

Tax Alert | Delivering clarity

24 March 2020

Foreign Direct Investment (FDI) Policy on Civil Aviation Sector

Government of India has issued Press Note 2 (2020 Series) on 19 March 2020 on FDI Policy on Civil Aviation sector and thereby, has amended certain provisions in the existing policy

Background:

With a view to attract NRI investment in civil aviation sector and to pave way for more bidders for Air India, the Department for Promotion of Industry & Internal Trade (DPIIT) has issued a Press Note No. 2 (2020 Series) dated 19 March 2020 for liberalising and simplifying FDI policy provisions.

The said amendments shall take effect from the date of FEMA notification amending the FDI Regulations.

Highlights of the amendments in the FDI Policy as per the Press Note are summarised below.

Key Amendments:

• Scheduled Air Transport Services:

To align with Schedule XI of Aircraft Rules 1937, Air Operator Certificate to operate scheduled air transport services (including Domestic Scheduled Passenger Airline or Regional Air Transport Service) can also be granted to a body corporate in addition to a company subject to the conditions that:

- it is registered and has its principal place of business within India;
- the Chairman and at least two-thirds of its Directors are citizens of India; and
- it's substantial ownership and effective control is vested in Indian nationals.

• Foreign investment in M/s Air India Ltd:

- Presently, foreign investment(s) is restricted to only 49 percent in case of M/s Air India. In light of the proposed strategic disinvestment it has now been decided that foreign investment in M/s Air India Ltd., including that of foreign airline(s), shall not exceed 49 percent either directly or indirectly except in case of those NRIs, who are Indian nationals, where foreign investment(s) is permitted up to 100 percent under automatic route.
 - It is also explicitly provided that substantial ownership and control of M/s Air India Ltd. shall continue to vest with Indian nationals as specified under Aircraft Rules, 1937.
- Further, it has been clarified that any investment by foreign airline(s) in companies operating in air transport services, including in M/s Air India Ltd, shall be in compliance with the conditions of limits and entry route, government approval route, compliance with the relevant regulations of SEBI, security clearance etc.

Conclusion:

The amendment in FDI policy will permit foreign investment in M/s Air India Ltd. at par with other scheduled operators and shall pave the way for strategic disinvestment thereby opening doors for NRIs to collectively acquire substantial stake in India's national carrier.

Formal amendments to FEMA Regulations for giving effect to the above announcement, are awaited.

Source:

[Press Note No. 2 \(2020 Series\) dated 19 March, 2020 issued by Department for Promotion of Industry and Internal Trade, Ministry of Commerce & Industry.](#)



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

This material and the information contained herein prepared by Deloitte Touche Tohmatsu India LLP (DTTI LLP) is intended to provide general information on a particular subject or subjects and is not an exhaustive treatment of such subject(s). This material contains information sourced from third party sites (external sites).

DTTI LLP is not responsible for any loss whatsoever caused due to reliance placed on information sourced from such external sites. None of DTTI LLP, Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this material, rendering professional advice or services. This information is not intended to be relied upon as the sole basis for any decision which may affect you or your business. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser.

No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this material.

©2020 Deloitte Touche Tohmatsu India LLP. Member of Deloitte Touche Tohmatsu Limited