

Sandeep Khosla
Director General

dg@bombaychamber.com
9821075224 / 61200201

Ref : DGO/2024-25/009

July 9, 2024

Shri. Sanjay Malhotra, I.A.S.
Revenue Secretary
Department of Revenue
Ministry of Finance
Government of India
Room No.128-B, North Block
New Delhi – 110 001

Sir,

Re: Representation for rationalisation of provisions of Section 9A of the Income-Tax Act, 1961 ("Act")

The representation is being made with respect to rationalising the provisions of Section 9A of the Act.

At the outset, Section 9A of the Act was introduced to encourage fund managers to operate from India by ensuring that their presence in the country does not create adverse tax consequences for the offshore funds they manage. As per the provisions of section 9A, upon fulfilment of certain conditions specified in the said section, offshore funds can engage Indian-based fund managers without creating a tax presence in India for the funds.

While the intent was to incentivise global investment funds to consider setting up their management operations in India, given certain stringent of conditions laid down to qualify for eligibility under section 9A of the Act, the said provision has proved to be inadequate in attracting fund management into India.

One key condition which has been most challenging for the FPIs to comply is clause (c) of Section 9A (3) of the Act, which requires FPIs to track Indian resident ownership in the FPI, directly or indirectly. Not only is this condition not practical for FPIs to comply (specially in layered structures), it fails to appreciate that FPIs follow SEBI's guidelines relating to KYC and the tax rules impose an additional obligation/burden only on those FPIs who wish to appoint a fund manager in India.

The Indian capital markets will continue to attract significant foreign flows, given the high growth trajectory of the Indian economy expected over the next several years. FPIs with significant India exposure/portfolios would like to have teams in India undertake investment decisions, as these teams are closer the ground and this provides greater comfort to the investors. Besides, Indian asset management sector has shown tremendous growth over the last several years and the industry has the expertise/capabilities to manage foreign funds. As India attractiveness grows, several large Indian Asset Management Companies would like to launch offshore funds to raise foreign capital for investment into India and would like the fund to be managed from India.

We believe that the rationalisation of section 9A provisions will help the entire asset management ecosystem generating employment for high-skilled finance professionals, support service providers, such as custodians, fund specialists, fund accountants, fund administrators, risk managers, research analysts and contribute towards the Government of India's '**Make in India**' initiative.

In addition, it will also help in additional tax collection on the management fees earned by the asset managers. We have estimated such tax revenues to be USD 175 Million annually [on the basis that 20% of FPI's total Asset under custody¹ are managed from India, a management fee of 0.5% and a effective tax rate of 20%].

Given the above, we have enclosed herewith a document summarising provisions of section 9A of the Act along with suggested amendments and rational for such suggestions, for your consideration.

Yours sincerely,



Sandeep Khosla

Encl : Annexure

CC: Ms. Pragya Sahay Saksena, I.R.S., Member (Legislation), Central Board of Direct Taxes

Established 1836.

Admin Off.: The Ruby, 4th Floor NW, 29 Senapati Bapat Marg, (Tulsi Pipe Road), Dadar (W), Mumbai - 400 028. India. Tel. : +91-22 6120 0200 Fax: +91-22 6120 0213

E-mail : bcci@bombaychamber.com URL : www.bombaychamber.com

Regd. Off.: Mackinnon Mackenzie Building, 4, Shoorji Vallabhdas Marg, Ballard Estate, Mumbai 400 001. India. O : +91-22 4910 0200

CIN : U74999MH1924NPL001128

¹ USD 865 billion as of May 2024 as per data from NSDL