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Tax and Regulatory


# TAX CONSIDERATIONS IN INVESTMENT STRUCTURING

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July 12, 2007

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# KEY TAX CONSIDERATIONS



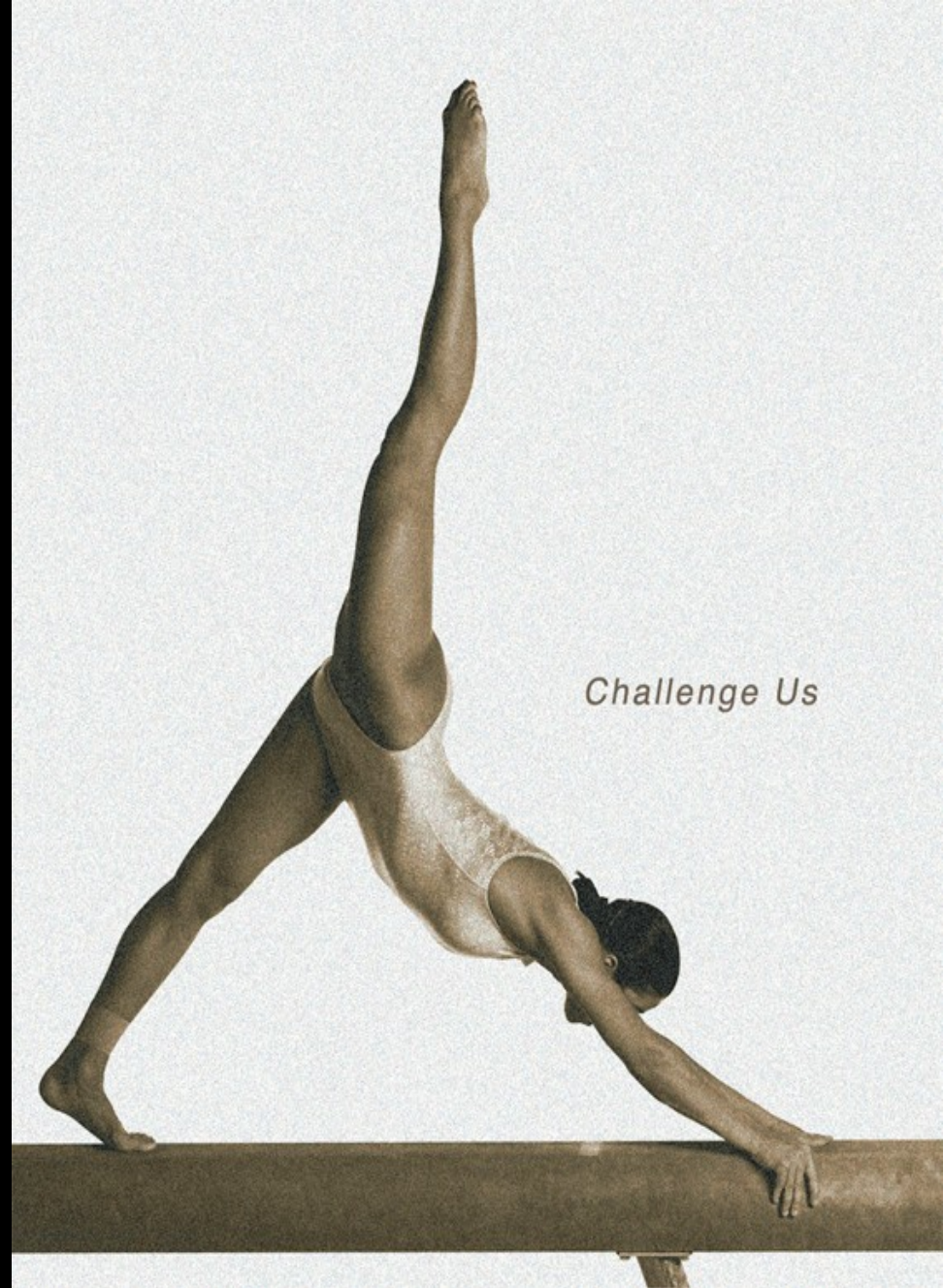
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# KEY TAX CONSIDERATIONS

- Choice of **jurisdiction** for routing investments into India
- Kind of **investment vehicle** to be used for routing investments
- **Instruments** to be used to fund the investments
- The **operating structure** to be adopted at the Target company level to optimize tax efficiency



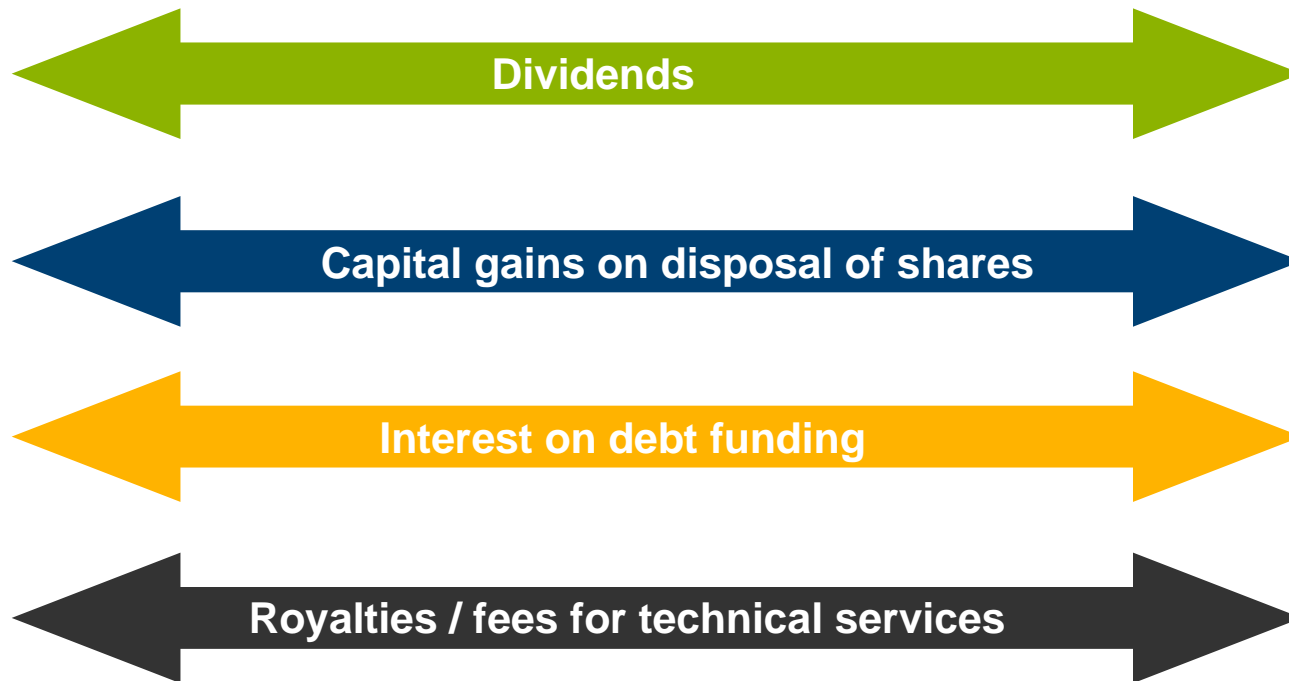
# HOLDING ENTITY JURISDICTION



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# HOLDING ENTITY JURISDICTION

The choice of jurisdiction from where investments can be routed into India would primarily depend on the revenue flows arising from investments in India and their taxability. The typical revenue flows arising from real estate are:



**Note:** *A non-resident is taxable in India as per the provisions of the domestic law or the applicable treaty, whichever is more beneficial to the non-resident*

# HOLDING ENTITY JURISDICTION

## Preferred jurisdictions for investments into India:

Income stream	Order of preference
Dividend	Tax Neutral – DDT of 16.995% paid by Indian company
Capital gains	<ul style="list-style-type: none"><li>• Mauritius/Cyprus/ Singapore</li><li>• Netherlands</li></ul>
Interest	<ul style="list-style-type: none"><li>• Cyprus/Netherlands</li><li>• Singapore</li><li>• Mauritius (interest earned by Mauritius banks are however exempt)</li></ul>
Royalty	<ul style="list-style-type: none"><li>• Singapore/Netherlands</li><li>• Cyprus/Mauritius</li></ul>
Fees for technical services	<ol style="list-style-type: none"><li>1.Mauritius</li><li>2.Singapore/Netherlands/Cyprus</li></ol>

# INVESTMENT VEHICLE

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# INVESTMENT VEHICLE

- The discussion on Investment Vehicles includes parameters to be considered at two levels, one at the jurisdiction level and the other at India level

Mauritius /  
Singapore /  
Cyprus / Netherlands

## Key parameters

- Ease of formation and administration
- Ease of exit
- Local regulatory (non-tax considerations)
- Tax treatment in the country of residence
- Tax differentiators vis-à-vis tax treaties with final holding entity's jurisdiction; impact on repatriation of profits
- Tax differentiators vis-à-vis tax treaties with India

India

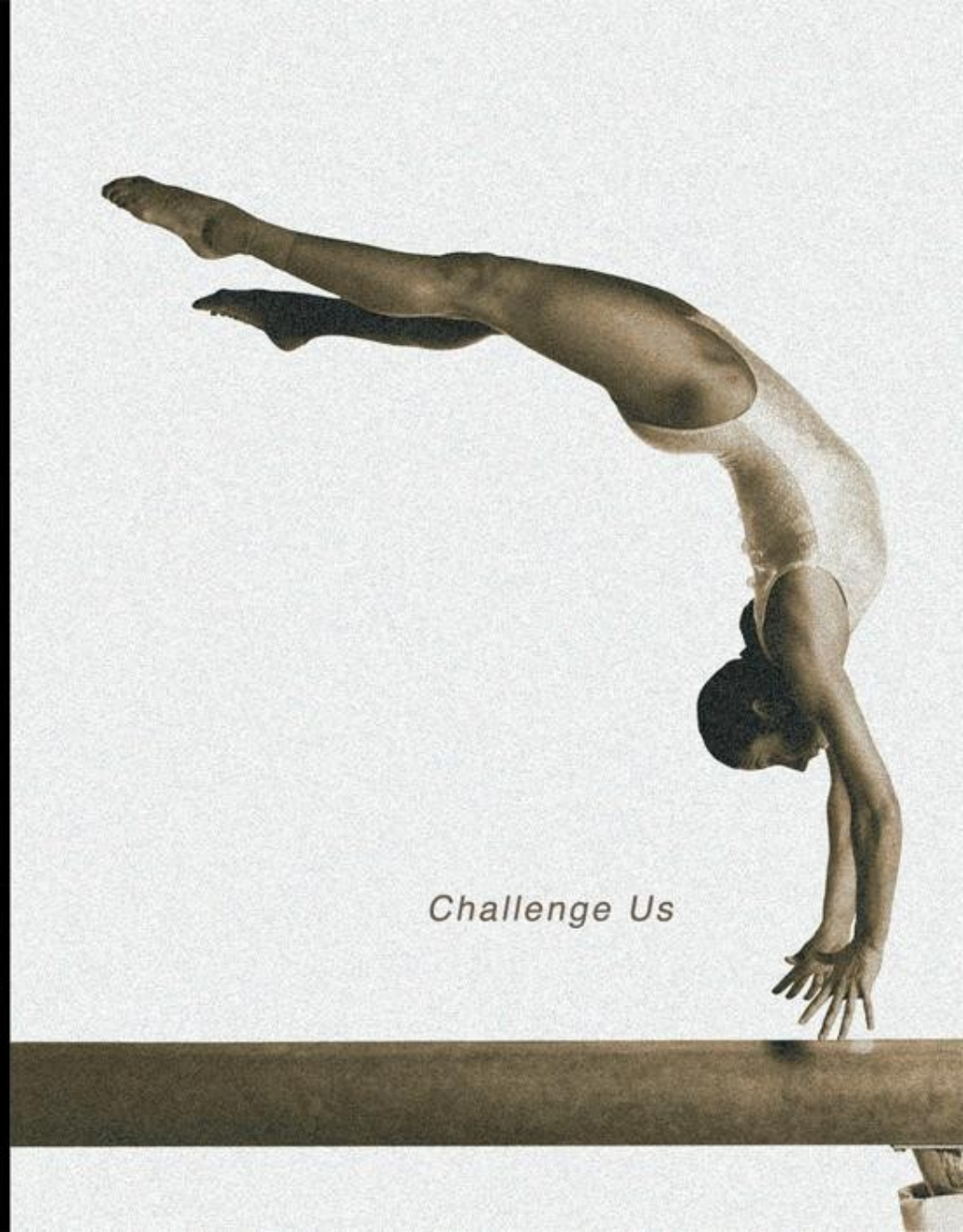
## Key parameters

- FDI restrictions in India
- Regulatory registrations and administration

# EVALUATION OF INVESTMENT VEHICLE

- The investment vehicle for routing the investments into India could be a Company, Trust, Partnership firm, etc and the choice of such investment vehicle would largely depend on the domestic tax treatment of such vehicle in the chosen jurisdiction and the FDI implications in India
- The overall guiding principle would be that the investment vehicle qualifies to claim treaty benefit under the tax treaty between India and the relevant jurisdiction

# FUNDING OPTIONS



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# FUNDING OPTIONS

➤ Broadly, the following options are available:



➤ Choice of the funding instrument would be decided based on the following considerations:

**Tax implication for the returns on the instrument**

**Tax status of issuing entity**

**Requirement for a tax break**

**Specific deal consideration – Such as preferential distributions**



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