

New tax legislation concerning the taxation of domestic and foreign investment funds shall come in force on 1.1.2020. The new legislation specifies the conditions under which an investment fund or a special investment fund is considered exempt from income tax in Finland. In addition, Section 3 (10) of the Act on Taxation of the Non-residents' Income contains a provision concerning the dividend beneficiary's obligation to provide evidence of compliance with the conditions for tax exemption under Section 20 (a) of the Income Tax Act.

Note. This is an unofficial translation from Finnish of Section 20 (a) of the Income Tax Act. Legally binding only in Finnish and Swedish.

Section 20 (a) of the Income Tax Act (Investment Fund, Special Investment Fund and Sub-fund)

The investment fund referred to in Chapter 1, Section 2, Paragraph 1, Sub-Clause 2 of the Act on Investments Funds (213/2019), or a corresponding contractual foreign open-ended investment fund with variable capital, that has at least 30 unit holders, is exempt from income tax.

The provisions of subsection 1 concerning the tax exemption of investment funds also apply to special investment funds as referred to in Chapter 2, Section 1, paragraph 2 of the Act on Management of Alternative Funds (162/2014, later AIFM-law) and corresponding foreign contractual special investment funds if the fund is open-ended with variable capital and has at least 30 unit holders.

Where the special investment fund referred to in paragraph 2 has less than 30 unit holders or the special investment fund cannot be regarded as open-ended with variable capital, the following additional conditions for tax exemption apply:

- (1) the special investment fund distributes to its unit holders at least three quarters of its annual profits for the financial year, excluding unrealized appreciations;
- 2) the special investment fund has a capital of at least EUR 2 million; and
- 3) the unit holders of the special investment fund are professional investors or wealthy individuals treated as such within the meaning of Chapter 16a, Section 4 of the AIFM-law.

The special investment fund referred to in Chapter 2, Section 1, Paragraph 2, of the AIFM-law, or the corresponding contractual foreign special investment fund, which invest its assets primarily in real estate and real estate securities as referred to in Chapter 16a (4) of the AIFM-law, is exempt from the income tax, if the fund distributes to its unit holders at least three-quarters of its annual profits for the financial year, excluding unrealized appreciations.

In addition, tax exemption for foreign investment funds and special investment funds registered outside the European Economic Area is subject to the existence of an agreement on the exchange of information on tax matters between Finland and the country of registration, and the country of registration can provide sufficient information to impose tax and to ensure the correctness of the taxation. In addition, the foreign investment fund must be established in accordance with UCITS-directive equivalent legislation in its state of registration, and the foreign special investment fund must be established in accordance with equivalent legislation to the Act on Management of Alternative Funds in its state of registration.

The provisions of paragraphs 1 and 2 shall also apply to:

- (1) a newly established investment fund or special investment fund in which the minimum requirement of 30 unit holders has not yet been met in the first year and has not been the result of a merger or division;
- 2) to an investment fund and special investment fund in which the number of unit holders has temporarily fallen below 30, if the asset management company has taken the measures referred to in Chapter 19, Section 7 of the Act on Investment Funds to amend the situation, or if the fund is being liquidated.

Where the investment fund or special investment fund consists of one or more sub-funds, the sub-fund is subject to the same provisions as the investment fund or special investment fund.

Finnish Tax Administration will give further guidance of the application and interpretation of Section 20 (a) of the Income Tax Act in English in February 2020.