

Tax Alert

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MRA clarification – Foreign Fiscally Transparent Vehicles & Alternative Investment Funds

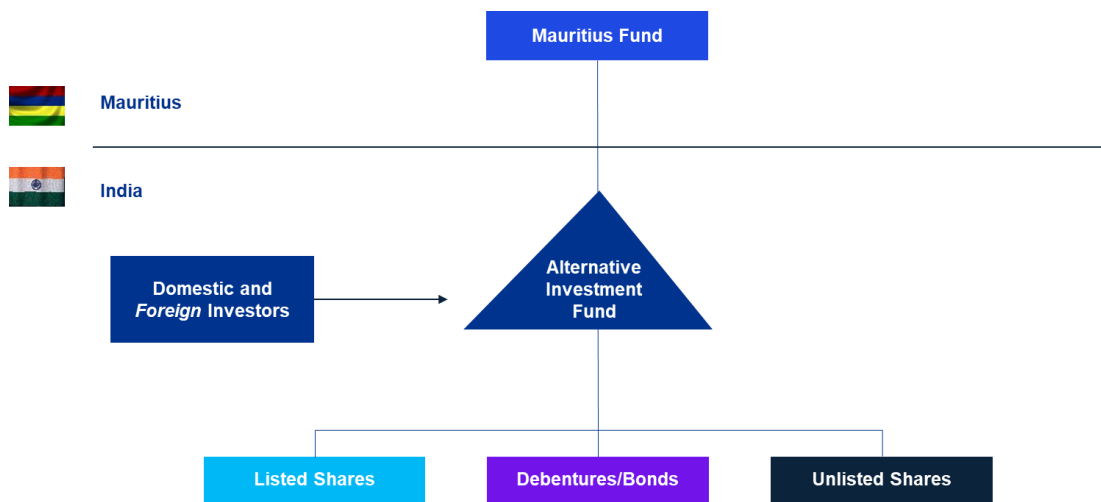
Introduction

On 01 July 2022, the Mauritius Revenue Authority (MRA) issued a [communique](#) to clarify that distributions by foreign fiscally transparent entities will retain their initial character in Mauritius.

As such, capital gains distributed by Indian tax transparent Alternative Investment Funds (AIF) to a Mauritian resident will also be treated as capital gains for Mauritius tax purposes and hence not be subject to income tax in Mauritius.

Background

AIFs are funds incorporated in India for the purpose of pooling capital from Indian and foreign investors, which in turn, invest as per the pre-determined strategy. AIFs are generally registered in the form of Trusts under the Indian Trusts Act.



Simplified Indian AIF structure

There are three broad categories of Indian AIFs, depending on the needs and sectors for investment. AIF-I and AIF-II are pass-through for tax purposes i.e such AIFs are tax free and only unit holders/members are taxable as if these are direct investments in shares and securities in India. AIF III is taxable but depending on the nature of the vehicle, the unitholders/members are exempt from taxation.

In 2021, an Income Tax Ruling (TR 235) issued by the MRA ruled that distributions by an AIF to Mauritius Funds would not retain their initial character and would be treated as dividend income. Such dividend would be taxable at the rate of 15%, subject to 80% tax partial exemption or credit for foreign tax suffered overseas. This resulted in capital gain distributed by the AIF to be treated as dividend income and hence taxable in the hands of the Mauritius Fund.



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KPMG Views

With the communique from the MRA, distributions by tax transparent AIFs will retain their characteristics and each source of income will be taxed in Mauritius according to the taxation rules applicable to that source of income. Hence, capital gains distributed by tax transparent AIFs to Mauritius residents will be considered as capital gains for Mauritius tax purposes and not be subject to income tax in Mauritius.

The clarification by the MRA is welcomed and this provides tax certainty to investors investing in overseas tax transparent vehicles from Mauritius. This also consolidates Mauritius's position as one of the leading International Financial Centres for investment into India.

If you wish to discuss further, feel free to reach out to us.

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This document is based on our interpretation of the current tax laws and international tax principles. These laws and principles are subject to change occasioned by future legislative amendments and court decisions. You are therefore cautioned to keep abreast of such developments and are most welcome to consult us for this purpose.

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