

Income Tax treatment for Infrastructure Investment Trust (“InvIT”) distributions

Frequently Asked Questions

1. What will be the nature of the distributions by InvIT?

Distributions to the unitholders of an InvIT can be characterised as, (i) dividend, or (ii) interest, or (iii) capital repayment, or (iv) a combination of two or more of dividend, interest and capital repayment. The characterisation of distribution will depend on nature of net distributable cash flows received by the InvIT from its Special Purpose Vehicles (“SPVs”).

In case of IndiGrid, the Final Offer Document and the guidance on 21 June 2017 stated that INR 9.20 per unit will be distributed as interest for the 10 months ended 31 March 2018. The first distribution for the quarter ended 30 June 2017 with record date of 4 August 2017 was in form of interest as it resulted from interest income of IndiGrid from its SPV.

2. What will be the frequency of distributions by InvITs to unitholders?

InvITs have the freedom to decide on the frequency of their distributions. This can typically be quarterly or half yearly.

IndiGrid has adopted a policy of quarterly distributions to unitholders. This is in line with IndiGrid’s stated objective of providing stable and sustainable distributions to unitholders.

3. What will be the taxes applicable for different categories of investors in case the distribution is in the form of interest?

Tax is required to be deducted under the provisions of section 194LBA of the Income Tax Act, 1961 by InvIT on distribution of interest income to its unit-holders. The category-wise applicable rate of tax deduction is available on <http://www.indigrid.co.in/pdf/TDS-rates-as-per-Income-Tax-Act.pdf> and copied below for ease of reference.

TDS rates applicable to various categories of Investors as per Income Tax Act, 1961.

Category of unit-holder along with corresponding applicable withholding provisions	Parameters for determining the tax residential status	Withholding tax rate in case of ' <u>Tax Resident</u> '	Withholding tax rate in case of ' <u>Tax Non-Resident</u> ' (shall be increased with applicable surcharge and cess)	
			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)
Individuals (including Non-resident Indian) Section 194LBA	<p>An individual is considered as tax resident in India if</p> <ul style="list-style-type: none"> - Stay in India for 60 days or more during the tax year (i.e. FY 2017-18) and at least 365 days in aggregate during the preceding four tax years; or - Stay in India for 182 days or more during the tax year (i.e. FY 2017-18). <p>182 days substituted for 60 days</p> <ul style="list-style-type: none"> - for an Indian citizen or a person of Indian origin who comes on a 'visit' to India in any financial year; <p>or</p> <ul style="list-style-type: none"> - for an Indian citizen who leaves India in any financial year for the purpose of employment outside India <p>Approach: In absence of any evidence establishing the tax residential status of an individual during the year of distribution, all individuals including NRIs as per BENPOS list are considered as India Tax Resident.</p>	10%	Not Applicable	
HUF Section 194LBA	<p>HUF is generally regarded to be a resident in India in any previous year unless its control and management is situated wholly outside India.</p> <p>Approach: All HUFs shall be regarded as tax resident.</p>	10%	Not applicable	

Category of unit-holder along with corresponding applicable withholding provisions	Parameters for determining the tax residential status	Withholding tax rate in case of 'Tax Resident'	Withholding tax rate in case of 'Tax Non-Resident' (shall be increased with applicable surcharge and cess)	
			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)
LLP Section 194LBA	LLP is generally regarded to be a resident in India in any previous year unless its control and management is situated wholly outside India. Approach: All LLPs shall be regarded as tax resident.	10%	Not applicable	
Company Section 194LBA	Company is said to be resident in India if it is incorporated in India or if the place of effective management is in India. Approach: All Companies shall be classified as resident or non-residents basis the information available on website of Ministry of Corporate Affairs ("MCA"). In case, no information is reflected as per MCA website for any company, the same shall be considered as non-resident since Companies incorporated in India are required to be registered with MCA.	10%	<ul style="list-style-type: none"> ➤ is below one crore rupees ➤ exceeds one crore rupees but does not exceed 10 crores ➤ exceeds 10 crores 	<ul style="list-style-type: none"> ➤ 5.15% ➤ 5.253% ➤ 5.4075%
Alternative Investment Fund ("AIF") Central Government Notification	Central Government vide CBDT notification No.51/2015 dated 25 June 2015 has granted TDS exemption on all incomes other than business profits received by Category I and II AIFs. Approach: For Category III AIFs registered with SEBI, tax will be withheld @10% - as applicable to tax residents.	For Category I & II AIF – Nil For Category III AIF – 10%	Not applicable	
Mutual Fund Section 196	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	Nil	Not applicable	

Category of unit-holder along with corresponding applicable withholding provisions	Parameters for determining the tax residential status	Withholding tax rate in case of <u>'Tax Resident'</u>	Withholding tax rate in case of <u>'Tax Non-Resident'</u> (shall be increased with applicable surcharge and cess)	
			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)
	<p>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.</p> <p>Approach: IndiGrid shall not withhold tax following mandate of section 196.</p>			
<p>FPIs</p> <p>Section 194LBA</p>	<p>FPIs are generally regarded as tax non-residents under Indian Income Tax.</p>	<p>Not applicable</p>	<p>FPI, being a Trust/ AOP</p> <ul style="list-style-type: none"> ➤ is below 50 lakhs rupees ➤ 5.15% ➤ exceeds 50 lakhs rupees but does not exceed one crore rupees ➤ 5.665% ➤ exceeds one crore rupees ➤ 5.9225% <p>FPI, being a Company</p> <ul style="list-style-type: none"> ➤ is below one crore rupees ➤ 5.15% ➤ exceeds one crore rupees but does not exceed 10 crores ➤ 5.253% ➤ exceeds 10 crores ➤ 5.4075% <p>FPI, being a firm/ LLP</p> <ul style="list-style-type: none"> ➤ is below one crore rupees ➤ 5.15% ➤ exceeds one crore rupees ➤ 5.768% 	

4. What will be the taxes applicable for different categories of investors in case the distribution is in the form of dividend?

Income distribution by InvIT in the form of dividend shall be exempt in the hands of unitholders under section 10(23FD) of the Income-tax Act, 1961.

5. What is the capital gains tax applicable on the sale of units of InvIT?

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

If long-term units are sold through recognized stock exchange and such transaction is subject to securities transaction tax, the gain arising thereon shall be exempt under the provisions of section 10(38) of the Income-tax Act, 1961. If short-term units are sold through recognized stock exchange and such transaction is subject to securities transaction tax, the gain arising thereon shall be taxable at concessional rate of 15% (plus applicable surcharge and cess) under section 111A of the Income Tax Act, 1961.

6. When will TDS certificates be issued to the unit-holders?

The TDS certificates in Form 16A shall be issued to the unitholders on quarterly basis in accordance with the timelines prescribed under the Income Tax Rules, 1962.

IndiGrid will issue the TDS certificates based on the following indicative timeline:

Quarter	Actual payment of distribution	Timeline for issue of TDS certificates
April to June	On or before August 31	On or before 15 November
July to September	On or before November 30	On or before 15 February
October to December	On or before February 28/ 29 (as applicable)	On or before 15 May
January to March	On or before May 31	On or before 15 August

The frequently asked questions (“FAQs”) addressed below have been provided for information purposes only. These do not, and should not be deemed to, constitute legal, financial, investment, tax or any other advice in relation to InvIT in general and India Grid Trust (“IndiGrid”) in particular. It should not be relied for any investment decisions and all prospective investors should consult their own professional advisors before making any investment decision regarding InvIT or IndiGrid. Sterlite Power Grid Ventures Limited, Sterlite Investment Managers Limited, Axis Trustee Company Limited (collectively, the “Parties to IndiGrid”) and IndiGrid shall not be liable for consequences of any reliance on the FAQs. The FAQs do not, and should not be deemed to, constitute solicitation for investment, or invitation to offer, or offer in relation securities of either the Parties to IndiGrid or IndiGrid. The information provided in the FAQs is subject to change and the Parties to IndiGrid or IndiGrid do not have any obligation to update the FAQs from time to time. All readers should independently verify the adequacy and accuracy of information provided in the FAQs.

Sterlite



Date of Publication: August 18, 2017

For Investor Relations: investor.relations@indigrid.co.in