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Several fund asset managers' plans to shift fund management to India had been in limbo due to lack of this clarification.. Photo: Bloomberg

Govt eases norms for offshore funds to shift fund management to India

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- Earlier, there was a lack of clarity on how much should be the Indian fund manager's remuneration/ fee to be eligible for section 9A relaxation
- The clarifications are expected to boost flows in India as fund managers will be closer to the deal ecosystem.

MUMBAI: The finance ministry has amended income tax rules which will now make it easier for offshore funds to relocate fund management to India.

Section 9A of the Income Tax Act provides a special taxation regime for offshore funds if their fund manager is located in India. This was inserted to ensure more fund management happens in India without any adverse tax implications. The section was introduced in April 2016 and said only a fund manager’s income or management fee will be subject to tax and not the entire global income of the global fund.

This was expected to open the so-called flood gates and prompt more Indian fund managers located outside India to return. But there was lack of clarity on how much should be the Indian fund manager's remuneration/ fee to be eligible for section 9A relaxation. This prevented bulk of fund managers from opting for this route.

Central Board of Direct Taxes (CBDT) had then floated draft norms in December 2019 to clarify the rules on remuneration or management fee.

Finance ministry, in the gazette on 27 May, said, for a 9A special dispensation Foreign Portfolio Fund (FPI) category 1 that includes sovereign wealth funds, pension funds, the amount of remuneration or management fee paid by the fund to the Indian fund manager needs to be at least 0.10% of the assets under management (AUM). For category 2 FPIs which are typically hedge funds, the fund management fees has to be 0.30% of (AUM) or at least 50% of the total management fee.

These clarifications are expected to boost flows in India as fund managers will be closer to the deal ecosystem.

There were several fund asset managers whose plans to shift fund management to India had been in limbo due to the lack of thisclarification. These include Eastspring India Fixed Income and Balanced funds from Japan and Taiwan advised by ICICI Prudential International Business, an equity fund by Avendus Capital, and Whiteoak Capital Management, a boutique firm from Mauritius.

"These thresholds further refine the 9A rules, and make onshore management of foreign funds easier for local asset managers like us, and this avoids any adverse tax implications on the fund or FPI, for the foreign assets being managed from Mumbai," said a spokesperson for ICICI.

"Now at least there is clarity at what level of management fee will a Cat 2 offshore fund or any mandate from Cat 1 FPIs can be managed with an Indian fund manager under section 9A, and avoid any unnecessary risk of impacting the safe harbour provisions that this very policy enables," the spokesperson added.

Avendus could not comment immediately.

Safe harbour provisions safeguards offshore funds from transfer pricing taxation. Transfer pricing implies the prices at which various overseas divisions of a company transact with each other. Transfer pricing provisions are aimed at ensuring that transactions entered into between related parties are carried out on arm’s length basis. Generally, safe harbour is defined as circumstances in which the tax authority shall accept the transfer price declared by the taxpayer to be at arm's length.

"India has progressively liberalised tax framework to attract offshore funds. The safe harbour under 9A allows offshore funds to engage India based managers on a tax neutral basis. The floor prescribed for the manager remuneration seem reasonable given the tax shelter it offers to the offshore fund," said Richie Sancheti, head, Investment Funds, Nishith Desai Associates.