<u>FAQs -- The Taxation and Other Laws (Amendment) Bill, 2026</u>

I. Extension of exemption period provided to foreign company providing capital goods, equipment or tooling equipment to a contract manufacturer.

Q.1 What are the present provisions of exemption in respect of income of foreign company arising on account of providing capital goods, equipment or tooling equipment to a contract manufacturer?

Ans: In the IT Act, 2025, vide Finance Act, 2026, exemption was provided to the income of a foreign company arising on account of providing capital goods, equipment or tooling to a contract manufacturer being a company resident in India. Such exemption shall be available up to the tax year 2030-2031.

There are certain other conditions to be satisfied for the said exemption. Some of these conditions are: —

(a) Ownership of such capital goods, equipment or tooling remains with the foreign company;
(b) such capital goods, equipment or tooling is under the control and direction of the contract manufacturer.
(c) The contract manufacturer should be company resident in India and located in a custom bonded area;
(d) the contract manufacturer produces electronic goods on behalf of the foreign company for a consideration

Q2. Where are these provisions placed in the IT Act, 2025?

Ans: These provisions are part of Serial No. 13A of the Table in Schedule IV to the IT Act, 2025.

Q3. What amendment has been proposed in the IT Act, 2025 by the Taxation and Other Laws (Amendment) Bill, 2026 in respect of the aforesaid provision?

Ans: The Taxation and Other Laws (Amendment) Bill, 2026 proposes the following amendments in the said provision: —

(a) The aforesaid exemption has been further extended for another period of 10 years, i.e. till tax year 2040-41;
(b) Also, in order to provide more clarity and certainty, the definition of specified electronic goods has been provided.

Q.4 What definition of specified electronic goods has been provided in the proposed amendment?

Ans: In order to provide greater clarity and certainty, the expression "specified electronic goods" has been defined to mean, —

(i) mobile phones; or
(ii) laptops, all-in-one personal computers and tablets; or
(iii) servers and ultra small form factor (USFF); or
(iv) sub-assemblies to the finished goods mentioned in clauses (i) to (iii); or

(v) hearables and wearables and accessories related to the finished goods mentioned in clauses (i) to (iii).

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II. Amendment of conditions of provisions providing exemption to foreign company procuring data centre services from a specified data centre.

Q.1 What are the present provisions of exemption in respect of income of foreign company arising on account of procuring data centre services from a specified data centre in India?

Ans: In the IT Act, 2025, vide Finance Act, 2026, exemption has been provided to the income of a foreign company accruing or arising in India or deemed to accrue or arise in India by way of procuring data centre services from a specified data centre. The exemption has been provided for a period upto tax year ending on the 31st March, 2047.

There are certain other conditions which are required to be satisfied for the said exemption. These conditions are: —

(a) Such foreign company is notified by the Central Government in this behalf;
(b) such foreign company does not own or operate any of the physical infrastructure or any resources of the specified data centre;
(c) all sales by such foreign company to users located in India are made through a reseller entity being an Indian company;
(d) such foreign company maintains and furnishes such information in such form and manner, as may be prescribed;

Q2. Where are these provisions placed in the IT Act, 2025?

Ans: These provisions are part of Serial No. 13C of the Table in Schedule IV to the IT Act, 2025.

Q3. Are there any conditions to be fulfilled by the specified data centre?

Ans: Yes. As per Note 3 of Schedule IV, "specified data centre" means a data centre which is –

(i) set up under an approved scheme and is notified in this behalf by the Central Government in the Ministry of Electronics and Information Technology; and
(ii) owned and operated by an Indian company.

Q4. How is the income of the resident Indian company running the data centre determined?

Ans:- The income of resident Indian company is determined as per normal provisions of the Income-tax Act, 2025. However, where the Indian company is an associated enterprise of the foreign company providing cloud services and is remunerated on its cost, a safe harbor of 15% has been provided for determining arm's length price for the remuneration paid by the foreign company.

Q5. What amendment has been proposed in the Income-tax Act, 2025 in connection with foreign company procuring data centre services from a specified data centre?

Ans: The Taxation and Other Laws (Amendment) Bill, 2026 proposes the following amendments:

(i) the condition for the notification of the foreign company by the Central Government has been omitted;
(ii) the condition for the notification of the specified data centre by the Central Government (in the Ministry of Electronics and Information Technology) has also been omitted;
(iii) in the case of specified data centre to be operated by the Indian company, the lease model of ownership has also been allowed;
(iv) it has also been provided that the specified data centre shall fulfil such conditions as may be prescribed.

Q.6 What is the effect of allowing the leased model of ownership in respect of Indian data centre?

Ans: It was represented before the Government that the condition of 'specified data centre' being owned and operated by the Indian company may be somewhat restrictive in the sense that an Indian data centre may be operated by an Indian company after it has been procured on lease basis. Therefore, amendment has been made in the provisions to provide for the leased model of operation also.

Q7. What is the purpose of removing condition of notification for the foreign company as well as the specified data centre?

Ans: The foreign company providing cloud services as well as the Indian company providing data centre services shall be required to furnish information in such form and manner as may be prescribed by way of Rules. This condition is considered sufficient for allowing the data centre reform to operate. Therefore, for the purposes of ease of doing business, the notification condition for the foreign company as well as the Indian data centre company are proposed to be removed.

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III. Exemption to foreign mining company engaged in the business of selling rough diamonds.

Q.1 What amendment has been proposed in the Income-tax Act, 2025 in connection with foreign mining company engaged in the business of selling rough diamonds?

Ans: It is proposed to insert new provision for exemption to a foreign mining company engaged in the business of selling rough diamonds on any income on sale of rough diamonds. The new provision is proposed to be inserted at serial no. 13F of the Table in Schedule IV of the IT Act, 2025.

Q.2 Who shall be eligible for exemption under the proposed provision?

Ans: A foreign company engaged in the business of diamond mining or a foreign company functioning as a sightholder, broker, aggregator or a tender and auction entity for such business shall be eligible for exemption.

Q.3 What are the necessary condition provided under the proposed provision?

Ans: The condition for availing such exemption is that, —

(i) the sale of rough diamonds is carried out in any special notified zone (SNZ) as referred to in section 9(9)(c)(ii)(C) of the IT Act, 2025 (SNZ in Mumbai & Surat); and

(ii) such foreign company maintains and furnishes such information in such form and manner, as may be prescribed.

Q.4 What do we mean by "rough diamonds"?

Ans: The expression "rough diamond" means any diamond that is unworked or simply sawn, cleaved, or bruted and falling under the Tariff Heading 7102 10, 7102 21, or 7102 31 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and accompanied by the Kimberley Process Certificate.

Q.5 For what period is the exemption available under the proposed amendment?

Ans: The exemption is available for a period of 15 years i.e. up to the tax year ending on the 31st March, 2041.

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IV. Exemption to foreign company storing components for sale to a contract manufacturer involved in manufacturing of specified electronic goods.

Q.1 What amendment has been proposed in the Income-tax Act, 2025 in connection with foreign company storing components for sale to a contract manufacturer?

Ans: It is proposed to insert new provision for exemption to a foreign company on any income accruing or arising on account of storage of components in a warehouse in a custom bonded area. The new provision is proposed to be inserted at serial no. 13G of the Table in Schedule IV of the IT Act, 2025.

Q.2 Who shall be eligible for exemption under the proposed provision?

Ans: A foreign company which stores components in a warehouse in a custom bonded area for providing them to a contract manufacturer to be used for manufacturing of specified electronic goods shall be eligible for exemption.

Q.3 What are the necessary condition provided under the proposed provision?

Ans: The condition for availing such exemption is that, —

(i) such exemption shall be available in respect of income arising on sale of components by such foreign company;

(ii) such contract manufacturer produces electronic goods on behalf of any foreign company; and

(iii) such exemption shall be subject to furnishing of information in such form and manner as may be prescribed.

Q.4 What is meant by “contract manufacturer”?

Ans: The expression “contract manufacturer” means an Indian company who produces specified electronic goods on behalf of any foreign company in a custom bonded area.

Q.5 What is meant by “custom bonded area”?

Ans: The expression “custom bonded area” means a warehouse as referred to in section 65 of the Customs Act, 1962.

Q.6 For what period is the exemption available under the proposed amendment?
Ans: The exemption is available for a period of 15 years i.e. up to the tax year ending on the 31st March, 2041.

Q7. What is the definition of specified electronics goods?

Ans: The expression “specified electronic goods” has been defined to mean, —

(i) mobile phones; or

(ii) laptops, all-in-one personal computers and tablets; or

(iii) servers and ultra small form factor (USFF); or

(iv) sub-assemblies to the finished goods mentioned in clauses (i) to (iii); or

(v) hearables and wearables and accessories related to the finished goods mentioned in clauses (i) to (iii).

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V. Exemption to a unit holder on dividend received or receivable from a special purpose vehicle (SPV) of business trust where such SPV is in new regime.

Q.1 What are the present provisions of exemption in respect of dividends received or receivable by a unit holder of a business trust from an SPV of such business trust?

Ans: Business trusts are pass-through vehicles. They collect funds of unit holders and invest in real estate or infrastructure through a company (special purpose vehicle - SPV). The SPV pays tax on its profits and thereafter passes dividends to business trusts which is passed on to the unit holders.

At present, in the case of a business trust, dividend is exempt in the hands of a recipient unit holder only if SPV is taxable under the old tax regime. If the SPV is in the new tax regime, the exemption of dividends is not available to the unit holders.

Q2. What amendment has been proposed in the Income-tax Act, 2025 in connection with unit holder on dividend received or receivable from a special purpose vehicle (SPV) of business trust where such SPV is in new regime?

Ans: Clause (b) of the Schedule V [Table: Sl. No. 5.D] is proposed to be omitted to provide exemption on dividend received by a unit holder, even where SPV has exercised the option under section 200 of the Income-tax Act, 2025 to move to new tax regime.

Q.3 Who shall be eligible for exemption under the proposed provision?
Ans: A unit holder shall be eligible for exemption on the dividend received from the SPV opting for new tax regime.

Q.4 Is there any change in the taxation of SPV of the Business trust?
Ans: Yes, vide amendment in Finance Act, 2026, it has been proposed to levy an additional surcharge of 15% on such SPV, where the SPV is in new tax regime.

Q5. What is the rationale for such change?

Ans:

- Minimum Alternate Tax (MAT) reforms were introduced by the Finance Act, 2026. In accordance with the said provisions, amendments have been made in section 206 of the Income-tax Act, 2025 (MAT provisions) so that MAT is final tax in the old regime and accumulated MAT credit can only be availed when a company shifts to the new tax regime.

- These amendments were made so as to enable companies to move to the new tax regime. Therefore, SPV of a business trust may also have to move to the new tax regime either to avoid final MAT tax in the old regime or to avail accumulated MAT credit in the new regime. This will lead to unit holders losing the exemption on dividend income.

- Accordingly, in order to provide certainty, it is proposed to provide an exemption on dividend received by a unit holder, even where SPV has exercised the option under section 200 to move to the new tax regime.

- Further, it is also proposed to consequently levy an additional surcharge of fifteen per cent on such SPV to compensate for the revenue loss on account of providing exemption to the unit holder where SPV is in new regime.

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VI. Relaxation of conditions for eligible investment fund where an eligible fund manager relocates to India.

Q.1 When is the income of a foreign entity deemed to accrue or arise in India?

Ans:- As per section 9(2) of the IT Act, 2025, income is deemed to accrue or arise in India if it accrues or arises, directly or indirectly, through or from –

(a) any asset or source of income in India; or
(b) any property in India; or
(c) any business connection in India; or
(d) the transfer of a capital asset situated in India.

Q2. What are the relevant provisions in the Income-tax Act, 2025 in connection with eligible investment fund and eligible fund manager so that the eligible investment fund would not have a business connection in India?

Ans: Section 9(12), *inter-alia*, provides that the fund management activity carried out by an eligible investment fund through an eligible fund manager acting on behalf of such fund, shall not constitute business connection in India of that fund.

Further, Schedule I, *inter-alia*, provides for the conditions for being an eligible investment fund or an eligible fund manager. Presently, there are 13 conditions for the eligible investment fund and 4 conditions for the fund manager. Some of these conditions stand relaxed where the eligible fund manager is located in International Financial Services Centre (IFSC).

Q.3 What amendment has been proposed in the Income-tax Act, 2025 in connection with eligible investment fund and eligible fund manager?

Ans: Schedule I of the Income-tax Act, 2025 is proposed to be amended to relax the conditions for being an eligible investment fund. It has been proposed to reduce the number of such conditions from 13 at present to only 5 conditions to rationalise the said conditions. The proposed five conditions are:-

i. Fund is not resident in India.
ii. Fund is resident in a country or specified territory having a DTAA with India or in a notified jurisdiction.
iii. Aggregate investment by Indian residents does not exceed 5% of the corpus.
iv. Fund does not carry on or control and manage, directly or indirectly, any business in India.
v. No person acting on behalf of the fund engages in any activity which constitutes a business connection in India other than the activities undertaken by the eligible fund manager on its behalf.

Q.4. What is the rationale for the aforesaid amendment?

Ans: There have been persistent representations from the stakeholders to rationalise the conditions for the eligible investment fund so that fund manager could relocate to India without the foreign fund forming a business connection in India. In order to promote fund management activity and provide tax certainty, the aforesaid amendment has been proposed.

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