Aircraft Leasing in IFSC at GIFT City
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**What is IFSC?**

- International Financial Services Centre (IFSC) caters to the customers outside the jurisdiction of domestic economy. Such centers deal with the flow of finance, financial products and services across the borders.
- IFSC as envisaged under the Indian context “is a jurisdiction that provides financial services to non-residents and residents (Institutions), in any currency other than Indian Rupee(INR)”
- IFSC is set up to undertake financial services transactions that are currently carried on outside India by overseas financial institutions and overseas branches/subsidiaries of Indian financial institutions

**IFSC in India**

- In India, an IFSC is approved and regulated by the Government of India under the Special Economic Zones Act, 2005
- Government of India has approved GIFT City as a Multi Services Special Economic Zone (‘GIFT SEZ’) and has also notified this zone as India’s IFSC
- The launch of the IFSC at GIFT City is the first step towards bringing financial services transactions relatable to India, back to Indian shores
- IFSC unit is treated as a non-resident under extant Foreign Exchange Management regulations

**Current players and ecosystem in IFSC at GIFT City**

<table>
<thead>
<tr>
<th>Participants</th>
<th>Key business activities and features</th>
<th>Volume and No. of players</th>
</tr>
</thead>
</table>
| International Stock exchanges | • Dollar denominated products  
• No transaction cost (other than brokerage)  
• Trading - 22 hours  
• Two International exchanges | • Average daily trading value on IFSC Exchanges USD 4.29 Bn  
• On March 10, 2021, IFSC Exchange (India INX) derivatives turnover touched a new high of USD 30.30 Bn executing more than 1.5 Mn Contracts. |
| IFSC Banking units | • External Commercial Borrowing (ECB) Lending  
• Loan syndication and trade finance | • 19 Banks Licensed, Domestic Banks - 13, Foreign Banks - 6  
• Total Banking Transactions touched approx. USD 51 Bn (as on Jan 2021)  
• Total Banking Asset size: USD 14 bn+ |
| Brokers & Intermediaries | • Broking services  
• Proprietary trading | • 100+ brokers, Depository  
• Clearing corporations, Custodian |
| Insurers & Intermediaries | • Non-life, Reinsurance business  
• Insurance intermediaries | • 19+ Companies  
• Sum insured - USD 30 Bn+ |
| Ancillary services | • Legal, Accounting, Bookkeeping and Taxation Services,  
• Management Consulting Services,  
• Assets Management Support Services and Trusteeship Services | • 32 entities |
### Aircraft Leasing in IFSC

**Key statistics**

- **Fleet Size in India:** 710 (Pre-covid numbers)
- **Number of Airline operators in India:** 9
- **Estimated Growth in Fleet Size (Y-o-Y):** 8-9%
- **Airline Leasing Companies set-up in IFSC:** 13 (as on March 2022)

- Currently, there are no Indian aircraft leasing companies dealing in commercial aircraft.
- The presence of aircraft lessors in IFSC would not only help airlines companies in India in terms of creating greater opportunities for better leasing terms and conditions, but also help them navigate currency depreciation risks better, thus removing uncertainties from their operational framework.
- The Indian Government along with the state Government has undertaken significant regulatory and tax reforms to incentivize the growth of Indian aviation industry. These reforms reflect strong commitment of the Indian Government to make India ‘Aatmanirbhar’ in the aviation industry.

### Aircraft Leasing : Journey so far

**May 2018**

- Constitution of Working Group on Development of Avenues for Aircraft Financing and Leasing Activities in India

**Jun – Sep 2018**

- Working Group conducted multiple workshops with all stakeholders (Regulators, Manufacturers, Airlines, Banks, Insurers, Re-insurers, Lessors, NBFCs, etc.)

**Jan 2019**

- Publication of Project Rupee Raftaar report by Hon’ble Union Minister for Civil Aviation during Aviation Conclave 2019

**July 2019**

- Flexibility to avail tax holiday in any 10 consecutive years out of 15 years at the option of IFSC unit. Exemption from WHT on interest payments by IFSC unit to non-resident made after 1 September 2019.

**August 2020**

- Exemption from stamp duty in Gujarat for documents executed in respect of prescribed activities related to aircraft leasing and financing.

**October 2020**

- Aircraft lease (operating, financial and hybrid) notified as a financial product in IFSC

**December 2020**

- Consultation Paper released to seek comments on proposed IFSCA (Aircraft Leasing) Regulations, 2020

**February 2021**

- Framework for Aircraft Operating Lease notified by IFSC Authority (IFSCA)
- Capital gains on transfer of aircraft or aircraft engine leased by IFSC unit to domestic company eligible for 100% deduction.
- Exemption from WHT on royalty payments by IFSC unit to foreign entities on account of lease of an aircraft.

**March 2021**

- IFSCA (Finance Company) Regulations, 2021 – notified

**June – Sep 2021**

- Consultation Paper released to seek comments on proposed IFSCA (Finance Company) Regulations, 2021 – to consolidate aircraft leasing regulations
Overview of IFSC framework

GIFT SEZ, GIFT City

IFSC Units (Financial services)

Banks

Capital Markets entities

Insurance entities

IFSCA & SEZ authority

Overview of regulatory framework – Aircraft Leasing Companies

Regulatory set up
- Special Economic Zones Act, 2005
- The International Financial Services Centres Authority Act, 2019
  - IFSCA has been established and is functional
  - IFSCA has assumed powers over other financial service regulators and is now a unified regulator

Exchange Control regulations
- FEM (International Financial Services Centre) Regulations, 2015
- FEM (Foreign Currency Accounts by a Person Resident In India) Regulations, 2015
- FEM (Transfer or issue of Foreign Security) Regulations, 2004

Guidelines
- RBI’s guidelines for setting up of IFSC Banking Units (IBU)
- SEBI (International Financial Services Centres) Guidelines, 2015
- IFSCA (Finance Company) Regulations, 2021
- IFSCA’s circular on Framework for Aircraft Operating Lease

Tax Laws
- Income-tax Act, 1961
- Goods and Services Tax Law
- Customs Act, 1962
- Double taxation avoidance agreements signed by India with 95 other countries
## Overview of Tax framework

### Key Direct tax parameters

<table>
<thead>
<tr>
<th>Corporate tax/ Withholding tax</th>
<th>Units in IFSC</th>
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<tbody>
<tr>
<td>• 100% profit linked deduction for any 10 consecutive years out of first 15 years of operations, at the option of the Company</td>
<td></td>
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<tr>
<td>• Depreciation on aircraft and aircraft engines is allowed at 40% on a written down value (WDV) basis</td>
<td></td>
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<tr>
<td>• Unabsorbed depreciation can be carried forward to the subsequent years to be set off against future profits, without any time limit.</td>
<td></td>
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<tr>
<td>• Post tax holiday, 22% (plus applicable surcharge and cess) for domestic companies that opted to forego certain deductions (with an exception of deductions available to IFSC)</td>
<td></td>
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<table>
<thead>
<tr>
<th>Minimum alternate tax (MAT)</th>
<th>Units in IFSC</th>
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<tbody>
<tr>
<td>• MAT @ 9% (plus applicable surcharge and cess) of book profits applies to a Company setup as a unit in IFSC</td>
<td></td>
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<tr>
<td>- Not applicable to companies in IFSC opting for new tax regime of 22%</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Withholding tax (WHT) on interest payment</th>
<th>Units in IFSC</th>
</tr>
</thead>
<tbody>
<tr>
<td>• No WHT on interest paid to non-residents by units in the IFSC i.e. interest income exempt from tax</td>
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<table>
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<tr>
<th>WHT on lease rentals</th>
<th>Units in IFSC</th>
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<tbody>
<tr>
<td>• No WHT on aircraft lease payments, in the nature of royalty, paid to non-residents by units in the IFSC (provided operations commence before 31 March 2024) i.e. operating lease rentals exempt from tax</td>
<td></td>
</tr>
</tbody>
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<tr>
<th>Capital gains on disposal of aircraft</th>
<th>Units in IFSC</th>
</tr>
</thead>
<tbody>
<tr>
<td>• 100% profit linked deduction available on capital gains arising on transfer of aircraft or aircraft engine leased by IFSC unit to domestic company (provided operations commence before 31 March 2024)</td>
<td></td>
</tr>
</tbody>
</table>

### Key Indirect tax parameters

<table>
<thead>
<tr>
<th>Import of goods/services into the IFSC:</th>
<th>Units in IFSC</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Procurement on outright purchase basis</td>
<td></td>
</tr>
<tr>
<td>• Procurement on operating lease basis</td>
<td></td>
</tr>
<tr>
<td>• Import of aircraft/ aircraft engine into the IFSC is not subject to basic custom duty (BCD). However, aircraft / aircraft engine required to be landing in SEZ for such exemption to apply. Currently, only Nagpur Airport is a designated SEZ for above condition to be fulfilled</td>
<td></td>
</tr>
<tr>
<td>• Leasing of aircraft/ aircraft engine into the IFSC is not subject to Integrated Goods and Services Tax (IGST), provided services are procured for authorized operations in an SEZ</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Leasing (operating lease) of aircraft/ aircraft engine to an Indian airline company by a unit in the IFSC</th>
<th>Units in IFSC</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Import of aircraft/ aircraft engine by an Indian airline company (operator) from an Indian lessor located in the IFSC is not subject to BCD, provided the aircraft is imported by the operator (or on behalf of the operator) for scheduled air operations</td>
<td></td>
</tr>
<tr>
<td>• Leasing of aircraft/aircraft engine by a unit in the IFSC to an Indian airline company is subject to IGST under forward charge at the rate of 5% on lease rental payments</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Stamp duty</th>
<th>Units in IFSC</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Exemption on all activities related to setting up of units in the IFSC and acquisition of any movable property (including aircraft) or immovable property for a period of 10 years commencing from 4 August 2020, may not be available for sale of an aircraft</td>
<td></td>
</tr>
</tbody>
</table>
### Key regulatory Framework and Guidelines – Aircraft Financial Lease Framework

<table>
<thead>
<tr>
<th>Parameters</th>
<th>Norms prescribed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permitted Core activities for finance companies set-up in IFSC</td>
<td>Finance companies set-up in IFSC can <em>inter alia</em> carry out financial lease transactions for aircraft lease and ship lease</td>
</tr>
<tr>
<td>Permitted Non-core activities for finance companies set-up in IFSC</td>
<td>Finance companies set-up in IFSC can <em>inter alia</em> undertake transactions permitted under the framework for aircraft and ship operating lease</td>
</tr>
</tbody>
</table>

#### Eligibility Criteria
- Set-up operations in IFSC by way of a subsidiary / joint venture / a newly incorporated company under Indian corporate laws (Finance Company) or a branch (Finance Unit) of investing entity or in any other form as may be specified by the IFSCA
- Investing entity to obtain No-objection certificate from its home country regulator for setting up a Finance Company / Unit in IFSC if it carries out a regulated financial activity in its home jurisdiction

#### General business guidelines
- An entity registered with IFSCA and engaged in the business of providing aircraft or helicopter and engines of aircraft or helicopter or any other part thereof under a financial lease
- Lessors shall transact in freely convertible foreign currency only
- Lessor and/or its promoters shall be from FATF compliant jurisdiction
- Permitted to undertake financial lease for an aircraft
- Any other related activity with prior approval of the IFSCA

#### Capital Requirement
- Minimum capital of USD 3 Mn or its equivalent in freely convertible foreign currency, to be maintained at all times
- IFSCA may prescribe maintenance of additional capital, if required, based on the nature and scale of business

#### Prudential Norms
- **Capital Ratio**: Minimum Capital Ratio for regulatory capital shall be 8% of its risk-weighted assets or at such percentage as may be specified by the IFSCA
- **Liquidity Coverage Ratio (LCR)**: Finance Company / Unit to maintain IFSCA prescribed LCR on stand-alone basis at all times
- **Exposure Ceiling**: Sum of all exposures to a single counterparty or group of connected counterparties shall not exceed 25% of its available eligible capital base without the approval of the IFSCA

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* Refer Circular – ‘Computation of Regulatory capital’ issued by IFSCA on 26 April 2021  
# Refer Circular – Framework on Computation of Exposure Ceiling for Finance Companies and Finance Units’ issued by IFSCA on 25 May 2021
## Key regulatory Framework and Guidelines – Aircraft Operating Lease Framework

<table>
<thead>
<tr>
<th>Parameters</th>
<th>Norms prescribed</th>
</tr>
</thead>
</table>
| **Permissible Activities**  | • Entities permitted to undertake operating lease for an aircraft including sale and lease back, purchase, novation, transfer, assignment, other similar transactions in relation to aircraft lease,  
|                             | • Any other related activity with prior approval of the IFSCA                    |
| **Eligibility Criteria**    | • Set-up operations in IFSC in by way of a Company or a Limited Liability Partnership or a Trust or in any other form as may be specified by the IFSCA  
|                             | • Person(s) in control shall be from FATF compliant jurisdiction  
|                             | • Deploy resources in IFSC commensurate with the business operations under this framework.  
|                             | • Exempted from Prudential Norms as prescribed under Financial Lease framework |
| **General business guidelines** | • An entity registered with IFSCA and engaged in the business of providing aircraft or helicopter and engines of aircraft or helicopter or any other part thereof under a operating lease  
|                             | • Lessors shall transact in freely convertible foreign currency only  
|                             | • Books of accounts and financial information to be maintained in such foreign currency, as may be declared at the time of making application.  
|                             | • Reporting to IFSCA to be done in USD  
| **Capital Requirement**     | • Minimum capital of USD 0.2Mn or its equivalent in freely convertible foreign currency, to be maintained at all times  
|                             | • IFSCA may prescribe maintenance of additional capital, if required, based on the nature and scale of business |

An aircraft lessor undertaking aircraft financial lease arrangement is required to maintain the prescribed prudential regulatory ratios.

However, the aircraft lessor undertaking aircraft operating lease arrangement is exempted from maintaining these ratios given the framework for aircraft operating lease has been outlined separately by the IFSCA.

Further, IFSCA (Banking) Regulations 2020 has also permitted IFSC banking units to undertake equipment leasing, including aircraft leasing.
Key steps for setting up Aircraft Leasing Business in GIFT IFSC

1. Obtaining a Digital Apply for name reservation for a unit in IFSC
2. Identification of office space in GIFT Special Economic Zone (SEZ) and secure Provisional letter of allotment (PLOA) from GIFT SEZ
3. Incorporation of Unit in IFSC and obtaining tax registrations
4. Application to SEZ authorities for setting up IFSC units. Upon approval, procure Final Letter of Allotment
5. Application to IFSCA for under Aircraft Operating Lease Framework
6. Obtaining BLUT and GST registration, RCMC IEC and Certificate for Fiscal benefits (Eligibility Certificate) from SEZ authority
7. Bank account opening and Commencement of Business
Thank you