV taxation regime in practice.

Most PE funds and other similar investors now mostly model that a blended OIV "flow through" tax rates based on the tax residency of the ultimate investors (LPs) will likely be applicable for Korean investments rather than the tax rate that would attributable to the fund itself. Note, that if the fund entity is liable to tax in its country of residence and was not set up for tax avoidance, a look-through approach may still apply.

Definition of an OIV

1. An OIV is defined as an organisation that is established outside of Korea where it solicits money from investors and manages the fund by acquiring, disposing of, or investing in valuable assets, including but not limited to purchases and sales of such assets and the distribution of its profits to the investors.
2. Funds generally clearly fall within the definition of an OIV and should therefore not be regarded as the beneficial owners of any income stream.



Exceptions to applying the OIV regime approach

1. If the fund entity is liable to tax in its country of residence and was not set up for tax avoidance, a look-through approach will not apply and instead the fund entity will be regarded as the beneficial owner
2. The fund does not disclose the information of investors. (In such a case, no DTT will apply, i.e., 22% will apply)
3. The fund entity (offshore investment vehicle) is treated as a beneficial owner under the relevant DTT (does not currently exist under the treaty network)

South Korea

OIV Regime

Practical considerations

As such, advanced preparation is necessary and would require the following information such as:

	Required Documents
Beneficial Owner (Ultimate LP)	• Application for Reduced (or exempt for CGT) Withholding Tax Rate with detailed information such as name, type of entity, address, etc. • **Certificate of Tax Residency (“COTR”)**
Overseas Investment Vehicle (“OIV”)	• Report of Overseas Investment Vehicle with accompanying documentation

Given that obtaining a COTR can take time and LPs often are reluctant to provide additional information

Funds targeting Korean investments have begun informing the LPs up front that the documentation will be needed and may collect the information in advance of any OIV filing for dividends, interest or capital gains on exit

While the OIV regime is not often used and few questions as to its applicability remain, the buyer (as the withholding tax agent) will ask for indemnity on any exempt CGT taxes upon sale using the OIV regime. The indemnity period can be 7-10 years. Recently, insurers have indicated a willingness to provide OIV indemnity insurance.

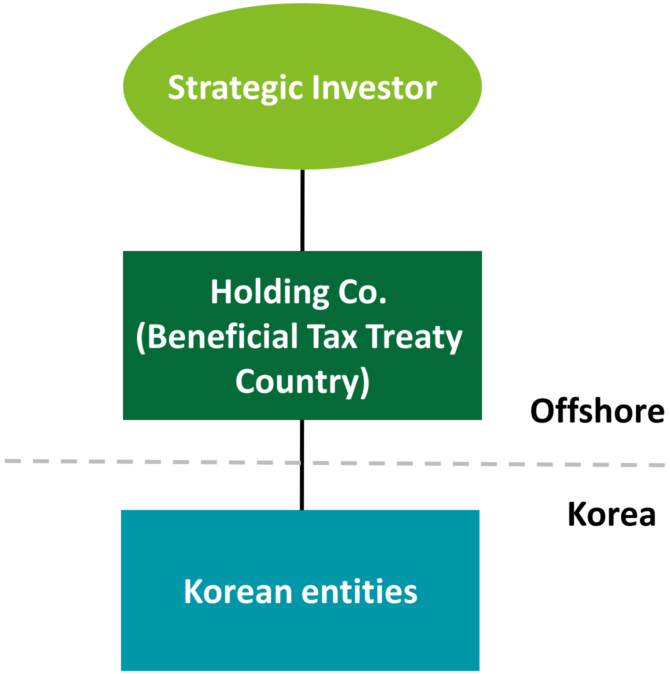
Note: In cases where the documentation is not available at the time of an original filing, an amended filing may be possible but should be stipulated in closing documents (SPA).

South Korea

Beneficial Ownership/MLI Principal Purpose Test

Existing Structures/Significant Substance

- For investments not qualifying for OIV treatment or other strategic investments, the tax authorities continue to focus on beneficial ownership to deny treaty benefits by reviewing the following factors:
  - Business purpose
  - Liable to tax
  - Substance
  - Channeling/Conduit Payments
  - Entity type
  - Tax avoidance intent
- Effective September 1, 2020, the Multi-Lateral Instrument (MLI) for Korea entered into force which effectively amends 32 of Korea's CTAs depending on the MLI position of both contracting states
- While Korea reserved the application of most MLI articles to the CTAs while opting for the application of Article 6, Article 7, Article 16 and Article 17 in certain circumstances, Korea did opt to adopt the principal purpose test or PPT (paragraph 1 of Article 7) which would deny a benefit under a CTA if it is reasonable to conclude under all relevant facts and circumstances that obtaining such benefit was **one** of the principal purposes of any transaction unless granting that benefit would be in accordance with the object and purpose of a CTA.

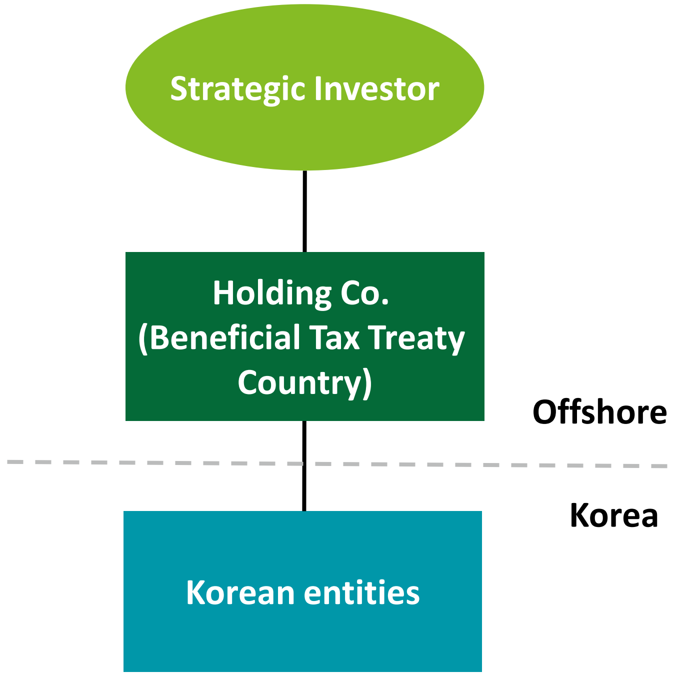


South Korea

Indirect Transfer—Could it be Subject to Tax?

Indirect Transfer of Shares in Korean Investment

- Korea tax law is silent on the indirect transfer issue
- There is only one relevant tax ruling released by the Korean tax authorities in response to a taxpayer's request with respect to the application of the substance-over-form principle to indirect share transfer cases. According to the tax ruling, an indirect transfer of shares via the sale of the shares in a foreign company could be treated as a direct sale of the shares in a Korean company subject to Korean taxation pursuant to the substance-over-form principle stipulated in the Korean tax laws, and that such determination should be made on the basis of the facts and circumstances of each transaction. The tax ruling by itself does not provide any additional guidance on the application of the substance-over-form principle to indirect transfer cases.
- We understand that there was a recent assessment case made on the indirect transfer of Korean entity shares based on the abovementioned principles and tax authorities' interpretation that the indirect transfer was solely arranged to avoid Korean taxes (without commercial grounds).
- If the owner of the Korean shares owns more than just the Korean entity, it is unlikely to be considered to be done for tax avoidance.



Recent Tax Reform and Other Changes

Highlights of Major Tax Law Changes that May Impact Korean Investors

- Pillar 2—IRR effective January 1, 2024 and UTPR effective January 1, 2025. No QMDTT at this point and nothing proposed yet.
- Overall reduction in corporate tax rates of 1% per tax bracket (highest rate now 26.4% assuming local tax is adjusted also)
- Elimination of Accumulated/Undistributed Earnings Tax (with exception of Korean conglomerates with cross shareholding)
- Revised Dividend Received Deduction (DRD) as follows:

Ownership percentage of subsidiary	DRD rate after revision
50% or more	100%
20% to 50%	80%
Less than 20%	50%

- Lower ownership threshold for filing consolidated tax returns from 100% to 90% ownership requirement
- Increase of the limit for use of carried forward net operating losses ("NOL") from 60% to 80% of current year taxable income
- Tax on Income Attributed to Overseas Pass-Through Entity Election whereby Korean entity can elect to treat passthrough income as income in year overseas passthrough entity earns the income rather than the year the Korean entity receives the actual income distribution
- Korean PEF distributions to Overseas investors will follow character of underlying income rather than automatically be treated as a dividend

South Korea

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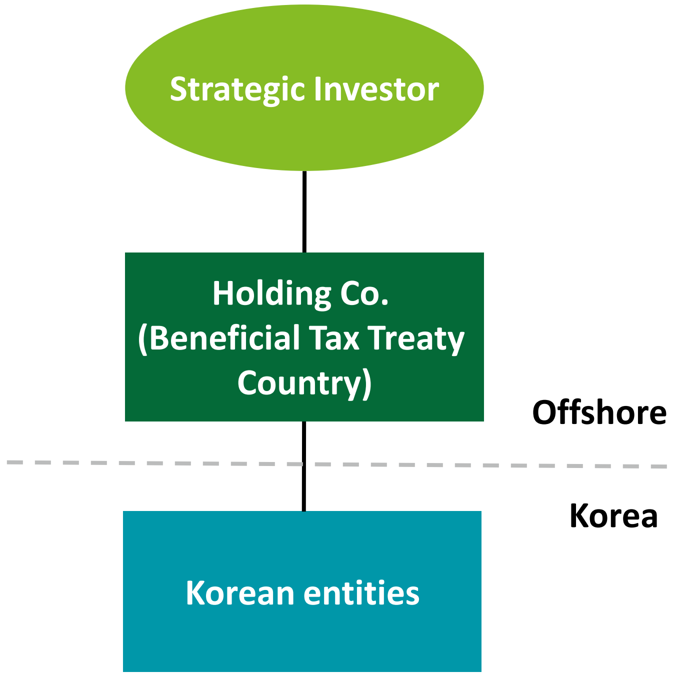
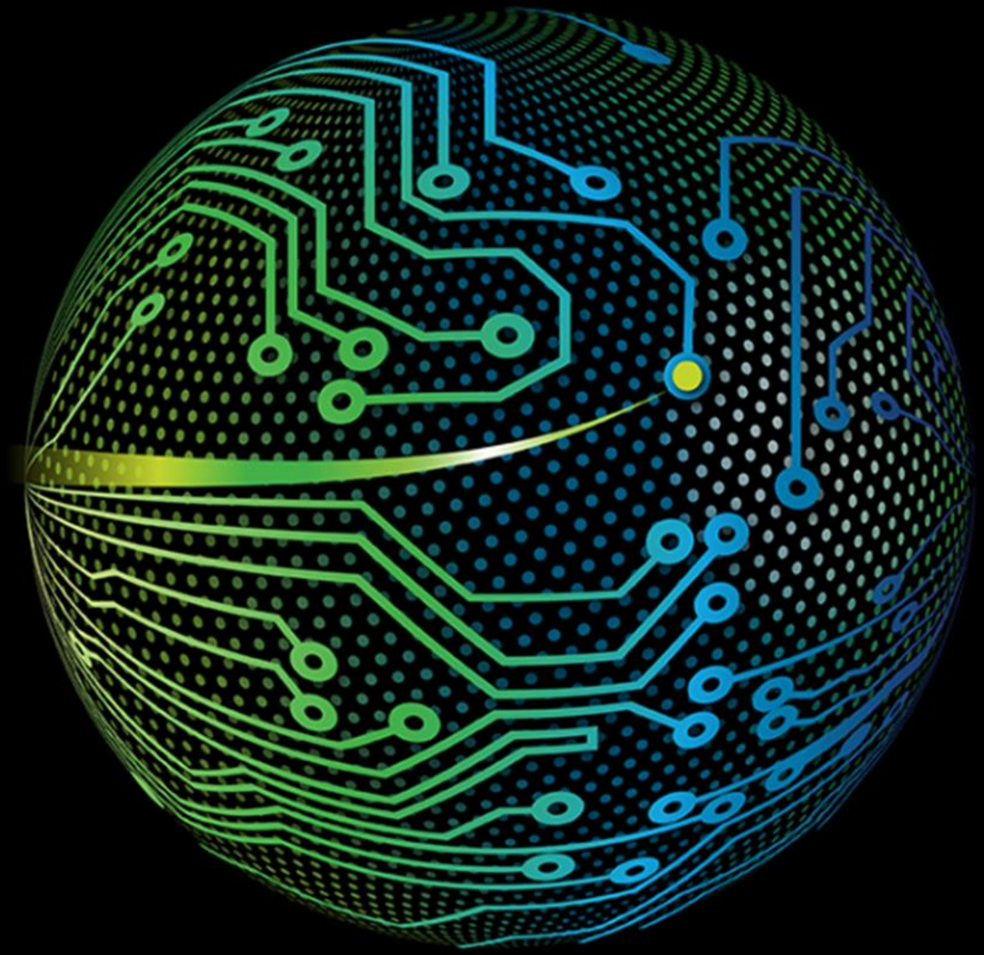


Appendix



India—Taxation of income arising from FPI investments in equity and debt securities

Taxation of equity securities	Taxation of debt securities under all routes of debt investment
Long term gains from transactions—Taxable at 10%.	Long term capital gains on sale of debt instruments—Taxable at 10%.
Short term gains chargeable to STT—Taxable at 15%.	Short term capital gains on sale of debt instruments—Taxable at 30%.
Short term gains not chargeable to STT—Taxable at 30%.	Interest income earned on securities—Taxable at 20%.
Dividends received from Indian companies—Taxable at 20% with effect from April 1, 2020.	Under the ECB route, Interest income earned on bonds listed on recognized stock exchange issued on or after 1 July 2023 —Taxable at 9%.
	Premium received upon redemption of debt securities taxed as interest income.
	Accrued interest in the sale proceeds taxed as capital gains and not interest income.
	Interest on securities offered to tax when it is received (pay date concept).

- Where an FPI is eligible to avail treaty benefits as per the Double Taxation Avoidance Agreement, the tax rate applicable will be lower of the tax rate as per the Income-tax act or tax-treaty, whichever is more beneficial.

India—FPI Tax Rates

Type of income		Non-Corporates*	Corporates	Partnership firms
		Applicable Tax Rate Range (min—max)		
Capital gains on transfer of listed equity shares/equity oriented mutual fund /units of business trust (subject to STT)	Long-term**	10.4—11.96	10.4—10.92	10.4—11.648
	Short-term	15.6—17.94	15.6—16.38	15.6—17.472
Capital gains on transfer of other securities (including derivatives and debt Mutual Funds)	Long-term	10.4—11.96	10.4—10.92	10.4—11.648
	Short-term	31.2—35.88	31.2—32.76	31.2—34.944
Interest income on government securities, qualifying corporate bonds and municipal bonds#	Up to June 30, 2023	5.2 — 7.124	5.2—5.46	5.2—5.824
	From July 01, 2023	20.8—28.496	20.8—21.84	20.8—23.296
Dividend		20.8—23.92	20.8—21.84	20.8—23.296
Other interest income from securities		20.8—28.496	20.8—21.84	20.8—23.296
Interest on Income Tax Refunds		31.2—42.744	41.6—43.68	31.2—34.944
Buy Back of shares##		31.2—42.744	41.6—43.68	31.2—34.944

*Non-corporate persons including Trusts, Association of Persons, Individuals, Artificial Juridical Persons

**grandfathering benefits shall be available incase the securities are purchased before February 1, 2018

5% (plus surcharge and cess) is applicable on interest on government bonds / municipal bonds and those corporate bonds whose coupon rate does not exceed 500 bps of base rate of State bank of India on date of issuance of bonds

The Indian company paying buyback proceeds is required to pay distribution tax