

Frequently Asked Questions on Taxation – Bharat Highways InvIT

Compilation of Frequently Asked Questions ('FAQs') on the Income-tax treatment on distribution of income by Bharat Highways InvIT ('BHI') in the hands of the Unitholders under the Income-tax Act, 1961 ('the Act') read with the Income- tax Rules, 1962 ('the Rules') [collectively hereinafter referred to as 'Indian income-tax law']

Applicable for Financial Year ('FY') 2024-25 (Assessment Year ('AY') 2025-26)

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BY READING THESE FAQs THE RECIPIENT ACKNOWLEDGES THAT THE RECIPIENT WILL BE SOLELY RESPONSIBLE FOR ITS OWN ASSESSMENT OF TAX POSITION OF THE UNITS HELD IN BHI. THESE FAQs MAY NOT BE ALL INCLUSIVE AND MAY NOT CONTAIN ALL OF THE INFORMATION THAT THE RECIPIENT CONSIDERS MATERIAL. THIS DOCUMENT IS TO BE READ ALONG WITH ALL DISCLAIMERS FORMING PART OF THE DOCUMENT.

Sr. No.	Query	Response
1	What will be the nature of distributions made by BHI?	<p>Distributions to the Unitholders of BHI can be characterized as follows:</p> <ul style="list-style-type: none">(i) dividend (taxable and/or exempt), or(ii) interest, or(iii) treasury income or any other income (such as interest on fixed deposits, mutual funds, capital gains etc.); or(iv) specified sum (refer Note 1 and Note 2 below)(v) a combination of any of the above receipts <p><i>Note 1: Computation of "specified sum" shall be the result of 'A-B-C' where:</i> <i>'A' = Cumulative distribution made by trust till date excluding the amount distributed in the nature of dividend, interest or rental income or any amount taxed/taxable in the hands of BHI</i> <i>'B' = Issue price of such units</i> <i>'C' = Amount charged to tax under this provision in earlier years</i></p> <p><i>Specified sum shall be deemed to be zero if 'A-B-C' results in negative value.</i></p> <p><i>Note 2: Distributions by BHI in the nature of Repayment of SPV debt can be considered as specified sum for the purpose of section 56(2)(xii) of the Act.</i></p> <p>In accordance with the provisions of Section 115UA of the Act, any distribution made to the Unitholder by BHI shall be deemed to be of the same nature and in the same proportion in the hands of the Unitholder, as it had been received by or accrued to BHI.</p>
2.	What is the difference between exempt dividend and taxable	Section 115BAA of the Act provides an option for companies incorporated in India to avail the benefit of a reduced corporate tax rate of 22% (plus applicable surcharge and cess) as against

Sr. No.	Query	Response										
	dividend, as may be received by the Unitholders from BHI?	<p>the existing rates of 25% or 30% (plus applicable surcharge and cess).</p> <p>Taxability of dividend in hands of the Unitholders is dependent on, if the underlying SPV, from which BHI has received dividends, has opted for the tax regime under Section 115BAA of the Act. Accordingly, dividend distributions made by BHI can be split into two categories: (i) exempt dividend (ii) taxable dividend.</p> <p>(i) <u>Exempt dividend</u>: Where the dividend has been received by BHI from the underlying SPVs (which has not opted for the tax regime under section 115BAA of the Act) and distributed to the Unitholders by BHI, then such dividend received by the Unitholders from BHI is exempt from tax. Further, no withholding tax ('WHT') shall be deducted by BHI in such a case.</p> <p>(ii) <u>Taxable dividend</u>: Where the dividend has been received by BHI from the underlying SPV (which has opted for the tax regime under section 115BAA of the Act) and distributed to the Unitholders by BHI, then such dividend received by the Unitholders shall be taxable in hands of the Unitholders. Consequently, BHI will be required to withhold taxes in accordance with the applicable law.</p> <p>Please note that all of the underlying SPVs of BHI have decided to opt for the tax regime under section 115BAA of the Act. Accordingly, distribution of dividend by BHI to Unitholders will be taxable, in the hands of unitholders.</p>										
3.	What is the taxability of different streams of income distributed by BHI in the hands of the following Unitholders?	Taxability of different streams of income in the hands of the Unitholders have been provided below:										
	(a) In case of Resident Unitholders	<table border="1"> <thead> <tr> <th data-bbox="643 1241 1084 1329">Nature of Income</th> <th data-bbox="1084 1241 1365 1329">Taxability in the hands of Resident Unitholders</th> </tr> </thead> <tbody> <tr> <td data-bbox="643 1329 1084 1417">Distribution of interest income earned by BHI from underlying SPVs</td> <td data-bbox="1084 1329 1365 1417">Taxable at applicable rates</td> </tr> <tr> <td data-bbox="643 1417 1084 1564">Distribution of dividend income earned by BHI from underlying SPVs, where SPVs <u>have not opted</u> for the tax regime under section 115BAA of the Act</td> <td data-bbox="1084 1417 1365 1564">Exempt</td> </tr> <tr> <td data-bbox="643 1564 1084 1711">Distribution of dividend income earned by BHI from underlying SPVs, where the SPVs <u>have opted</u> for the tax regime under section 115BAA of the Act</td> <td data-bbox="1084 1564 1365 1711">Taxable at applicable rates</td> </tr> <tr> <td data-bbox="643 1711 1084 1885">Distribution of any other income earned by BHI, and which is taxable in the hands of BHI, i.e., Treasury Income (such as interest on fixed deposits, mutual funds, capital gains etc.)</td> <td data-bbox="1084 1711 1365 1885">Exempt</td> </tr> </tbody> </table>	Nature of Income	Taxability in the hands of Resident Unitholders	Distribution of interest income earned by BHI from underlying SPVs	Taxable at applicable rates	Distribution of dividend income earned by BHI from underlying SPVs, where SPVs <u>have not opted</u> for the tax regime under section 115BAA of the Act	Exempt	Distribution of dividend income earned by BHI from underlying SPVs, where the SPVs <u>have opted</u> for the tax regime under section 115BAA of the Act	Taxable at applicable rates	Distribution of any other income earned by BHI, and which is taxable in the hands of BHI, i.e., Treasury Income (such as interest on fixed deposits, mutual funds, capital gains etc.)	Exempt
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		Distribution of specified sum, to the extent not chargeable to tax u/s 56(2)(xii) of the Act, by BHI which is not covered above (refer Note 1 and Note 2 below)	To be reduced from cost of acquisition of units for the purpose of computation of capital gains										
		<p><i>Note 1: Computation of "specified sum" shall be the result of 'A-B-C' where: 'A' = Cumulative distribution made by trust till date excluding the amount distributed in the nature of dividend, interest or rental income or any amount taxed/taxable in the hands of BHI 'B' = Issue price of such units 'C' = Amount charged to tax under this provision in earlier years</i></p> <p><i>Specified sum shall be deemed to be zero if 'A-B-C' results in negative value.</i></p> <p><i>Note 2: Distributions by BHI in the nature of Repayment of SPV debt can be considered as specified sum for the purpose of section 56(2)(xii) of the Act</i></p>											
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<p><i>Note 1: For applicable surcharge rates and cess, please refer Question 17.</i></p> <p><i>Note 2: Please note that the aforementioned rates are as per the provisions of the Act. Unitholders are advised to independently evaluate any impact under the relevant Double Tax Avoidance Agreement ('DTAA') in consultation with their tax advisors.</i></p> <p><i>Note 3: Computation of "specified sum" shall be the result of 'A-B-C' where:</i> <i>'A' = Cumulative distribution made by trust till date excluding the amount distributed in the nature of dividend, interest or rental income or any amount taxed/taxable in the hands of BHI</i> <i>'B' = Issue price of such units</i> <i>'C' = Amount charged to tax under this provision in earlier years</i></p> <p><i>Specified sum shall be deemed to be zero if 'A-B-C' results in negative value.</i></p> <p><i>Note 4: Distributions by BHI in the nature of Repayment of SPV debt can be considered as specified sum for the purpose of section 56(2)(xii) of the Act</i></p>							
4.	<p>What is the withholding obligation on distribution of different streams of income by BHI for the following Unitholders:</p>	<p>As per the provisions of Section 194LBA of the Act, dividend and interest income earned by InvIT from the underlying SPVs and distributed to the Unitholders shall be subject to withholding of taxes.</p> <p>Please note that reliance will be made on the BENPOS report and declaration/ documents obtained from the Unitholders, with respect to details of residential status of the Unitholders (i.e., resident or non-resident) and the category of Unitholders (i.e., individual, body corporate, firm, trust, etc.), Annual Income, and Tax Regime opted.</p> <p>WHT rates on distribution of different streams of income, by BHI, have been provided below:</p>					
	(a) In case of Resident Unitholders	<table border="1"> <thead> <tr> <th data-bbox="646 1791 1193 1822">Nature of Income</th> <th data-bbox="1193 1791 1445 1822">WHT rate</th> </tr> </thead> <tbody> <tr> <td data-bbox="646 1822 1193 1879">Distribution of interest income earned by BHI from underlying SPVs</td> <td data-bbox="1193 1822 1445 1879">10%</td> </tr> </tbody> </table>		Nature of Income	WHT rate	Distribution of interest income earned by BHI from underlying SPVs	10%
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<p><i>*Distributions by BHI in the nature of Repayment of SPV debt can be considered as specified sum as mentioned above for the purpose of section 56(2)(xii) of the Act</i></p>															
5.	Is there any	Central Government vide Central Board of Direct Taxes ('CBDT')													

Sr. No.	Query	Response
	exemption available for Alternate Investment Funds ('AIF') from withholding tax? If yes, what condition needs to be fulfilled to claim exemption?	notification No.51/2015 dated 25th June 2015 has granted Tax deducted at Source ('TDS') exemption on all incomes other than business profits received by Category I and II AIFs. BHI shall not deduct taxes where the Unitholder provides requisite declarations along with eligible registration certificate/ notification as AIF Category I or II.
6.	Is there any exemption available for Mutual Funds from withholding tax? If yes, what condition needs to be fulfilled to claim exemption?	As per the provisions of Section 10(23D) of the Act, any income of a Mutual Fund registered under the Securities and Exchange Board of India Act ('SEBI'), 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 ('RBI') is exempt from income- tax, subject to such conditions as the Central Government may by notification in the Official Gazette specify in this behalf. Further, as per the provisions of section 196 of the Act, no deduction of tax shall be made on any sum payable to a Mutual Fund specified under clause (23D) of section 10. BHI shall not deduct taxes where Unitholders provides requisite declarations along with eligible registration certificate from SEBI/ RBI/ other relevant authority.
7.	Is there any exemption available for Corporation established by or under a Central Act from withholding tax? If yes, what condition needs to be fulfilled to claim exemption?	As per the provisions of 196 of the Act, any sum payable to any corporations established by or under a Central Act which is exempt from income-tax on its income, shall not be subject to withholding of taxes. BHI shall not deduct taxes where Unitholders provides requisite declarations along with eligible registration certificate from relevant authority.
8.	Will there be a requirement for Non-Resident Unitholder to file Income tax returns in India?	Investors are advised to consult their own consultants with respect to the specific tax implications/ compliances/ consequences in this regard.
9.	How can Unitholders request for TDS Certificate in case the same is not received?	Please note that the TDS Certificates, wherever applicable, will be emailed to the unitholders at their registered email IDs. In case the TDS certificate is not received, please send us a request on the below mentioned email ID: bharathighways@kfintech.com
10.	If any short deduction is made by BHI while making distributions to the Unitholders, will the same be adjusted?	BHI retains the right to make adjustment for any shortfall in taxes deducted in earlier distributions and recover the differential TDS amount from the Unitholder along with appropriate interest (as applicable) and consequential penalties (as applicable). This can be done by way of adjustment from subsequent distributions.
11.	If any excess deduction is made by BHI while making distributions to the Unitholders, will the same be refunded?	Any excess deduction made by BHI while distributing income to the Unitholders shall <u>not be refunded</u> . The Unitholder may file a return of income and claim a refund for the same.
12.	What is the timeline for issue of Form 64B?	Form 64B for distribution made during financial year shall be provided by BHI to the Unitholders by <u>30th June of the subsequent financial year</u> .

Sr. No.	Query	Response
13.	Eligibility of Nil/ lower WHT certificate for claiming exemption from WHT on distribution made by BHI?	BHI may consider nil/ lower WHT certificate obtained in accordance with provisions of section 197 of the Act which are valid for distributions from 1 April 2024 to 31 March 2025, while determining WHT liability for distributions made by BHI.
14.	Eligibility of Form 15G/15H for claiming exemption from WHT on distribution made by BHI?	<p>Form 15G/15H provided to BHI <u>shall not be considered</u> while determining WHT liability.</p> <p>As per section 197A read with Rule 29C, Form 15G and 15H declaration may be applicable when tax is deductible under section 194A (Interest other than interest on securities), 192A (premature withdrawal of provident fund), 193 (interest on securities), 194I (Rent), 194 (Dividend), 194DA (Payment in respect of life insurance policy), 194D (Insurance commission), 194EE (National saving scheme) and 194K (units of mutual funds, UTI)</p> <p>Distributions made by InvIT shall be subject to WHT under section 194LBA of the Act and since section 197A does not refer to tax deductible under section 194LBA, Form 15G and 15H declaration is not applicable/ does not cover exemption in respect of distributions made by InvIT.</p>
15.	Whether any threshold limit (minimum amount) of distribution is applicable for deduction of TDS / WHT in case of distribution of taxable dividend or interest?	Please note that in case of distribution of taxable dividend and interest, no threshold limit has been prescribed under section 194LBA of the Act for the purpose of TDS deduction / WHT.
16.	What is the surcharge rate for different categories of Non-resident Unitholders?	The applicable surcharge rates for different categories of Unitholders for FY 2024-25 are provided in Appendix- 1.
17.	Treatment of Unitholders without a Permanent Account Number/ 'PAN' (Section 206AA of the Act)	<p>In accordance with Section 206AA of the Act, where a Unitholder does not furnish PAN, taxes shall be withheld on payment of income to the Unitholder (where chargeable to tax) at higher of the following:</p> <p>at the rate specified in the Act; or at the rate or rates in force; or at the rate of 20%</p>
18.	Treatment of Unitholders being 'specified persons' under section 206AB of the Act	<p>In case a unitholder qualifies as a 'specified person', withholding of tax shall be made in accordance with provisions of Section 206AB of the Act at a higher rate of the following rates:</p> <ul style="list-style-type: none"> • twice the rate specified in the Act; • twice the rate or rates in force; or • 5% <p>Wherein the specified person means a person, who</p> <p>(i) has not furnished the return of income for the previous year immediately preceding the previous year in which the tax is required to be deducted, for which time-limit of furnishing the return of income u/s 139(1) has expired; and</p> <p>(ii) the aggregate of tax deducted at source and tax collected at</p>

Sr. No.	Query	Response
		<p>source in his case is INR 50,000 or more in the said previous year</p> <p>The above provisions shall not be applicable in case of –a non-resident not having a permanent establishment in India; or a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in the Official Gazette in this behalf.</p>
19.	<p>Why amount of TDS (wherever applicable) is being round-up at the time of distribution of income?</p>	<p>Please note that TDS Payment Challan (when BHI is remitting the TDS deducted to the Income Tax Department) does not permit to deposit TDS amount in decimals. Therefore, it is required to deposit the TDS in round/ whole number.</p> <p>In case the amount of TDS is rounded off to nearest rupee, the same may result in lower deduction/ non-deduction of taxes and may also lead to penal consequences for BHI. Further, at the time of preparation of quarterly TDS return forms, BHI is required to specify the rate at which taxes have been withheld and rounding off to nearest rupee may result in rate which is less than the rates prescribed under section 194LBA/ 195/ or any other section of the Act and accordingly, amount of TDS is rounded up to next rupee.</p> <p>Basis the above, the amount of TDS is rounded up to the next rupee and unit holders may claim the credit of TDS amount while filing their return of income.</p>

Disclaimer:

1. The FAQs are intended only to provide general information to the investors and is neither designed nor intended to be substituted for professional tax advice. In view of the individual nature of tax consequences, each investor is advised to consult his/ her own tax advisor with respect to specific tax consequences which may arise.
2. No assurance is given that the revenue authorities/ courts will concur with the views expressed herein. Our views are based on the existing provisions of law and its interpretation, which are subject to changes from time to time. We do not assume responsibility to update the views consequent to such changes.
3. The above information is provided in a summary manner only and is not a complete analysis or listing of all potential tax consequences applicable in the hands of the Unit holders under the current tax laws presently in force in India. It is not exhaustive or comprehensive and is not intended to be a substitute for professional advice. Investors are advised to consult their own tax consultant with respect to the tax implications arising on account of any specific transaction/ receipt of income, particularly in view of the fact that certain recently enacted legislation may not have a direct legal precedent or may have a different interpretation impacting the benefits, which an investor can avail.
4. These FAQs do not form any part of an offer, invitation or recommendation to purchase/ subscribe for any securities. These FAQs should not form the basis of, or be relied upon, in connection with, any contract or investment decision in relation to any securities. For any further tax related query, an email can be sent to the following email address: ir@bharatinvit.com, bharathighways@kfintech.com

Appendix-1: Applicable surcharge rates

For Resident Unitholders

Class of Unitholders	Estimated taxable income slab applicable (in INR)	Surcharge rate
Old Regime Individuals, Hindu Undivided Family ('HUF'), Trusts, Association of Persons ('AOP'), Body of Individuals ('BOI')	(i) If total income is upto INR 50 Lacs	Nil
	(ii) If total income (including dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) is above INR 50 Lacs & upto INR 1 Crore	10%
	(iii) If total income (including dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) is above INR 1 Crore & upto INR 2 Crores	15%
	(iv) If total income (excluding dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) is above INR 2 Crores & upto INR 5 Crores	25%
	(v) If total income (excluding dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) is above INR 5 Crores	37%
	(vi) If total income is above 2 Crores (including dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) but is not covered under (iv) and (v) above. Provided the applicable surcharge does not exceed 15% in case of dividend income or capital gains on specified securities included in such total income	15%
New Regime (as per section 115BAC of the Act) Individuals, HUF, Trusts, AOP, BOI	(i) If total income is upto INR 50 Lacs	Nil
	(ii) If total income (including dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) is above INR 50 Lacs & upto INR 1 Crore	10%
	(iii) If total income (including dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) is above INR 1 Crore & upto INR 2 Crores	15%
	(iv) If total income (excluding dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) is above INR 2 Crores	25%
	(v) If total income is above 2 Crores (including dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) but is not covered under (iv) above. Provided the applicable surcharge does not exceed 15% in case of dividend income or capital gains on specified securities included in such total income	15%
Firm (including LLPs)	(i) If total income is upto 1 Crore	Nil

Class of Unitholders	Estimated taxable income slab applicable (in INR)	Surcharge rate
	(ii) If total income is above 1 Crore	12%
Co-operative Society (not opted for the tax regime under Section 115BAD or 115BAE of the Act)	(i) If total income is upto 1 Crore	Nil
	(ii) If total income is above 1 Crore & upto 10 crores	7%
	(iii) If total income is above 10 crores	12%
Co-operative Society (opted for the tax regime under Section 115BAD or 115BAE of the Act)	(i) Applicable rate of surcharge irrespective of total income	10%
Companies (not opted for the tax regime under Section 115BAA or 115BAB of the Act)	(i) If total income is upto 1 Crore	Nil
	(ii) If total income is above 1 Crore & upto 10 crores	7%
	(iii) If total income is above 10 crores	12%
Companies (opted for the tax regime under Section 115BAA or 115BAB of the Act)	(i) Applicable rate of surcharge irrespective of total income	10%

For Non-Resident Unitholders

Class of Unitholders	Estimated taxable income slab applicable (in INR)	Surcharge rate
Old Regime Individuals, HUF, Trusts, AOP, BOI	(i) If total income is upto INR 50 Lacs	Nil
	(ii) If total income (including dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) is above INR 50 Lacs & upto INR 1 Crore	10%
	(iii) If total income (including dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) is above INR 1 Crore & upto INR 2 Crores	15%
	(iv) If total income (excluding dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) is above INR 2 Crores & upto INR 5 Crores	25%
	(v) If total income (excluding dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) is above INR 5 Crores	37%
	(vi) If total income is above 2 Crores (including dividend income or capital gains chargeable under	15%

Class of Unitholders	Estimated taxable income slab applicable (in INR)	Surcharge rate
	section 111A, section 112 or section 112A of the Act) but is not covered under (iv) and (v) above. Provided the applicable surcharge does not exceed 15% in case of dividend income or capital gains on specified securities included in such total income	
<u>New Regime (as per section 115BAC of the Act)</u> Individuals, HUF, Trusts, AOP, BOI	(i) If total income is upto INR 50 Lacs	Nil
	(ii) If total income (including dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) is above INR 50 Lacs & upto INR 1 Crore	10%
	(iii) If total income (including dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) is above INR 1 Crore & upto INR 2 Crores	15%
	(iv) If total income (excluding dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) is above INR 2 Crores	25%
	(v) If total income is above 2 Crores (including dividend income or capital gains chargeable under section 111A, section 112 or section 112A of the Act) but is not covered under (iv) above. Provided the applicable surcharge does not exceed 15% in case of dividend income or capital gains on specified securities included in such total income	15%
Firm (including LLPs)	(i) If total income is upto 1 Crore	Nil
	(ii) If total income is above 1 Crore	12%
Co-operative Society	(i) If total income is upto 1 Crore	Nil
	(ii) If total income is above 1 Crore & upto 10 crores	7%
	(iii) If total income is above 10 crores	12%

Class of Unitholders	Estimated taxable income slab applicable (in INR)	Surcharge rate
Companies	(i) If total income is upto 1 Crore	Nil
	(ii) If total income is above 1 Crore & upto 10 crores	2%
	(iii) If total income is above 10 crores	5%