

Indian Finance Bill 2022 proposes tax incentives to India Shipping Industry

The Government of India introduced the Finance Bill, 2022 (“Bill”) in the Lok Sabha on 1st February 2022. The Bill, amongst other things, proposes to incentivize the maiden International Financial Services Centre which was established under the International Financial Services Centres Authority Act, 2019 (IFSCA) and is also headquartered in Gujarat International Finance Tech – Hub (GIFT) City, Gujarat. At present GIFT IFSC is the only IFSC in India. Equipped with latest technology, futuristic infrastructure and high standards of efficiency in energy and environmental friendliness, GIFT City seeks to become a financial and technology gateway of India for the World.

The Bill proposes to predominantly incentivize GIFT IFSC through tax incentives. These incentives will significantly assist in boosting the Indian shipping industry. Section 4 of the Bill proposes to, inter alia, amend subsection (4F) of section 10¹ of the Income Tax Act, 1961 (“Act”). Presently, any income of a non-resident by way of royalty or interest, on account of lease of an aircraft in a previous year, paid by a unit of an IFSC² is exempt from being included in the taxable income of such non-resident person. The amendment to this section proposes to include income being accrued either through royalty or interest on account of lease of ships in addition to aircrafts. In other words, the amended sections would exempt from direct taxation any income received by a non-resident as a result of earnings on account of lease of an aircraft or a ship in a previous year, paid by a unit of an IFSC³.

Section 23 proposes to amend section 80LA of the Act. The amended section 80LA once in force would exempt any earnings arising from the transfer of not only aircrafts but also ships, which was leased by any Unit of an IFSC set up in a Special Economic Zone, provided that the concerned unit has commenced operation on or before the 31 March 2024 from direct taxation.

The effect of these amendments is to widen the list of exemptions on taxable income. The amendments now bring earnings by way of charter or transfer of ship leased by GIFT IFSC within the ambit of exemption. This is in furtherance of the IFSCA’s endeavour to expand GIFT IFSC’s services to stakeholders in the global shipping industry. Shipowners and charterers would now be more inclined to charter or lease or sell ships to GIFT IFSC since any income earned therefrom would be exempt from direct taxation.

1 Section 10 of the Act provides an exhaustive list of incomes that are not be included while computing the total taxable income of a person.

2 Section 10 4(F) of the Act.

3 See notes on clauses in the Bill.

These reforms also compliment IFSCA's vision is to offer competitive shipping services in relation to ships owned and leased by India-offshore IFSC, at par with international competitors. To put this vision into motion, IFSCA set up the Committee of Experts on Ship Financing & Leasing "Committee".

The IFSCA through the Committee sought to explore the development of various avenues for ship acquisition, financing, and leasing. The Committee in its report⁴ proposed that GIFT IFSC could play host to overseas ship owning entities. Vide these entities, GIFT IFSC would provide ship owning and leasing services. The said services would entail ensuring easy access to ship financiers including banks, flagging of ships in India with the additional benefit of ships being awarded "infrastructure status", a singular platform for payment and receipt of charter hire etc. In other words, GIFT IFSC intends to provide a one stop shop for all stakeholders involved in the owning and leasing of ships to do business. The said move would also have an effect of boosting India's ship building industry. Moreover, since various maritime initiatives such as the Gujarat Maritime Cluster have been set up in GIFT City, the proximate location of the GIFT IFSC would encourage synergies, seamless exchange of knowledge and information across various stakeholders and an opportunity to better evaluate and participate in the domestic maritime market. This is also in harmony the Government's Maritime India Vision 2030 and the Make in India initiative.

The amendments proposed by the Bill appear to be a step in the right direction towards the Government's endeavour to use the GIFT IFSC to propel India towards its goal to become the next global financial services hub. It can be reasonably anticipated that this move will attract foreign stakeholders to do business with GIFT IFSC and by extension with various parties in the Indian shipping industry.

Once the Bill has been passed, the amendments will come into force from 1st April 2023.

4 Ship Acquisition, Financing, and Leasing (SAFAL) to the International Financial Services Centres Authority (IFSCA).