

# Budget

2020

2021

2022

2023

2024

## Policy and tax reforms impacting International Financial Services Centres



### Keyur Shah

Partner - Financial Services Tax  
Leader  
EY - India

The Budget 2023, presented by the Hon'ble Finance Minister, Ms Nirmala Sitharaman, hopes to build on the foundation laid in the previous Budget. GIFT IFSC (Gujarat International Finance Tec-City - *International Financial Services Centre*) continues to be a focus area for the Government with key policy announcements being made in this Budget as well.

The following are key objectives basis which initiatives are proposed for GIFT IFSC:

- ▶ Ease of doing business
- ▶ Enhancing business activities
- ▶ Avoidance of dual taxation and regulations

The Government has been making enormous effort to release policies and tax incentives conducive to set up of presence in IFSC, and the amendments proposed in the Budget support the pursuit of the Government to make GIFT-IFSC an attractive destination for setting up operations and attracting investments.

The Governments efforts are also reflected in the Economic Survey 2022-23 (The Survey), which laid emphasis on the Government's vision for GIFT-IFSC which transcends much beyond traditional finance and is envisioned as the embodiment of Aatmanirbhar Bharat. The Survey also mentioned that GIFT IFSC is now emerging as a preferred jurisdiction for international financial services. Recognising the growing significance of IFSC, the Global Financial Centres Index, London Report (March 2022) put IFSC in GIFT City at the top, among 15 centres globally.

# How does the budget impact International Financial Services Centre?

## Policy proposals and its impact

### ▶ Powers under the SEZ Act will be delegated to the IFSCA

IFSC is a multi-services SEZ which is currently regulated by IFSCA as well as the SEZ Authorities. With an objective to ensure that the IFSC is regulated by a single regulator, it is proposed that the powers of the SEZ Authorities with respect to SEZ units in the IFSC zone shall be delegated to IFSCA. This further strengthens the power of IFSCA as a Financial Services regulator for IFSC. Changes expected in SEZ regulations.

### ▶ Single window IT system to be set-up for registration and approval from IFSCA, SEZ authorities, GSTN, RBI, SEBI and IRDAI

With the objective of further increasing ease of doing business in IFSC, it is proposed that a single window IT system shall be set-up for multiple approvals required for setting-up a unit in IFSC. Further, the said approvals shall be managed by IFSCA. This shall help in substantially expediting registration and approval processes for setting-up units in IFSC.

### ▶ IBU of foreign banks permitted to undertake acquisition financing

Currently, ECB regulations do not permit lending for equity investments. Permitting acquisition financing by IBUs of foreign banks in IFSC will help in addressing this regulatory hurdle and potentially assist in reducing the cost of financing.

### ▶ Subsidiary of EXIM Bank will be established in IFSC to promote trade re-financing

Several renowned foreign as well as Indian banks have established presence in IFSC. The Indian exchange control regulations do not apply to transactions undertaken by a unit set up in IFSC with entities in IFSC or outside India. With an objective to promote cross-border transactions in foreign currencies, the government has announced that EXIM bank will set up a subsidiary company in IFSC. This will provide a substantial boost to the IFSC ecosystem and the cross-border trade financing.

### ▶ Amendment of IFSCA Act

The IFSC Act, including Regulations issued by the IFSCA, permits entities to set-up a unit in IFSC for providing ancillary services. However, such activities have not been notified by the Government of India. The Finance Ministers' speech suggests that the Government may amend IFSCA Act to address this issue. Additionally, the speech suggests that amendments will also be made to introduce provisions for Arbitration and avoidance of dual registration.

### ▶ ODIs to be recognized as valid contracts

Section 18A of the SCRA provides that contracts in derivative shall be legal and valid if such contracts are:

- a. traded on a recognised stock exchange;
- b. settled on the clearing house of the recognised stock exchange, in accordance with the rules and bye-laws of such stock exchange;
- c. between such parties and on such terms as the Central Government may, by notification in the Official Gazette, specify.

The Budget proposes to amend section 18A of SCRA to provide that ODI contracts issued by an FPI in the IFSC regulated by the IFSCA shall also be legal and valid contracts. This amendment may potentially allow IBUs to issue ODIs with permissible Indian securities as the underlying asset subject to clarifications from the IFSCA.

▶ **Proposal to set-up Data Embassies in IFSC**

For countries looking for digital continuity solutions, the Government of India will facilitate setting up of their Data Embassies in IFSC. Such data embassies could enjoy sovereign benefits enjoyed by consulate/ embassies of foreign countries in India.

## Tax amendments

▶ **Relocation of Fund**

Finance Act 2021 provided incentives in case of relocation of funds to IFSC [i.e. assets of the original fund, or of its wholly owned special purpose vehicle, to a resultant fund in IFSC] for promoting Fund Management ecosystem in IFSC, if the relocation had taken place on/ before 31 March 2023.

It is proposed to extend the sunset clause in case of relocation from 31 March 2023 to 31 March 2025

▶ **Tax exemption on income from ODI**

Income of non-residents on transfer of ODIs entered into with IBU is exempt under section 10(4E) of the IT Act. Under the ODI contract, the IBU makes the investments in permissible Indian securities. Income earned by the IBU on such investments is *inter-alia* taxed as capital gains (equity), interest, dividend under section 115AD of the IT Act. After the payment of applicable taxes, IBU would pass such income to the ODI holders.

Presently, the exemption is provided only on the transfer of ODIs and not on the distribution of income (interest/ dividend) to the non-resident ODI holders, hence such distributed income is taxed twice in India i.e. first when received by the IBU and second, when the same income is distributed to non-resident ODI holders.

In order to remove the double taxation, it is proposed to amend clause (4E) of section 10 of the IT Act, to also provide exemption to any income distributed on the ODI, entered into with an IBU, which fulfils prescribed conditions.

It has also been provided that such exempted income shall include only that amount which is chargeable to tax in the hands of the IBUs under section 115AD of the IT Act.

▶ **Reference to the IFSCA (Fund Management) Regulations, 2022**

IFSCA (Fund Management) Regulations, 2022 has come into force from 19 May 2022. To bring the reference of the said regulation in the provisions of the IT Act, it is proposed to include the reference of IFSCA (Fund Management) Regulations, 2022 in relation to the definition of 'specified fund', 'resultant fund' and 'investment fund' under the IT Act.

## Impact analysis

IFSC has been a focus area for the Government and to ensure ease of setting-up and doing business in IFSC, there have been various policy announcements including delegating powers under the SEZ Act to IFSCA and providing a single window for registrations. Further, from a tax perspective, Budget 2023 has extended the sunset clause for fund relocations to 31 March 2025 and also provided relief to non-residents earning income from offshore derivative instruments issued by an IFSC Banking unit. Further, by not extending the benefit of taxation of interest income at the rate of 5% on foreign currency loans and certain debt investments by foreign portfolio investors, there would be a natural preference to explore IFSC as the next destination for doing business in India.

Looking forward, the Government is set on a journey to meet its objective of making GIFT City into a bustling financial hub, a vibrant city bearing a distinctively international character, and pioneering solutions to complex problem statements involving finance. Hence, we will expect further changes/amendments to meet its objective, and introductions of various clarifications/regulations on an ongoing basis.

## Glossary

**ECB** - External Commercial Borrowing

**EXIM Bank** - Export Import Bank

**FPI** - Foreign Portfolio investors

**GIFT City** - Gujarat International Finance-Tec City

**GSTN** - The Goods and Service Tax Number

**IBUs** - IFSC Banking Unit

**IFSC** - International Financial Services Centre

**IFSCA** - International Financial Services Centres Authority

**IFSCA Act** - The International Financial Services Centres Authority Act, 2019

**IRDAI** - Insurance Regulatory and Development Authority of India

**IT Act** - Income-tax Act, 1961

**ODI** - Overseas Derivative Instruments

**RBI** - Reserve Bank of India

**SCRA** - Securities Contracts (Regulation) Act, 1956

**SEBI** - Securities and Exchange Board of India

**SEZ** - Special Economic Zone



For details on other sectors and solutions visit our website [https://www.ey.com/en\\_in/tax/union-budget-2023](https://www.ey.com/en_in/tax/union-budget-2023)

Download the [EY India Tax Insights App](#) for detailed insights on tax and regulatory reforms

# Our offices

## Ahmedabad

22nd Floor, B Wing, Privilon  
Ambli BRT Road, Behind Iskcon  
Temple, Off SG Highway  
Ahmedabad - 380 059  
Tel: + 91 79 6608 3800

## Bengaluru

12th & 13th floor  
"UB City", Canberra Block  
No.24 Vittal Mallya Road  
Bengaluru - 560 001  
Tel: + 91 80 6727 5000

## Ground Floor, 'A' wing

Divyasree Chambers  
# 11, Langford Gardens  
Bengaluru - 560 025  
Tel: + 91 80 6727 5000

## Chandigarh

Elante offices, Unit No. B-613 &  
614  
6th Floor, Plot No- 178-178A  
Industrial & Business Park,  
Phase-I  
Chandigarh - 160 002  
Tel: + 91 172 6717800

## Chennai

Tidel Park, 6th & 7th Floor  
A Block, No.4, Rajiv Gandhi Salai  
Taramani, Chennai - 600 113  
Tel: + 91 44 6654 8100

## Delhi NCR

Golf View Corporate Tower B  
Sector 42, Sector Road  
Gurugram - 122 002  
Tel: + 91 124 443 4000

3rd & 6th Floor, Worldmark-1  
IGI Airport Hospitality District  
Aerocity, New Delhi - 110 037  
Tel: + 91 11 4731 8000

4th & 5th Floor, Plot No 2B  
Tower 2, Sector 126  
Gautam Budh Nagar, U.P.  
Noida - 201 304  
Tel: + 91 120 671 7000

## Hyderabad

THE SKYVIEW 10  
18th Floor, "SOUTH LOBBY"  
Survey No 83/1, Raidurgam  
Hyderabad - 500 032  
Tel: + 91 40 6736 2000

## Jamshedpur

1st Floor, Shantiniketan Building  
Holding No. 1, SB Shop Area  
Bistupur, Jamshedpur - 831  
001  
Tel: + 91 657 663 1000

## Kochi

9th Floor, ABAD Nucleus  
NH-49, Maradu PO  
Kochi - 682 304  
Tel: + 91 484 433 4000

## Kolkata

22 Camac Street  
3rd Floor, Block 'C'  
Kolkata - 700 016  
Tel: + 91 33 6615 3400

## Mumbai

14th Floor, The Ruby  
29 Senapati Bapat Marg  
Dadar (W), Mumbai - 400 028  
Tel: + 91 22 6192 0000

5th Floor, Block B-2  
Nirlon Knowledge Park  
Off. Western Express Highway  
Goregaon (E)  
Mumbai - 400 063  
Tel: + 91 22 6192 0000

## Pune

C-401, 4th floor  
Panchshil Tech Park, Yerwada  
(Near Don Bosco School)  
Pune - 411 006  
Tel: + 91 20 4912 6000

Ernst & Young LLP

EY | Building a better working world

EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via [ey.com/privacy](https://ey.com/privacy). EYG member firms do not practice law where prohibited by local laws. For more information about our organization, please visit [ey.com](https://ey.com).

Ernst & Young LLP is one of the Indian client serving member firms of EYGM Limited. For more information about our organization, please visit [www.ey.com/en\\_in](https://www.ey.com/en_in).

Ernst & Young LLP is a Limited Liability Partnership, registered under the Limited Liability Partnership Act, 2008 in India, having its registered office at 9th Floor, Golf View Corporate Tower B, Sector 42, Golf Course Road, Gurugram, Haryana - 122 002

© 2023 Ernst & Young LLP. Published in India. All Rights Reserved.

This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. Neither EYGM Limited nor any other member of the global Ernst & Young organization can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate advisor.

[ey.com/en\\_in](https://ey.com/en_in)

[@EY\\_India](https://twitter.com/EY_India) [in](https://www.linkedin.com/company/ey) EY [You Tube](https://www.youtube.com/channel/UCv31111111111111111111) EY India [f](https://www.facebook.com/eycareers) EY Careers India [ig](https://www.instagram.com/ey_indiacareers) @ey\_indiacareers