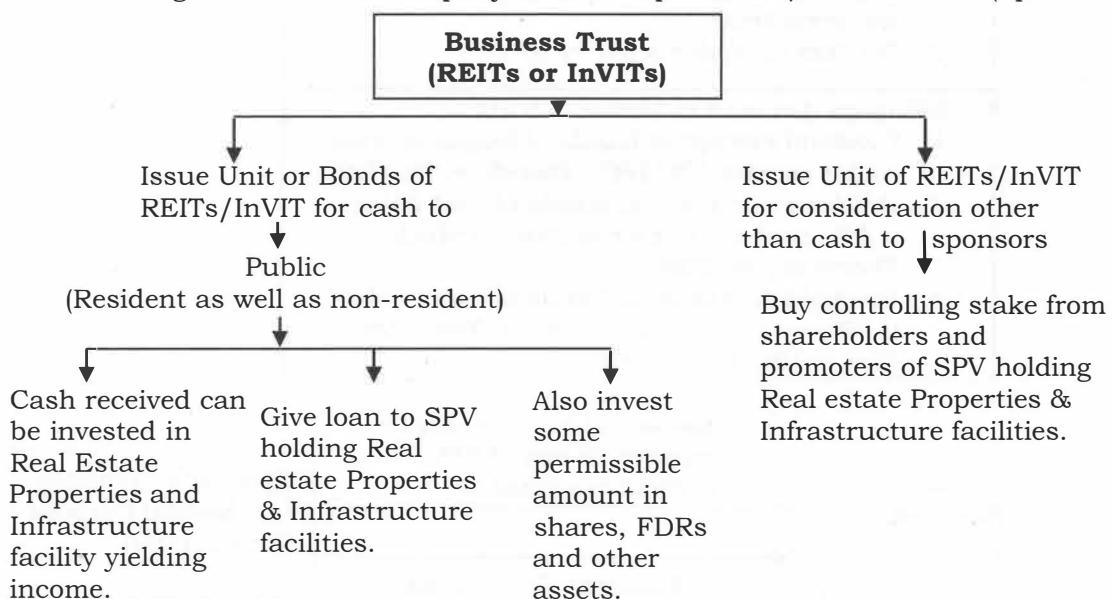


TAXATION OF BUSINESS TRUST AND UNIT HOLDERS

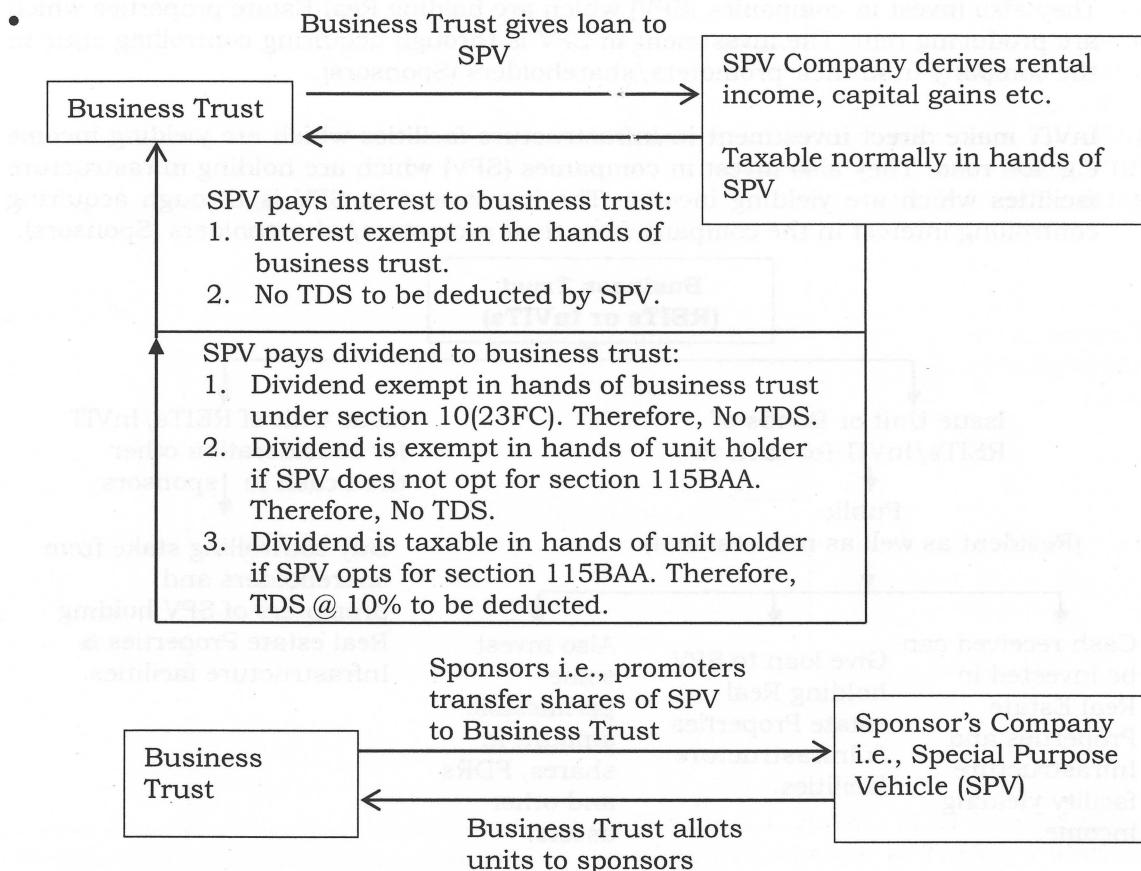
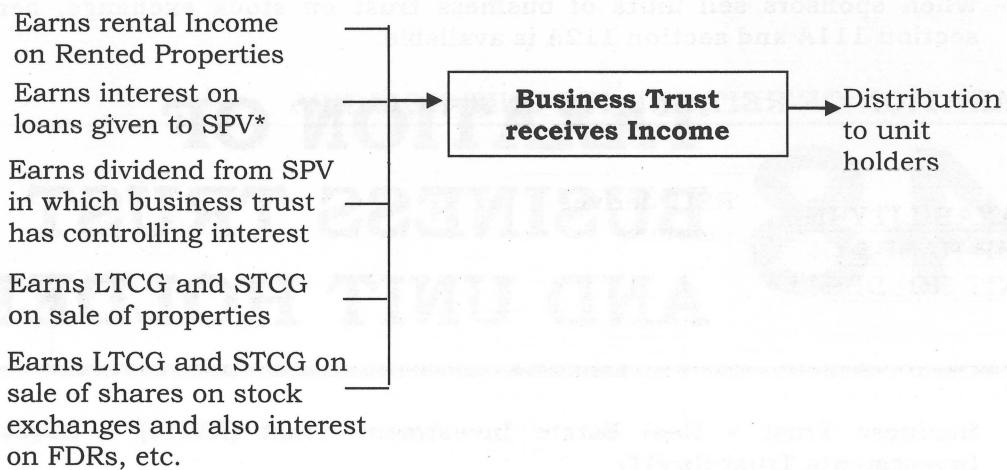
- **Business Trust = Real Estate Investment Trust (REITs) + Infrastructure Investments Trust (InVIT)**
- REITs makes direct investments in real estate properties which are producing rent. They also invest in companies (SPV) which are holding Real Estate properties which are producing rent. The investment in SPV is through acquiring controlling state in the company from their promoters/shareholders (Sponsors).
- InVIT make direct investment in infrastructure facilities which are yielding income e.g. toll road. They also invest in companies (SPV) which are holding infrastructure facilities which are yielding income. The investment in SPV is through acquiring controlling interest in the company from their promoters/ shareholders (Sponsors).



- **Units of business trust are to be compulsorily listed on stock exchange in India.**

(Amended by Finance Act, 2020)

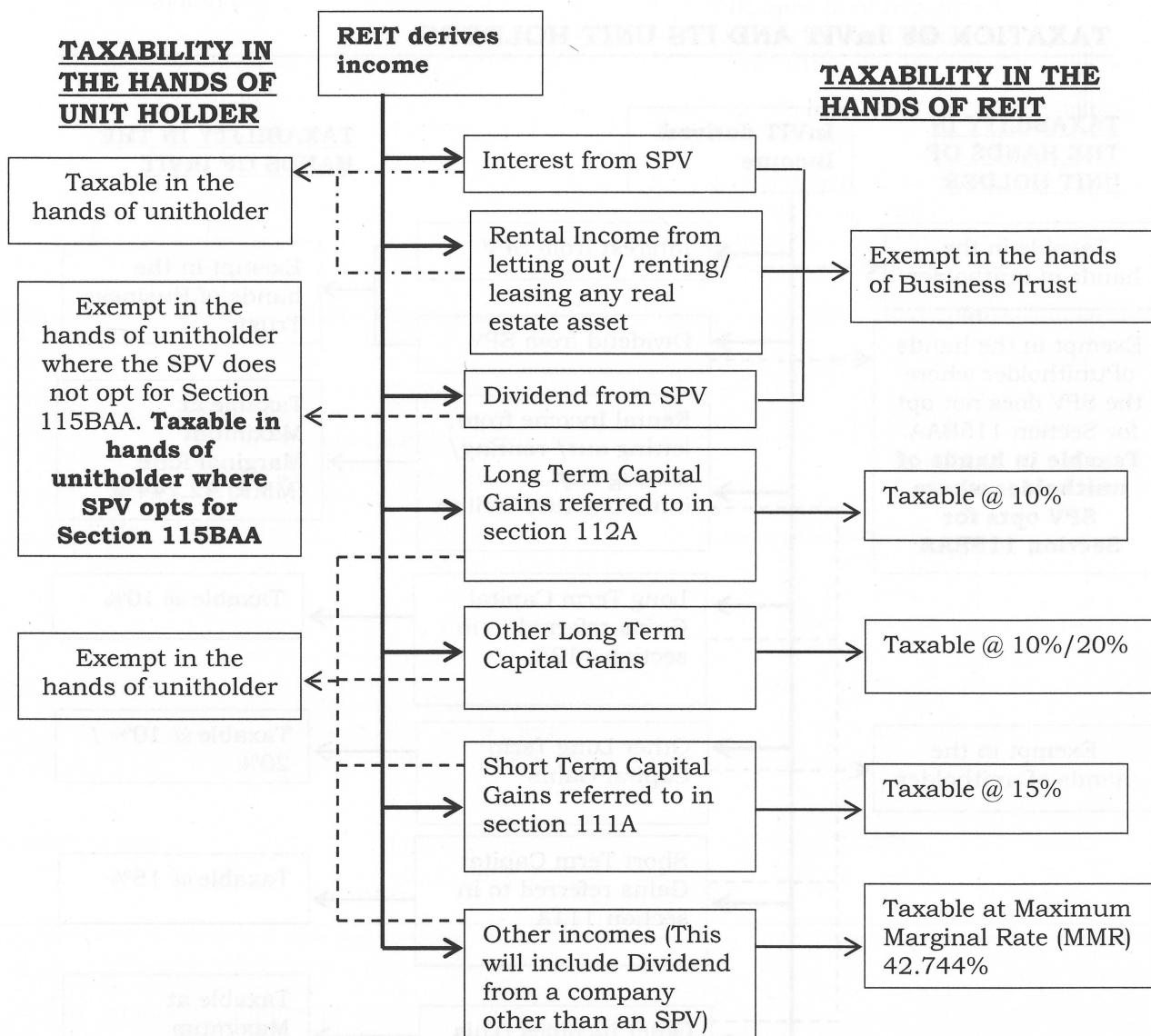
- For units of business trust, the holding period should **be more than 36 months** to qualify as long term gains.
- STT is leviable when the units of business trust are sold on stock exchange.



- Capital gains exempt in the hands of sponsors when they exchange shares of SPV with units of business trust.**
- Cost of units of business trust to sponsors shall be the cost of acquisition of shares in the SPV.**
- In determining the holding period of units of business trust in hands of sponsors, the period of holding of shares in SPV shall also be considered.**

- When sponsors sell units of business trust on stock exchange, benefits of section 111A and section 112A is available.

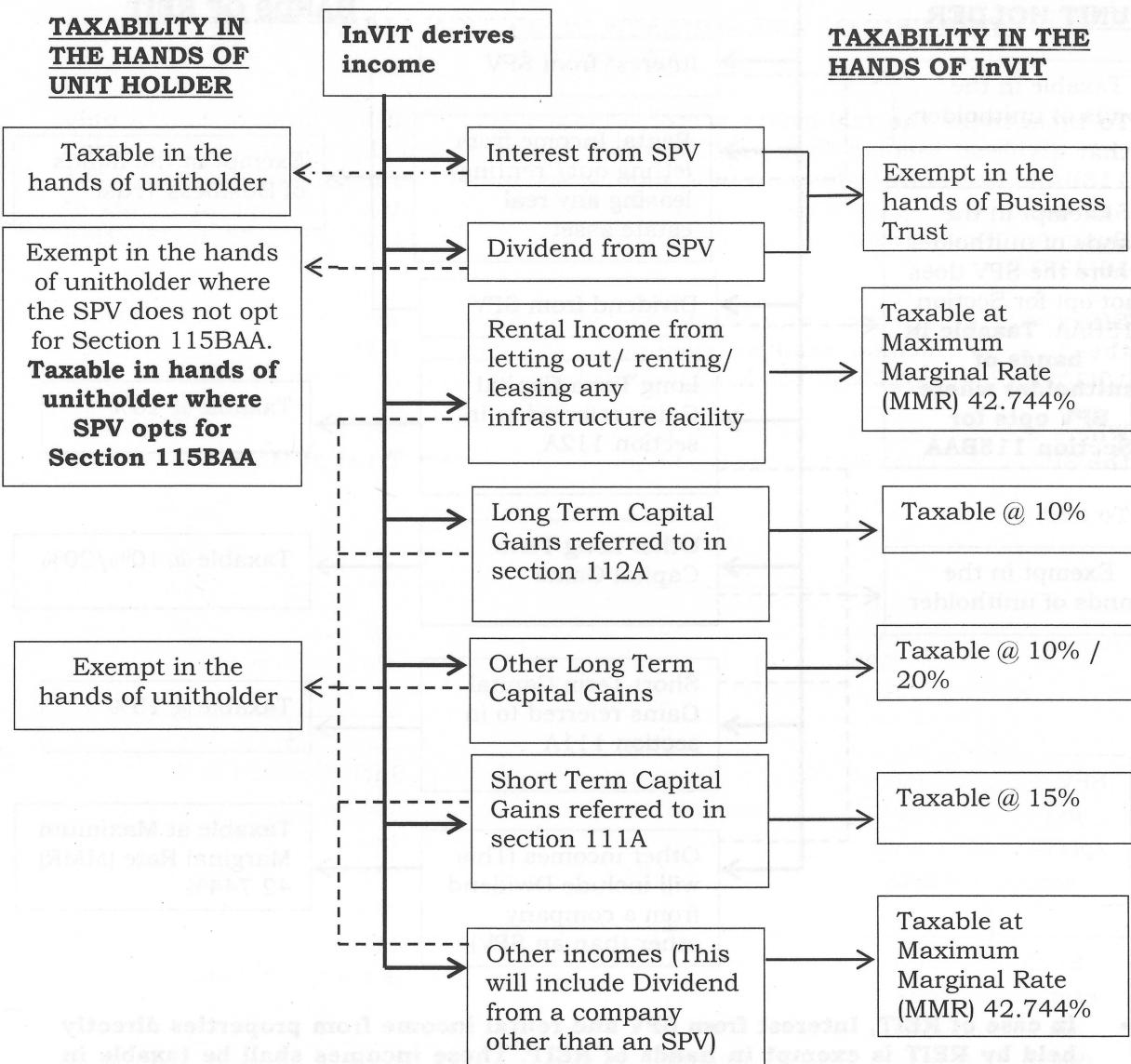
TAXATION OF REIT AND ITS UNIT HOLDERS



- In case of REIT, Interest from SPV and rental income from properties directly held by REIT is exempt in hands of REIT. These incomes shall be taxable in hands of unit holders. All other incomes of REIT are taxable in hands of REIT and exempt in hands of unit holders.
- No TDS when SPV pays interest or dividend to REIT
- No TDS when rent is paid to REIT.
- REIT → To deduct TDS @10% on interest, rent component and dividend (where SPV opts for section 115BAA) paid to unit holder being Resident
- REIT → To deduct TDS @5% on interest component paid to unit holder being Non-Resident

- To deduct TDS @ 10% in case of dividend component paid to unit holder being non-resident if SPV opts for section 115BAA.
- To deduct TDS at rate in force on rent component paid to unit holder being Non-resident

TAXATION OF InVIT AND ITS UNIT HOLDERS



- In case of InVIT, Interest and dividend from SPV is exempt in hands of InVIT and is taxable in hands of unit holders (Dividend not taxable in hands of unitholders when SPV does not exercise the option under section 115BAA). All other incomes are taxable in hands of InVIT and exempt in hands of unit holders.
- No TDS when SPV pays interest or dividend to InVIT

- InVIT → To deduct TDS @10% on interest component or dividend (where the SPV exercises option under section 115BAA) paid to unit holder being resident
 - To deduct TDS @5% on interest component paid to unit holder being Non-Resident
 - **To deduct TDS @ 10% in case of dividend component paid to unit holder being non-resident where SPV opts for section 115BAA.**

ANALYSIS OF AMENDMENTS IN SECTION 115UA, 10(23FC) AND 10(23FCA)

To incentivize the real-estate sector, Finance Act, 2020 has brought to tax only that dividend income from an SPV which has exercised the option under section 115BAA. Therefore, where an SPV, paying tax as per the normal provisions of the Act declares or pays any dividend, such dividend shall be exempt in hands of Business Trust (Section 10(23FC)) and also in hands of unitholders (Section 10(23FD)).

Effectively, where the dividend payer ‘SPV’ opts to pay tax as per section 115BAA, the dividend income shall be exempt in the hands of Business Trust [Section 10(23FC)] and taxable in the hands of unitholders [Section 10(23FD)] AND

Where the dividend is received by the Business Trust from a company other than the SPV, same shall be taxable in the hands of Business Trust at MMR.

To summarise:

