

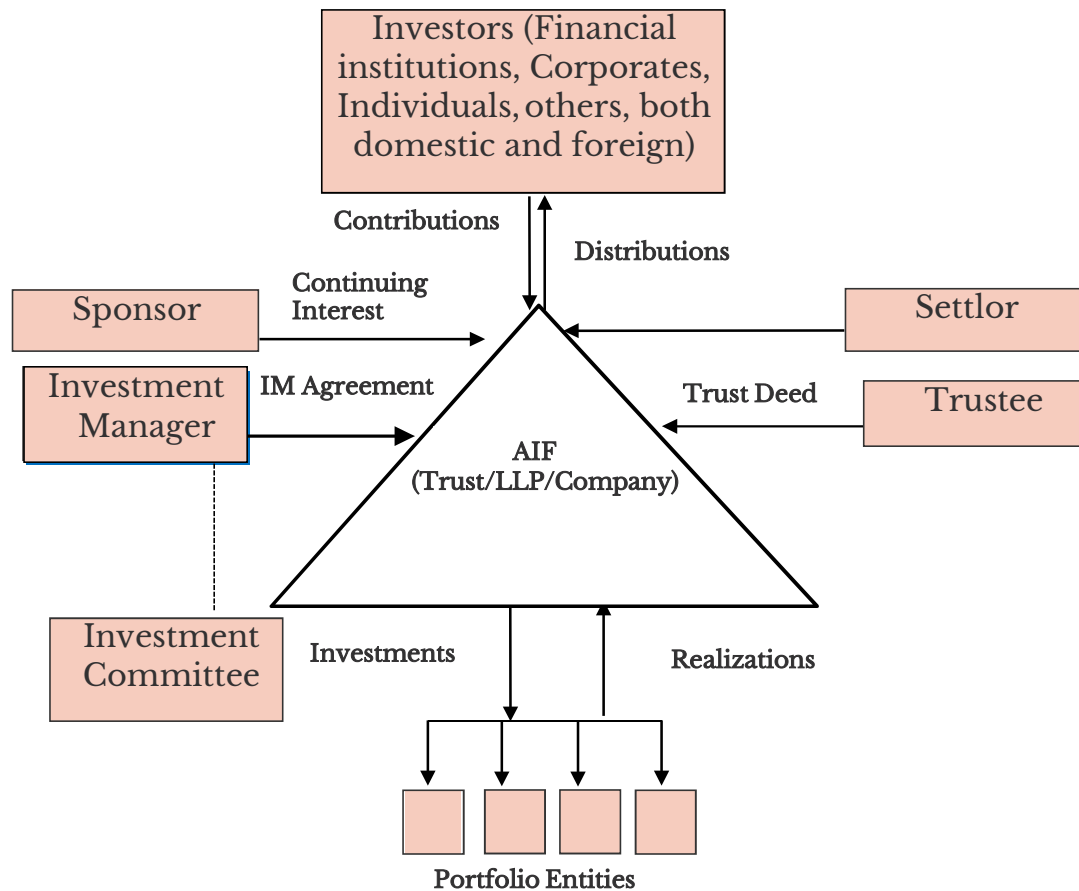


Alternative Investment Funds
TAX RECKONER
(A.Y. 2022-23)



Introduction

Basic Structure of an AIF



What?

- ▶ An alternative investment fund (AIF) refers to any privately pooled investment fund (whether from Indian or foreign sources) in the form of a trust/company/body corporate/ limited liability partnership (LLP).
- ▶ It collects the funds from the sophisticated investors, whether Indian or foreign, for investment in accordance with a demarcated investment policy for the benefit of the investors.

Why?

- ▶ Investors can seek an exposure in complex or illiquid assets, such as unlisted securities, securities of start-ups, complex structured products, government securities, corporate bonds across sectors in a systematic manner, through Category I and Category II AIFs
- ▶ Investing in AIF provides investors the flexibility in terms of structure, sector, instruments, etc. that is otherwise not available under the traditional MFs

The Securities and Exchange Board of India (SEBI) regulates operations of AIFs in India and prescribes certain periodic compliances. Further, the Income-tax Act, 1961 (the Act), also provides for specified tax regime for Category I and II AIFs.

Types of AIF

Category I

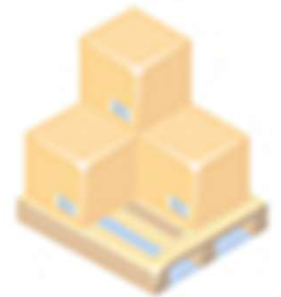
Invests in start up or early stage ventures or social ventures or SME's or infrastructure or other areas which the government or regulators consider as socially or economically desirable and shall include venture capital funds (including angel funds), SME Funds, social venture funds, infrastructure funds and such other Alternative Investment Funds

Category II

Does not fall in category I and category III and does not undertake leverage. This include PE Funds, debt funds, fund of funds etc. Deployment of funds majorly in unlisted entities.

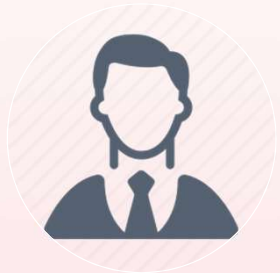
Category III

Employ diverse or complex trading strategies and are allowed to employ leverage and to be open ended. This category include hedge funds, etc and have stringent reporting requirements.



Features & General Conditions

No. of Investors



Maximum
1000 Investors
per scheme

Investment Amount



Minimum
INR 1 Cr. (only
two joint
holders)

Minimum Corpus



INR 20 Cr

Fund Raising



Through
Private
placement
only

Investor Eligibility



Indian,
Foreign
National, Non
Resident

Sponsor



2.5% of corpus
or INR 5 Cr
(whichever is
lower)

Tax Regime-Category II

- ▶ Pass through status for AIF fund; i.e. any income (other than business income) earned by the said AIF is taxable in the hands of the investors in the same manner as if the income were accruing or arising to or received by such person, had the investments made by AIF been made directly by him. Such income is exempt in the hands of the fund
- ▶ Business income is taxable at maximum marginal rate in the hands of AIF and is exempt in the hands of investors
- ▶ If in any year there is a loss at the fund level (under the head "Profits and gains of business or profession") such loss shall be allowed to be carried forward and it shall be set off against the income of the next year in the hands of AIF
- ▶ If in any year there is a loss at the fund level (The loss other than the loss under the head "Profits and gains of business or profession), shall deemed to be the loss of a unit holder in respect of the investments made by him in the investment fund.

TDS Liability at Fund Level-

- ▶ AIF to withhold tax on income (other than business income) paid/credited
 - ▶ at 10%, where payee is a resident
 - ▶ at 20% in case of dividend income when payee is non resident
 - ▶ In any other cases, at rates in force, where payee is non-resident
- ▶ TDS has to be deducted on gross income.
- ▶ No deduction of tax to be made in case of a non-resident where the income is not chargeable to tax in India.
- ▶ Non-resident can apply either the provisions of Income Tax Act or DTAA whichever are more beneficial.
- ▶ Foreign investor should provide Tax Residency Certificate (TRC) to avail DTAA benefit.

Tax Treatment- Investor

Tax treatment of the income generated from the Mutual Fund, Equity or Debt Instruments in the hands of Investor :

Sr. No.	Particulars	Rate of Tax
1.	Short Term Capital Gains (Equity)	15%
2.	Short Term Capital Gains (Non-Equity)	*Applicable rates
3.	Long Term Capital Gains (Listed Equity)	10%
3.	Long Term Capital Gains (Listed Debentures)	Whichever is lower- 20% (with indexation) 10% (without indexation)
4.	Long Term Capital Gains (Other cases)	20% However for Non-Resident: Unlisted Funds- 10% (without Indexation)
5.	Dividend	*Applicable rates
6.	Interest Income	*Applicable rates

Capital Assets	Listed Shares/Debentures	Unlisted Shares	Unlisted Debentures
Holding Period (to qualify as Short term capital asset)	<1 year	< 2 year	< 3 year

* Applicable rates- Discussed on slides 8-10

DTAA Provisions

Section 90(2) of the Income Tax Act, 1961 states that non-resident can apply either the provisions of Income Tax Act or DTAA whichever are more beneficial.

Foreign investor should provide Tax Residency Certificate (TRC) to avail DTAA benefit.

India has signed the Double Taxation Avoidance Agreement with many Countries across the globe. The AIF has investors from USA, UAE and Singapore. Accordingly the applicable rates would be as under;

Country	Interest Income	Dividend Income	Capital Gains
United States of America	Taxable in India @ 15%	Taxable in India @ 25%	Chargeable to tax in India as per the Income Tax Act, 1961.
United Arab Emirates	Taxable in India @ 12.5%	Taxable in India @ 10%	
Singapore	Taxable in India @ 15%	Taxable in India @ 15%	

* Applicable Rates

Individuals

Net Income Range	Income Tax Slab Rates - Individual		
	Resident (Age<60 years)/Non-Resident	Resident (Age>=60, <80 years)	Resident (Age=/<<80 years)
Up to Rs. 2,50,000	Nil	Nil	Nil
Rs. 2,50,000 to Rs. 3,00,000	5%	Nil	Nil
Rs. 3,00,000 to Rs. 5,00,000	5%	5%	Nil
Rs. 5,00,000 to Rs. 10,00,000	20%	20%	20%
Above Rs. 10,00,000	30%	30%	30%

Special Income Tax rate for Individuals & HUF u/s 115BAC

Net Income Range	Rates
Up to Rs. 2,50,000	Nil
Rs. 2,50,000 to Rs. 5,00,000	5%
Rs. 5,00,001 to Rs. 7,50,000	10%
Rs. 7,50,001 to Rs. 10,00,000	15%
Rs. 10,00,001 to Rs. 12,50,000	20%
Rs. 12,50,001 to Rs. 15,00,000	25%
Above Rs. 15,00,000	30%

Surcharge

Net Income Range	Rates
Rs. 50 lakhs to Rs. 1 Cr	10%
Rs. 1 Cr to Rs 2 Cr	15%
Rs. 2 Cr to Rs 5 Cr	25%
Exceeding Rs. 5 Cr.	37%

Note: - The option to pay tax at special rates shall be available only if the total income of assessee is computed without claiming specified exemptions or deductions.

* Applicable Rates

Companies

Particulars	Domestic Company	Foreign Company
Total turnover or gross receipts during the previous year 2019-20 doesn't exceed Rs. 400 Crore	25%	40%
Other companies	30%	40%

Surcharge

Company	Net income is between Rs. 1Cr. – 10 Cr.	Net income exceeds Rs. 10Cr.
Domestic company	7%	12%
Foreign company	2%	5%

Special Income Tax rate for Domestic Company u/s 115BAA: 22%

Surcharge @ 10% of Income Tax

Note: - The option to pay tax at special rates shall be available only if the total income of assessee is computed without claiming specified exemptions or deductions.

Partnership Firms (including LLPs): 30%

Surcharge @12% of Income Tax if Income > Rs. 1,00,00,000/-

* Applicable Rates

HUF/AOP/BOI/Any other Artificial Judicial Person

Net income range	Income-Tax rate
Up to Rs. 2,50,000	Nil
Rs. 2,50,000- Rs. 5,00,000	5%
Rs. 5,00,000- Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

Surcharge

Range of Income	Rs. 50 lakhs to Rs. 1 Cr	Rs. 1 Cr to Rs 2 Cr	Rs. 2 Cr to Rs 5 Cr	Rs. 5 Cr to Rs 10 Cr	Exceeding Rs 10 Cr
Surcharge Rate	10%	15%	25%	37%	37%

Cooperative Society

Net income range	Income-Tax rate
Up to Rs. 10,000	10%
Rs. 10,000 to Rs. 20,000	20%
Above Rs. 20,000	30%

Surcharge @12% of Income Tax if Income > Rs. 1,00,00,000/-