

### ***Safe harbour provisions - Relaxations in the context of Foreign Portfolio Investors***

The Indian tax laws contain safe harbour provisions whereby an 'eligible investment fund' is not to be regarded as a tax resident in India merely because the 'fund manager' is located in India. Benefits under the safe harbour provisions are subject to compliance with certain conditions.

Conditions under the safe harbour provisions include the following:

- the fund is a resident of a country or a specified territory with which India has a Double Taxation Avoidance Agreement (DTAA) or is established or incorporated or registered in a country or a specified territory notified by the Central Government in this behalf;

In this connection, the Central Board of Direct Taxes (CBDT) today notified list of 121 countries/specified territories. This includes some of the countries/specified territories like British Virgin Islands, Cayman Islands, Guernsey etc., with which India does not have a DTAA.

- the fund has a minimum of twenty-five members who are, directly or indirectly, not connected persons;
- any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding ten per cent;
- the aggregate participation interest, directly or indirectly, of ten or less members along with their connected persons in the fund, shall be less than fifty per cent;

The CBDT today also separately notified that the above three conditions shall also not apply in case of an investment fund set up as a Category-I or Category-II Foreign Portfolio Investor (FPI) registered under the Securities and Exchange Board of India (FPI) Regulations, 2014.

Click [here](#) to read CBDT Notification No. 77

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PwC TRS Team

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