

ACUITY **LAW**

# Aircraft Leasing – Gift City

JULY 2024



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## Objective

03

## IFSC – Gift City

04

## Aircraft Leasing

06

## Tax Considerations

10

## Key Insights

14




*To understand the legal, regulatory and tax framework for aircraft leasing through International Financial Services Centre (IFSC)*



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IFSC – GIFT City



Dynamic.  
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SEZ

Special territory having liberal tax & regulatory framework

IFSC



Multi service special economic zone offering financial products & services to residents & non-residents



Regulated by single regulatory body, International Financial Services Authority



**City** is India's greenfield smart city envisioned to be the financial hub for inbound and outbound investments and enhance ease of doing business in India

R

Treated as resident under Indian taxation laws

NR


Treated as non-resident under the extant foreign exchange control laws



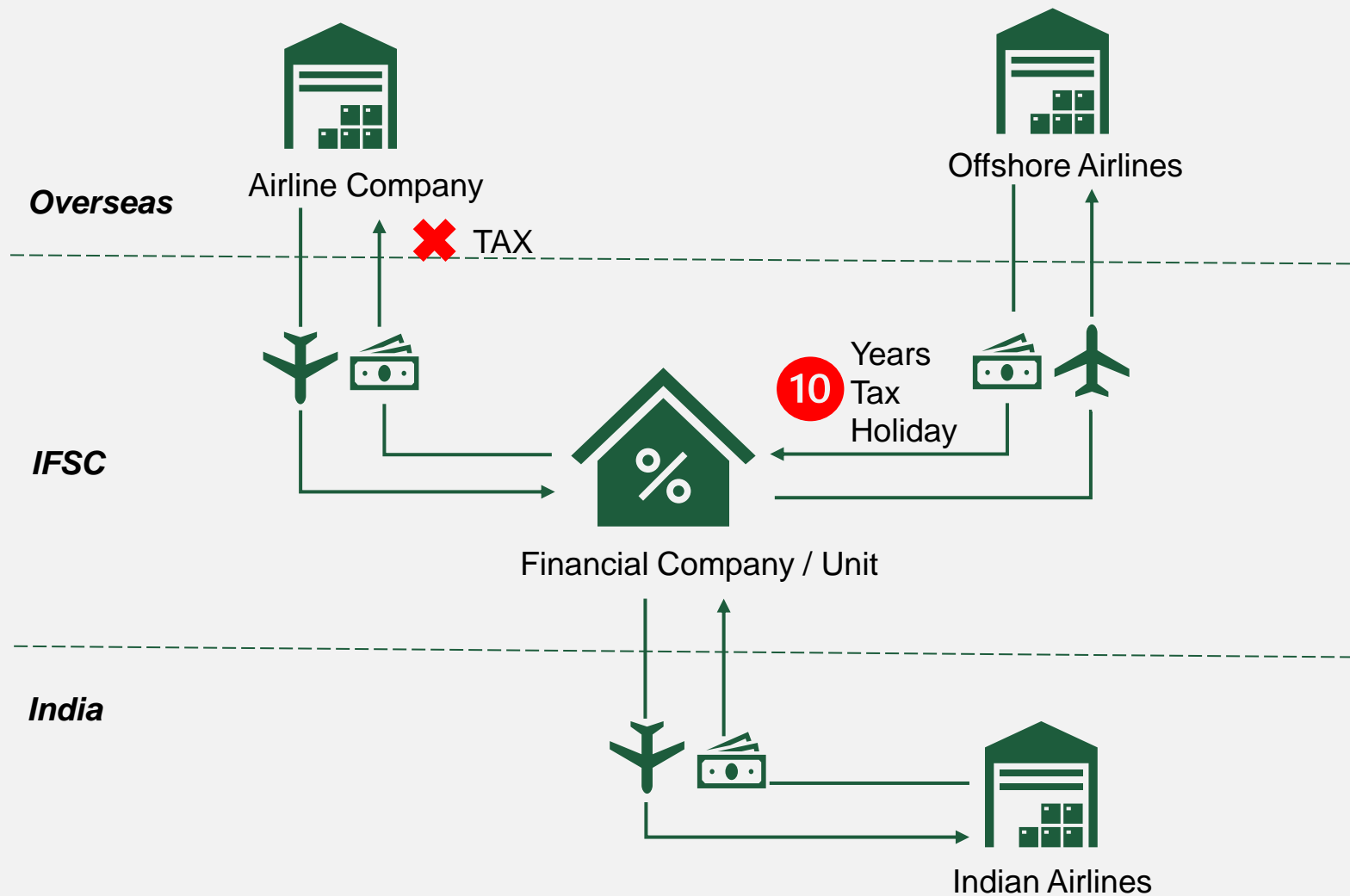


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## Aircraft Leasing



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## ***Benefits:***

- Foreign exchange control laws not applicable to units registered in IFSC
- Fiscal benefits (direct tax and indirect tax benefit)

## ***Key Considerations:***

- **Kinds of lease:** Operating and finance lease
- **Minimum owned funds:** Varies depending upon the kind of activity undertaken
- **Type of entity:** May be incorporated as a separate entity (i.e. Finance Company) or a branch (i.e. Finance Unit)
- **Nature of Finance Company:** Company, Trust or Limited Liability Partnership
- **No objection from home jurisdiction:** If the parent is into regulated financial activities
- **Permitted activities:** Can undertake core and non-core activities
- **Restrictions:** Should not accept public deposit and cannot be registered as a banking unit
- **Non-resident promoters:** From Financial Action Task Force (FATF) compliant jurisdiction
- **Currency:** Freely convertible currency
- **Accounts:** To be maintained in USD



## Operating Lease

- Operating lease for aircraft lease arrangement
- Operating lease for sale and lease back, purchase, novation, transfer, assignment
- Operating lease for aircraft ground support equipment
- Operating lease for aviation training simulation device
- Asset management support services for assets owned or leased out

- Minimum owned fund of USD 200,000



### Permitted Activities



### Capital Requirements



### Separate Registration



Prudential, KYC norms, Corporate governance and disclosure norms

## Finance Lease

- Financial lease or hybrid financial and operating lease for aircraft lease arrangement
- Financial lease or hybrid financial and operating lease for sale and lease back, purchase, novation, transfer, assignment
- Financial lease or hybrid financial lease and operating lease for aircraft training simulation device
- Financial lease or hybrid financial and operating lease for an aircraft ground support equipment

- Minimum owned fund of USD 3 million





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# Tax Considerations

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## Tax Holiday

- IFSC Unit engaged in aircraft leasing entitled to tax holiday of 100% on its income arising from transfer of an aircraft or aircraft engine by way of a lease
- Tax holiday is available for 10 consecutive years out of a period of 15 years, beginning with the year in which the requisite permission for the operation of the GIFT IFSC unit was obtained



## Alternate Tax

- Minimum Alternate Tax (MAT) and Alternative Minimum Tax (AMT) is applicable at the rate of 9%, provided the IFSC Unit derives income solely in convertible foreign exchange
- MAT is not applicable, if a company opts for new taxation regime



## Corporate Tax Rate

- An IFSC Unit being a domestic company may opt for a reduced corporate tax rate of 22% and will also continue to be eligible to tax holiday



## Withholding Tax

- No withholding tax is applicable on lease rentals including supplemental lease rentals when making payment to a IFSC Unit



## Royalty

- Royalty or interest paid by an IFSC Unit to a non-resident on account of lease of an aircraft is exempt from tax, provided the IFSC Unit has commenced operations on or before March 31, 2025
- No withholding tax



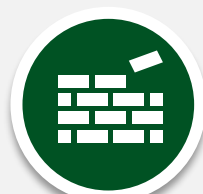
## Capital Gains

- No capital gains on sale of equity shares of an IFSC Unit (being a company), provided the IFSC unit is engaged into the business of lease of an aircraft which has commenced operations on or before March 31, 2026
- No withholding tax



## General Interest Income

- General interest income paid by an IFSC unit to a non-resident is exempt from tax
- No withholding tax



## Dividends

- Dividends paid by an IFSC Unit to a non-resident shall be taxed at a reduced rate of 10%



## No customs duty / GST

- No customs duty / GST on import of aircrafts into a Special Economic Zone (SEZ), IFSC or Domestic Tariff Area (DTA) (from IFSC)



## Lease Rentals

- Lease rentals to attract GST at 5% to be invoiced by the lessor (IFSC Unit) to the lessee in DTA



## Reverse Charge

- No GST (under reverse charge) on lease rental payment by lessee (IFSC unit) to the lessor outside India



## Exemption


- GST exemption on any services received by the IFSC unit for authorized operations in the IFSC / SEZ





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## Key Insights



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**Stamp duty considerations**



**Documentation for lease**



**Compliance with Cape Town Convention**



**Generally, 'company' is the preferred form for Finance Company**



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