

FREQUENTLY ASKED QUESTIONS

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FAQs

1. What will be the nature of distribution made by Anzen?

Distributions to the unitholders of Anzen can be characterised as follows:

- (i) Interest, or
- (ii) Dividend, or
- (iii) Any other income (interest income on fixed deposits, profit and loss on sale of mutual funds, etc.), or
- (iv) repayment of debt given by Anzen to its SPVs, or
- (v) a combination of any of the foregoing receipts

The characterization of distribution will depend on nature of net distributable cash flows received by Anzen from its underlying investment in Holding Company/ Special Purpose Vehicles (“SPVs”).

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

Distributions have to be disbursed not less than once every year in case of privately placed InvITs as per the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 (as amended from time to time).

3. What is the basis of determining the withholding tax rate?

The withholding tax rate shall be determined basis the tax residential status of the unitholders under the Income Tax Act, 1961 (“the Act”). Hence, unitholders shall provide the declaration stating their tax residential status (‘Residency declaration’) prior to the distribution.

The declaration provided by the unitholder for a particular financial year shall be considered as valid for the entire financial year. In case of change in the residential status, it shall be the responsibility of the unitholder to inform Anzen / Depositories / Registrar and Transfer Agent.

Further, in case of ‘Specified person’ as discussed in FAQ 8 withholding tax rate would be in accordance with Section 206AB.

4. What are the tax implications for FY 2023-24 on different streams of income distributed by Anzen in the hands of the resident and non-resident unitholders?

Kindly refer to the following indicative summary on the tax implications in the hands of unitholders:

Nature of Income	Taxability in the hands of Resident Unitholders	Taxability in the hands of Non-Resident Unitholders (Note 1)
Distribution of interest income earned by Anzen from underlying SPVs	Taxable at applicable rates as per the Act	Taxable at concessional rate of 5% (plus applicable surcharge and cess)
Distribution of dividend income earned by Anzen from underlying SPVs, where SPVs have not opted for the tax regime under section 115BAA of the Act.	Exempt	Exempt
Distribution of dividend income earned by Anzen from underlying SPVs, where the SPVs have opted for the tax regime under section 115BAA of the Act.	Taxable at applicable rates as per the Act	
Distribution in nature of repayment of debt given by Anzen to SPVs	Refer FAQ no. 14 below	
Distribution of any other income earned by Anzen, i.e. Treasury Income (such as interest on fixed deposits etc.)	Exempt under Section 10(23FD) of the Act	Exempt under Section 10(23FD) of the Act
Capital gains on transfer/sale of units of Anzen	Applicable as per the provisions of the Act	

Note 1 - Please note that the aforementioned rates are as per the provisions of the Act. Non-resident unitholders are advised to independently evaluate any impact under the relevant Double Tax Avoidance Agreement ('DTAA') in consultation with their tax advisors.

5. What is the TDS obligation in the hands of Anzen for FY 2023-24 for distribution of income?

Kindly refer to the following indicative summary on the TDS implications in the hands of Anzen on distributions made to unitholders :

Type of income distributed	Residential status of unitholder	Withholding tax section	Withholding tax rate
Interest income received from SPV	Resident	Section 194LBA	10%
	Non-resident (including FPI)	Section 194LBA	5% (plus surcharge and cess) (Refer Note 2 & 3)
Dividend income received from SPV	Resident	Section 194LBA	10% (Refer Note 1)
	Non-resident (including FPI)	Section 194LBA	10% (plus surcharge and cess) (Refer Notes 1, 2 & 3)
Any other income i.e. Treasury Income (such as interest on fixed deposits, etc.)	Resident	Not Applicable	NIL
	Non-resident (including FPI)	Not Applicable	NIL
Repayment of debt given by Anzen to SPVs	Resident	NIL	
	Non-resident (including FPI)	TDS to be deducted as per applicable tax provisions of the Act as referred in FAQ no. 14 below (Refer Note 2 & 3)	

Note 1 – Where dividend is received by Anzen from SPV (which has not opted for the new tax regime u/s 115BAA of the Act) and is distributed to unitholders, the same is not subject to TDS u/s 194LBA. However, where the SPV has opted for tax new regime u/s 115BAA, dividend received by Anzen from such SPV and is distributed to unitholders shall be subject to TDS as mentioned above.

Note 2 – Please note that reliance will be made on the BENPOS report and/or 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.)

Note 3 – Please note withholding tax rates for non-resident unitholders for availing concessional tax rate as per tax treaty provisions are subject to submission of following documents to Anzen –

- Tax residency certificate issued by the tax authorities of respective jurisdictions
- Self-declaration in Form 10F (Please refer FAQ no. 6 for further details)
- Residency Declaration as referred in FAQ 2 above and no PE declaration as provided in Annexure A.

6. In case of non-residents, what is the mode of providing Form 10F by the unitholders?

The non-resident unitholder intending to avail DTAA benefits is required to provide self-attested copy of Form 10F submitted electronically by the unitholder on the Income-tax portal as per CBDT Notification No. 03/2022 dated 16 July 2022. In cases where the unitholder does not have a Permanent Account Number (PAN) in India and is not required to have PAN as per provisions of the Act, then a manual Form 10F can be provided by the unitholder till 30 September 2023 (as per CBDT Circular No. F. No. DGIT(S)-ADG(S)-3/e-Filing Notification/Forms/2023/13420). Please note that for distributions made after 30 September 2023, manual Form 10F wouldn't be considered as per the said Circular.

7. TDS Treatment for Unitholders not having a PAN (Section 206AA of the Act)

In accordance with Section 206AA of the Act, where a Unitholder does not furnish a PAN, TDS shall be deducted at higher of the following:

- at the rate specified in the Act; or
- at the rate or rates in force; or
- at the rate of 20%

However, higher TDS rate as per section 206AA shall not apply on distribution in the nature of interest or dividend where non-resident unitholder furnishes the following details and documents:-

- (i) name, e-mail id, contact number;
- (ii) address in the country or specified territory outside India of which such unitholder is a resident;
- (iii) a certificate of his being resident in any country or specified territory outside India from the Government of that country or specified territory if

- the law of that country or specified territory provides for issuance of such certificate;
- (iv) Tax Identification Number of such unitholder in the country or specified territory of his residence and in case no such number is available, then a unique number on the basis of which such unitholder is identified by the Government of that country or the specified territory of which he claims to be a resident.

8. TDS Treatment for Unitholders being ‘specified persons’ under section 206AB of the Act

In case a unitholder qualifies as a ‘specified person’, TDS shall be made in accordance with provisions of Section 206AB of the Act at a higher rate of the following rates:

- twice the rate specified in the Act;
- twice the rate or rates in force; or
- 5%

Wherein the specified person means a person, who–

- (i) has not filed the return of income for the year immediately preceding the financial year in which the tax is required to be deducted, for which time-limit of filing u/s 139(1) has expired; and
- (ii) the aggregate of tax deducted at source and tax collected at source is INR 50,000 or more in the said year.

The check shall be undertaken on the record date. The above provisions shall not be applicable in case of non-resident not having a permanent establishment in India.

9. If any excess deduction is made by Anzen while making distributions to the Unitholders, will the same be refunded?

Any excess deduction made by the Anzen will not be refunded by the Anzen and the unitholder may file a return of income to claim a refund of the excess tax deduction.

10. If any short deduction is made by Anzen while making distributions to the Unitholders, will the same be adjusted?

Anzen 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. Is there any exemption available for Alternate Investment Funds ('AIF') from withholding tax? If yes, what condition needs to be fulfilled to claim exemption?

Income other than the income from profits and gains of business and profession of Category I / II AIF which are governed by Securities and Exchange Board of India ('SEBI') regulations and holding SEBI registration number qualifies for TDS exemption under u/s 197A(1F) read with section 10(23FBA) of the Act [CBDT notification No.51/2015 dated 25th June 2015]. Anzen shall not deduct taxes where the Unitholder provides requisite declarations along with eligible SEBI registration certificate as AIF Category I or II.

12. 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 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 ('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 section 10(23D) of the Act. Anzen shall not deduct taxes where unitholders provide requisite declarations along with eligible registration certificate from SEBI/ RBI/ other relevant authority.

13. 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.

14. Whether distributions made on or after 1 April 2023 from proceeds of repayment of debt received by Anzen from SPVs taxable in the hands of the unitholders?

Effective from 1 April 2023, the Act has been amended to tax such distributions made on or after 1 April 2023 in the hands of the Unitholders as Income from other sources. The revised provisions introduced vide section 56(2)(xii) are as under:

“any specified sum received by a unit holder from Anzen during the financial year, with respect to a unit held by him at any time during the previous year.

For this purpose, "specified sum" shall be computed in accordance with the following formula, namely:—

Specified sum = A-B-C (which shall be deemed to be zero if sum of B and C is greater than A), where—

A = aggregate of sum distributed by Anzen with respect to such unit, during the said year or during any earlier previous year or years, to such unit holder, who holds such unit on the date of distribution of sum or to any other unit holder who held such unit at any time prior to the date of such distribution, which is,—

- (a) not in the nature of interest or dividend; and
- (b) not chargeable to tax under section 115UA(2);

B = amount at which such unit was issued by the Anzen; and

C = amount charged to tax u/s 56(2)(xii) in any earlier year.

Accordingly, provisions for computing cost of acquisition of unit under section 48 of the Act has also been amended by way of an Explanation. The Explanation reads as follows:

“Explanation 1 - For the removal of doubt, it is hereby clarified that the cost of acquisition of a unit of a business trust shall be reduced and shall be deemed to have always been reduced by any sum received by a unit holder from the business trust with respect to such unit, which is not in the nature of income as referred to in section 10(23FC) or section 10(23FCA) and which is not chargeable to tax under section 56(2)(xii) and under section 115UA(2).”

In case of non-resident unit holders it is advisable that they independently evaluate any tax benefits under the relevant DTAA in consultation with their tax advisors.

The same is enumerated by way of an Illustration:

Number of units held by a unitholder - 1,000 units

Issue price per unit – INR 100

Cost of Investment – INR 1,00,000

Year wise distribution details (please note we have assumed all distribution are in form of debt repayment)

Year 1: FY 2023-24

Particulars	Amount (INR)
Amount distributed - INR 90 per unit	90,000

Year 2: FY 2024-25

Particulars	Amount (INR)
Amount distributed - INR 95 per unit	95,000

Details of units sold by unitholder post aforesaid distributions

Particulars	Amount (INR)
Transfer of units at INR 125 per unit	1,25,000

'Income from other source' u/s 56(2)(xii) in each year of distribution under the 'Income from other sources'

Particulars	FY 2023-24	FY 2024-25
A = Aggregate Amount distributed	90,000	1,85,000
B = Issue Price	1,00,000	1,00,000
C = Amount chargeable to tax in previous year	NIL	NIL
Income taxable under the head IFOS	NIL	85,000

Calculation of tax liability under Income from Capital Gains

Particulars	FY 2025-26
Full value of consideration	INR 1,25,000
Less: Cost of acquisition (Note 1)	NIL
Income taxable under the head Capital gains	INR 1,25,000

Note 1: Calculation of cost of acquisition as per Explanation 1 to Section 48

Particulars	FY 2025-26
Cost of acquisition	INR 1,00,000
Less: Amount which is not chargeable to tax under Section 56(2)(xii) (INR 90,000 + INR 95,000 – INR 85,000)	INR 1,00,000
Cost of acquisition as per Explanation 1 to Section 48	NIL

15. What is the timeline for issue of Form 64B required under Income Tax, 1961 by the InvIT?

According to section 115UA(4) of the Act read along with Rule 12CA of Income- tax Rules, 1962 any person responsible for making payment of the income distributed on behalf of a InvIT to a unit holder is required to furnish a statement in Form 64B to the unit holder by 30th June of the financial year following the previous year in which income is distributed duly verified by the person distributing the income on behalf of the business trust in the manner indicated therein. Hence, form 64B for distribution made during financial year shall be provided by Anzen to the Unitholders by 30 June of the subsequent financial year.

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

The units of InvIT shall be regarded as long-term capital 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 long-term capital gain arising thereon shall be taxable at concessional rate of 10% (plus applicable surcharge and cess) without indexation benefit under section 112A 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 short-term capital gain arising thereon shall be taxable at concessional rate of 15% (plus applicable surcharge and cess) without indexation benefit under section 111A of the Income Tax Act, 1961.

The Securities Transaction Tax will be levied as applicable.

The aforementioned rates/ positions are as per the provisions of the Act. Unitholders are advised to independently evaluate any tax benefits under the relevant DTAA in consultation with their tax advisors.

17. When will TDS certificates be issued to the unitholders?

The TDS certificates in Form 16A shall be issued to the unitholders on quarterly basis in accordance with the timelines prescribed under the Act. Anzen will issue the TDS certificates based on the following indicative timeline:

Quarter in which distributions are made	Timeline for issue of TDS certificates
April to June	On or before 15 August
July to September	On or before 15 November
October to December	On or before 15 February
January to March	On or before 15 June

For example: For the distributions made during the month of June 2023 in relation to financial results declared for FY 2022-23, the due date of issuance of TDS certificates is on or before 15 August 2023.

Please note that the TDS Certificates will be shared within the due date applicable under the Act, with the Unitholders at their email IDs registered with CDSL/ NSDL.

18. Whether Form 15H/15G for claiming exemption from TDS deduction under Income Tax, 1961 can be accepted by the InvIT?

As per the provisions of the Act, liability to deduct TDS on interest and dividend income distributed by the InvIT to its unitholders arises under section 194LBA of the Act.

Section 197A of the Act provides for exemption from deduction of taxes at source under certain 'specified sections', in case the payee/ recipient of income furnishes a declaration in the prescribed form (i.e. Form 15G or Form 15H, as the case may be) that his total income for such year shall not exceed the maximum amount not chargeable to tax (including such income for which Form 15G/ 15H is being submitted).

However, Section 197A does not cover grant of exemption for payments covered under section 194LBA. Accordingly, Anzen cannot consider the declaration in Form 15G/ 15H for deducting taxes under section 194LBA on income distributed by it to its unitholders and is required to deduct taxes as per the rates prescribed therein.

19. Whether any threshold limit (minimum amount) of distribution is applicable for deduction of TDS 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.

20. What will be the point of taxation of distribution of income by InvIT?

Amount received from InvIT shall be taxable in the hands of unitholder in the financial year in which such income is received/ distributed.

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