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Taxation and Disclosure Requirements for Investment in AIF

An Investors Perspective

A. Taxation of various streams of income from AIFs:

AIFs has 3 different categories i.e. Category I (VC Funds, Debt Funds, etc.), Category II (PE funds, Real estate funds, etc.) and Category III (Hedge funds, etc.). Taxation in the hands of investors will vary based on the AIF category.

1. CAT I and CAT II

CAT I and CAT II have been granted pass through status for tax purposes i.e. income (other than business income, if any) is not taxed at fund level, but is taxed in the hands of the investors. Income in the hands of the investors is taxable in the same manner as if the income were accruing or arising to or received by such investor had the investments made by AIF been made directly by such investor.

Thus, while the characterization of income would take place at the fund level, the taxation would be at the investor level. In case of investor the tax rates for various streams of income from AIF are summarized hereunder:

Type of investors	Individuals / HUF	Firm / LLP	Private Trust	Domestic Company
Long Term Capital Gains				
Listed shares	10% (In case of shares Exemption upto INR 1 lakh + Grandfathering benefit 31 st Jan 18)*			
Unlisted shares	10% (without indexation – applicable only in case of Non-resident)* 20% (with indexation benefit)*			
Other assets	20%(with indexation benefit)*			
Short Term Capital Gains				
Listed shares	15%*			
Unlisted shares / Other assets	MMR Range 32.34% to 42.744%	34.95%	MMR Range 32.34% to 42.744%	29.12% to 34.944% depending on the regime opted by the company
Dividend Income	MMR Range 32.34% to 35.88%			
Other Income	MMR Range 32.34% to 42.744%			

* Plus applicable surcharge and cess.

Surcharge rates:

For individual / HUF – for gains >50 lacs < 1 Crs 10%, gains > 1 Crs 15%.

For Firm / LLP – 12%

For Company – If opted in for new regime – Flat 10%.

For Company – Old regime - for total income >1 < 10 Crs 7%, >10 Crs 12%

Education Cess – 4% for all of the above

In case of non-resident investors, the above rates may be replaced by applicable beneficial DTAA rates on case-to case basis.

Furthermore, when income (other than business income) is distributed by AIF (CAT I & CAT II) to its investors, as per section 194LBB of the Income-tax Act, 1961 ('Act') the same is subjected to withholding tax:

- In case of resident investor, at the rate of 10%;
- In case of non-resident investor, rates under the Act or respective Double Taxation Avoidance Agreement (DTAA), whichever is beneficial

Business income, if any, is taxed in the hands of AIF at the maximum marginal tax rates applicable to such AIF as per the legal status of the AIF. Further, such business income would be exempt in the hands of the investor as per section 10(23FBB) of the Act.

The below illustration provides the various streams and taxation in the hands of the investors:

Illustration:

Particular	Amount (INR)
<i>Income received by AIF (CAT I & CAT II)</i>	
Capital Gains (CG)	500
Other Income (OI)	300
Total	800
Mr. A's share in AIF	20%
<i>Income in the hands of Mr. A</i>	
CG	100
OI	60
Total	160
Income exempt in the hands of AIF (CG + OI)	800
Income taxable in the hands of Mr. A (share of CG + OI)	160

2. CAT III

CAT III have not been granted pass through status for tax purposes and income earned by such AIFs is taxed at fund level depending on the legal form of the AIFs. Indian regulations allows an AIF to be set-up either as a Company or a Trust or a Limited Liability Partnership (LLP).

The taxation in the hands of investors would be as under:

- Where the AIFs is set-up as a Company: An dividend issued by such AIF would be taxable in the hands of investor as dividend income (for rates refer the above table).
- Where the AIFs is set-up as an LLP: Share of profits from the LLP received by the investors would be exempt in their hands under section 10(2A) of the Act.
- Where the AIFs is set-up as a Trust: Taxability in the hands of the trust would be similar to indeterminate trust and thus its income would be taxable at MMR in the hands of the trust. As per section 86 of the Act, share of income from of the investor, who is a member of AOP/BOI, would not be included in his total income where such AOP/BOI is chargeable to tax at MMR.

B. Reporting requirement in the ITR

- In case income streams from CAT I and CAT II AIFs

The details of pass through income from CAT I and CAT II AIFs are required to be reported separately in 'Schedule PTI' in the ITR form. Such incomes are also required to be reported under the respective heads of income i.e. capital gains, other sources and exempt income would be also reported individually under Schedule CG, Schedule OS and Schedule EI respectively. Snapshot¹ of the said schedule PTI has been provided below for ready reference:

¹ Form Income-tax Return form for AY 2021-22

Schedule PTI Pass Through Income details from business trust or investment fund as per section 115UA, 115UB																
Sl.	Investment entity covered by section 115UA/115UB	Name of business trust/ investment fund	PAN of the business trust/ investment fund	Sl.	Head of income	Current Year income	Share of current year loss distributed by Investment fund	Net Income/ Loss 9=7-8	TDS on such amount, if any							
										(1)	(2)	(3)	(4)	(5)	(6)	(7)
PASS THROUGH INCOME	1.	(drop down to be provided)			I	House property										
					ii	Capital Gains										
					a	Short term										
					a1	Section 111A										
					b	Long term										
					b1	Section 112A										
					B2	Sections other than 112A										
					iii	Other Sources										
					a	Dividend										
					b	Others										
					Iv	Income claimed to be exempt										
					A	u/s 10(23FBB)										
					B	u/s										
					C	u/s										
					2.					I	House property					
										ii	Capital Gains					
										A	Short term					
										a1	Section 111A					
										B	Long term					
										b1	Section 112A					
b2	Sections other than 112A															
iii	Other Sources															
1	Dividend															
2	Others															
Iv	Income claimed to be exempt															
a	u/s 10(23FBB)															
b	u/s															
c	u/s															

NOTE ▶ Please refer to the instructions for filling out this schedule.

2. In case of investments made in AIFs

a. Where investment made in AIF having legal form of Company:

(i) Whether you have held unlisted equity shares at any time during the previous year? (Tick) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, please furnish following information in respect of equity shares													
Name of company	Type of Company	PAN	Opening balance		Shares acquired during the year					Shares transferred during the year		Closing balance	
			No. of shares	Cost of acquisition	No. of shares	Date of subscription / purchase	Face value per share	Issue price per share (in case of fresh issue)	Purchase price per share (in case of purchase from existing shareholder)	No. of shares	Sale consideration	No. of shares	Cost of acquisition
1	2	3	4	5	6	7	8	9	10	11	12	13	14

b. Where investment made in AIF having legal form of LLP:

Schedule IF Information regarding partnership firms in which you are partner							
Sl. No.	Name of the Firm	PAN of the firm	Whether the firm is liable for audit? (Yes/No)	Whether section 92E is applicable to firm? (Yes/ No)	Percentage Share in the profit of the firm	Number of firms in which you are partner	
						Capital balance on 31 st March in the firm	
						i	ii
1							
2							
3							
4	Total						

- c. Where investment made in AIF having legal form of Trust (this is applicable where the income of the investor is more than 50 lakhs):

C Interest held in the assets of a firm or association of persons (AOP) as a partner or member thereof			
Sl. No.	Name and address of the firm(s)/ AOP(s)	PAN of the firm/ AOP	Assessee's investment in the firm/ AOP on cost basis
(1)	(2)	(3)	(4)
(i)			
(ii)			
D Liabilities in relation to Assets at (A + B + C)			
NOTE ► Please refer to instructions for filling out this schedule.			

About Nexdigm (SKP)

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Our multidisciplinary teams serve a wide range of industries, with a specific focus on healthcare, food processing, and banking and financial services. Over the last decade, we have built and leveraged capabilities

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