

# Law approves changes to income tax levied on investments in FIPs

Changes introduced by Law No. 14,711/23



## ○ New law approved by the Federal Government



On October 31, 2023, Law No. 14,711/23 was published, which, in addition to amending the regulation of guarantees, amended provisions of Law No. 11,312/06 that regulates the levy of the withholding income tax (“**WHT**”) on investments in Private Equity Investment Funds (“**FIP**”), Funds that invest in shares of Private Equity Funds (“**FIC-FIP**”) and Funds for Investments in Emerging Companies (“**FIEE**”).

- Provisional Measure No. 1,137/22 enacted last year had already proposed similar amendments, but never entered into force.

## ○ Approval and entry into force



After the approval of Law Bill No. 4,188/21 by the House of Representatives on October 02, 2023, the text was sent for approval by the Federal Government, which approved parts of the proposed changes in Law Bill No. 4,188/21. In any case, the provisions related to the levy of the WHT on investments in FIPs, FIC-FIPs, and FIEEs were **fully maintained**.

- The changes enter into force on October 31, 2023 - the date of publication of Law No. 14,711/23.

## GENERAL RULE: 15% WHT RATE ON INCOME AND GAINS ON FIP, FIC-FIP AND FIEE

### Main changes

### Law No. 11,312/06 - Current wording

### Law No. 14,711/23 - Approved changes

**Composition of the fund's portfolio (67%)**



In addition to the Securities Commission ("CVM") regulations, funds must have a portfolio composed of at least 67% of shares in corporations, convertible debentures, and subscription bonuses



Funds only need to comply with the CVM's regulations

## NON-RESIDENT INVESTORS: 0% WHT RATE ON INCOME AND GAINS ON FIP, FIC-FIP AND FIEE

### Main changes

### Law No. 11,312/06 - Current wording

### Law No. 14,711/23 - Approved changes

**Composition of the fund's portfolio (67%)**



In addition to the CVM's rules, funds must have a portfolio composed of at least 67% of shares in corporations, convertible debentures, and subscription bonuses



Funds only need to comply with the CVM's regulations

**Debt securities (5%)**



Maximum investment of 5% of its shareholder's equity in debt securities, except for convertible debentures or government bonds



Revoked

**Investment Entity**



No restriction



The fund must be qualified as an investment entity, according to regulations to be issued by the National Monetary Council ("CMN")

**FIP-IE and FIP-PD&I**



No express authorization



Such funds are now covered by the tax benefit

**Quota holder participation (40%)**



The quota holder must not hold 40% or more of the quotas issued by the fund or of its total income



Revoked

**Quota holder's tax residency**



The quota holder must not reside in a jurisdiction that taxes income at 20% nominal rate or lower



The quota holder must not reside in a low-tax jurisdiction (article 24 of Law No. 9,430/96)

**Sovereign wealth funds as quota holders**



No express authorization



Sovereign wealth funds are now covered by the tax benefit, even if they reside in low tax jurisdictions

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