

Frequently Asked Questions– Shrem InvIT

Compilation of “Frequently asked Questions” (‘FAQ’s) and income-tax treatment for distributions by the Shrem Infrastructure Investment Trust (‘Shrem InvIT’) in the hands of the Unitholders under the Indian Income-tax Act, 1961 (‘the Act’) read with the Income -tax Rules, 1962 (‘the Rules’) [collectively referred to as ‘Indian income-tax law ’]

Applicable for Financial Year 2022-2023 i.e. Assessment Year 2023-2024

BY READING THIS FAQ THE RECIPIENT ACKNOWLEDGES THAT THE RECIPIENT WILL BE SOLELY RESPONSIBLE FOR ITS OWN ASSESSMENT OF THE TAX POSITION OF THE UNITS HELD IN THE SHREM INVIT. THIS FAQ MAY NOT BE ALL INCLUSIVE AND MAY NOT CONTAIN ALL OF THE INFORMATION THAT THE RECIPIENT CONSIDERS MATERIAL. THIS DOCUMENT IS TO BE READ ALONG WITH ALL DISCLAIMERS FORMING PART OF THE ATTACHED DOCUMENT.

1. What is the nature of distribution by the Shrem InvIT?

Distribution to the Unitholders of the Shrem InvIT can be characterized as,

- (i) dividend, or
- (ii) interest, or
- (iii) Return of Capital, or
- (iv) any combination of the above.

As per the provisions of section 115UA(1) of the Act, the income distributed by the Trust shall be deemed to be of the same nature and in the same proportion in the hands of the Unitholders as if such income was received by or accrued to the Trust.

In accordance with the provisions of Section 115UA of the Act, any distribution made to the Unitholder by Shrem InvIT shall be deemed to be of the same nature and in the same proportion in the hands of the Unitholder, as it had been received by or accrued to Shrem InvIT.

2. There is a new beneficial tax regime in place where SPV’s have an option to opt for a reduced tax rate [under section 115BAA of the Act]. Have the SPV’s opted for the lower tax regime under the Income-tax Act, 1961 (‘the Act’)?

The SPVs under Shrem InvIT have not opted for the lower tax regime under section 115BAA of the Income Tax Act.

3. What are the tax implications of the distributions in the hands of a Unitholder?

Nature of Income	Taxability in hands of Resident Unitholders	Taxability in hands of Non- Resident Unitholders
Distribution of interest income earned by Shrem InvIT from underlying SPVs	Taxable at applicable rates	Taxable at concessional rate of 5% (plus applicable surcharge and cess)
Distribution of dividend income earned by Shrem InvIT from underlying SPVs, where SPVs have not opted for the tax regime under section 115BAA of the Act.	Exempt	Exempt

Note: A non-resident shall be entitled to claim benefits, if any, under the applicable Double Tax Avoidance Agreement ('DTAA') that India may have entered into with its country of residence, subject to fulfilment of necessary conditions as applicable.

4. What is the Tax withholding obligation on distribution of income by InvIT to the Unitholders?

As per the provisions of Section 194LBA of the Act, **interest income** distributions by an InvIT from the underlying SPVs and distributed to the Unitholders shall be subject to withholding of taxes.

Please note that reliance will be made on the BENPOS report and declaration/ documents obtained from the unitholders, with respect to details of residential status of the Unitholders (i.e. resident or non-resident) and the category of Unitholders (i.e. individual, body corporate, firm, trust, etc.).

Tax withholding rates on distributions made by the Shrem InvIT to various Unitholders on income-streams characterized as **interest income** in terms of section 115UA of Indian income-tax law.

In case of Resident Unitholders:

Category of Unitholder	Withholding tax rates in case of 'Tax Resident' for the period April 1, 2022 to March 31, 2023
Individuals	10%
Trust / Association of Persons / Body of individuals	10%
Hindu Undivided Family/ Firm / Limited liability partnership	10%
Alternate Investment Fund ('AIF') – Category I and II	0%
Central Government vide CBDT notification No.51/2015 dated 25th June 2015 has granted TDS exemption on all incomes other than business profits	

received by Category I and II AIFs.	
Alternate Investment Fund – Category III	10%
Mutual Fund Under section 10(23D) of the Act, any income earned by a Mutual Fund registered under the SEBI Act, 1992, or a Mutual Fund set up by a public sector bank or a public financial institution, or a Mutual Fund authorized by the Reserve Bank of India would be exempt from income-tax, subject to such conditions as the Central Government may by notification in the Official Gazette specify in this behalf. Further, section 196 provides that tax is not required to be deducted for any sum payable, being in the nature of interest or dividend in respect of any securities owned by mutual funds specified under section 10(23D) of the Act]	0%
Company	10%

In case of Non-Resident Unitholders:

Category of Unitholder (Non- residents)	Where the income or the aggregate of such incomes paid or likely to be paid and subject to tax deduction	Effective tax rate (inclusive of surcharge & education cess) in case of ‘Non-Residents’
Individuals, trusts, body of individuals, association of persons etc.	- is below fifty lakh rupees	5.20%
	- exceeds fifty lakh rupees does not exceed one crore rupees	5.72%
	- exceeds one crore rupees but does not exceed two crore rupees	5.98%
	- exceeds two crore rupees but does not exceed five crore rupees	6.50%
	- exceeds five crore rupees	7.124%
Foreign Portfolio Investor (‘FPI’)/ Foreign Institutional Investor (‘FII’) set up as a Trust or an Association of Persons	- is below fifty lakh rupees	5.20%
	- exceeds fifty lakh rupees does not exceed one crore rupees	5.72%
	- exceeds one crore rupees but does not exceed two crore rupees	5.98%
	- exceeds two crore rupees but does not exceed five crore rupees	6.50%

	- exceeds five crore rupees	7.124%
Foreign firm/ Foreign limited liability partnership	- is below one crore rupees	5.20%
	- exceeds one crores rupees	5.824%
Foreign company	- is below one crore rupees	5.20%
	- exceeds one crore rupees but does not exceed 10 crores	5.304%
	- exceeds 10 crores	5.46%

Please note that non-resident investors may provide a declaration of income for a particular financial year as per **Annexure 1** attached herewith so that taxes may be withheld appropriately. As you will note from the above table, the rate of surcharge varies depending upon the aggregate income of a non-resident taxpayer. In case no declaration is made, taxes would be deducted at the highest applicable rate.

6. What will be the taxes deductible for different categories of investors in case the distribution is in the form of dividend as envisaged under section 115UA of the Act?

No tax is deductible on dividends paid by the Shrem InvIT to the Unitholders as per the provisions of section 194LBA of the Act [given the fact that the SPV's of the Shrem InvIT have not opted for the beneficial tax regime for the financial year 2022-23].

7. What will be the taxes deductible for different categories of investors in case the distribution is in the form Return of Capital?

No tax is deductible on return of capital by the Shrem InvIT to the Unitholders consequent upon amortization of debt.

8. What is Return of Capital? In case the distribution is in the form of Return of Capital, whether such amount received by the investor would need to be reduced from the cost of acquisition of the units in the hands of the investor?

Return of capital is the payout made corresponding to the repayment of loan by underlying SPVs to the Trust in turn generated from operating cash-flows of the SPVs.

Further Return of capital forms a part of distribution for Business trusts globally and is included in calculation of returns for the Trust.

Section 48 of the Act reads as follows:

“The income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely :—

- (i) expenditure incurred wholly and exclusively in connection with such transfer;
- (ii) the cost of acquisition of the asset and the cost of any improvement thereto.”

Section 48 of the Act does not provide for any adjustment on account of amount received from the business trust as amortization of loan from SPV. Therefore, no deduction from the cost of acquisition of the units held by the investor is warranted.

9. What is taxability on sale of units of the Shrem InvIT?

The units of the Shrem InvIT shall be regarded as long-term capital assets if the same are held for a period of more than 3 years. If held for a period of less than 3 years, then such units will be regarded as short-term capital assets.

In case the Shrem InvIT units are held as a capital asset by the Unitholder, gains arising on sale of the Shrem InvIT units will be liable to tax as under:

Nature of Gains	Relevant section as per Income Tax Act	Tax Rates
Long term Capital Gains ('LTCG')	Section 112A	10% (plus applicable surcharge and cess) without indexation, where the amount of capital gain exceeds INR 100,000
Short Term Capital Gains ('STCG')	Section 111A	15% (plus applicable surcharge and cess) without indexation

The above rates of taxes are applicable on the basis that the units are transacted through a recognised stock exchange and such transfer of Shrem InvIT units have been subjected to Securities Transaction Tax ('STT'). Additionally, non-resident Unitholders may seek to claim a lower rate of tax on the above income, under an applicable DTAA that India may have entered into with its country of residence subject to fulfilment of necessary conditions as applicable.

Where the Unitholder is a domestic company, the capital gains earned as above will be subject to Minimum Alternate Tax ('MAT'), under section 115JB of the Act (if applicable). However, MAT paid, if any, by such companies should be available as credit which can be set-off against future income- tax liability of such company for a period of up to 15 years as per section 115JAA of the Act.

In case the units are held as stock in trade by the investor, gains on sale of such units of the Shrem InvIT by the Unitholder would be taxable as business income. The implications under MAT would be same as above.

10. When will TDS certificates be issued to the Unitholders?

The TDS certificates in Form 16A shall be issued to the Unitholders on quarterly basis in accordance with the timelines prescribed under Indian income-tax law. The Shrem InvIT will issue the TDS certificates based on the following indicative timeline:

Quarter in which distributions are made	Due date of filing of TDS return	Timeline for issue of TDS Certificates
April to June	On or before 31 July	On or before 15 August
July to September	On or before 31 October	On or before 15 November
October to December	On or before 31 January	On or before 15 February
January to March	On or before 31 May	On or before 15 June

Unitholders will be able to see the credit of TDS in Form 26AS, which can be downloaded from their e-filing account at. <https://www.incometax.gov.in/iec/foportal>.

11. How can Unitholder claim the TDS certificate in case not received?

The TDS certificates are sent to the email id of the Unitholders registered with CDSL/ NSDL. In case not received, email can be sent to the below e-mail address:
coinvit@shrem.in

12. What is the timeline for issue of Form 64B?

Form 64B for distribution made during financial year shall be provided by ShremInvIT to the Unitholders by 30 June of the subsequent financial year.

For Investor Relations: coinvit@shrem.in

Annexure 1

Income declaration by non-residents for withholding of taxes

Sl. No	Particulars	Comments
1.	Name of the Assessee	
2.	Status (Corporate, Trust, individual etc.)	
3.	Permanent Account Number of the Assessee, if available	
4.	Tax Identification Number issued by the country of tax residence	
5.	Financial Year ('FY') for which the declaration is being made	2022-23
6.	Whether this is the first declaration being made for the financial year in question (please provide Yes/No answer only)	
7.	Residential Status for FY 2022-23	
8.	Country of residence for FY 2022-23	
9.	Copy of the Tax Residency Certificate if available	
10.	Address in respect of country of residence	
11.	E-Mail Address	
12.	Phone Number	
13.	Estimated total income for FY 2022-23 in Indian Rupees	

Signature of the Declarant

Designation (if applicable)

Declaration/ Verification

I/We.....do hereby declare that to the best of my/our knowledge and belief what is stated above is correct, complete and is truly stated.

I/ We authorize you to withhold taxes at the applicable rates based on the income declaration provided.

I/ We acknowledge that in case taxes are short deduction on account of this declaration, I/ We would need to pay differential taxes along with appropriate interest to the credit of the Central Government and the Shrem InvIT would not be responsible for any such additional tax, interest or consequential penalties (as applicable).

I/ We acknowledge that in case any excess taxes are deducted based on this declaration, taxes withheld and paid to the credit of the Central Government will not be refunded or adjusted by the Shrem InvIT.

I/ We acknowledge that any change to above declaration within a particular financial year shall be intimated immediately to Shrem InvIT.

Place:

Date:

Disclaimers

1. The FAQs are intended only to provide general information to the investors and is neither designed nor intended to be substituted for professional tax advice. In view of the individual nature of tax consequences, each investor is advised to consult his/ her own tax advisor with respect to specific tax consequences which may arise.
2. No assurance is given that the revenue authorities/ courts will concur with the views expressed herein. Our views are based on the existing provisions of law and its interpretation, which are subject to changes from time to time. We do not assume responsibility to update the views consequent to such changes.
3. The above information is provided in a summary manner only and is not a complete analysis or listing of all potential tax consequences applicable in the hands of the Unitholders under the current tax laws presently in force in India. It is not exhaustive or comprehensive and is not intended to be a substitute for professional advice. Investors are advised to consult their own tax consultant with respect to the tax implications arising on account of any specific transaction/ receipt of income, particularly in view of the fact that certain recently enacted legislation may not have a direct legal precedent or may have a different interpretation impacting the benefits, which an investor can avail.
4. These FAQs do not form any part of an offer, invitation or recommendation to purchase/ subscribe for any securities. These FAQs should not form the basis of, or be relied upon, in connection with, any contract or investment decision in relation to any securities. For any further tax related query, an email can be sent to the following email address: coinvit@shrem.in