

India

# Relocation of Fund to IFSC Exempt from Rigours of Section 56(2)(x), Dividend Paid by Specified IFSC Unit Exempt from Withholding Tax

27 July 2023

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On 18 July 2023, the Central Board of Direct Taxes (CBDT) issued Notification [51/2023](#) amending rule 11UAC of the Income Tax Rules, 1962 to provide that any transfer of specified capital assets, pursuant to relocation, by the original fund to the resulting fund located in any International Financial Services Centre (IFSC) will be excluded from the scope of section 56(2)(x) of the Income Tax Act, 1961 (the Act). Such a transaction is not considered a transfer under section 47 of the Act.

Specifically, it is provided that:

- section 56(2)(x) will not apply to any movable property (shares, units or interest) in the resultant fund received by the fund management entity of the resultant fund, in lieu of shares, units or interest held by the investment manager entity in the original fund, pursuant to the relocation;
- at least 90% of the shares, units or interest in the fund management entity of the resultant fund is held by the same entity(ies) or person(s) in the same proportion as held by them in the investment manager entity of the original fund; and
- at least 90% of the aggregate of shares, units or interest in the investment manager entity of the original fund was held by such entity(ies) or person(s).

*Note:* Section 56(2)(x) of the Act provides that in case any property is received by a person without consideration or for inadequate consideration, the difference between the fair market value of the property and the consideration received, if any, is taxed as income of the receiver.

Furthermore, section 10(34B) of the Act provides for an exemption for dividend paid by any IFSC unit (payer) primarily engaged in the business of aircraft leasing to another IFSC unit (payee) primarily engaged in the aircraft leasing business. The CBDT issued an enabling notification ([52/2023](#)) on 20 July 2023, stating that such exempt income will not be subject to withholding tax under section 194 of the Act if the following conditions are met:

- the payee provides information and declaration in the prescribed form to the payer; and
- the payer furnishes details of dividend paid to the payee in the withholding tax statements.

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