

Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

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PRESS RELEASE

CBDT issues clarification on perceived differential taxation of FPIs and domestic investors

It has come to the notice of the Central Board of Direct Taxes (CBDT) that an incorrect perception was being created in a section of the media inasmuch as if the announcements made by the Hon'ble Finance Minister on last Friday, which brought in a number of responsive structural measures to boost up the economy, had created a differential regime between FPIs and domestic investors including AIF category III.

Dispelling this false impression being created in certain sections of the media including social media, it is clarified that differential regime between domestic investors (including AIF category III) and FPIs existed even prior to the 2019 budget and was therefore not the creation of the Finance (No 2) Act, 2019 or the announcement made by the Finance Minister on last Friday.

In this regard, it is further stated, that, in case of Foreign Institutional Investors (FPIs), Income Tax Act, 1961 (the 'Act') contains special provisions [section 115AD read with section 2(14) of the Act] for taxation of income from derivatives. Under this regime, income of FPIs arising from derivatives was treated as capital gains and liable for special rate of tax as per section 115AD of the Act. However income arising from derivatives for the domestic investors including Alternative Investment Funds (AIFs) category-III as well as for foreign investors who are not FPIs, has always been treated as business income and not as capital gains, and taxed at applicable normal income tax rates. The differential regime therefore already existed for FPIs through Section 115 AD. Therefore to say, that this year's budget or FM's announcement of last Friday created a differential regime between FPIs and domestic investors is incorrect.

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