

Aircraft Leasing in India

April 2021



Content

Section 01

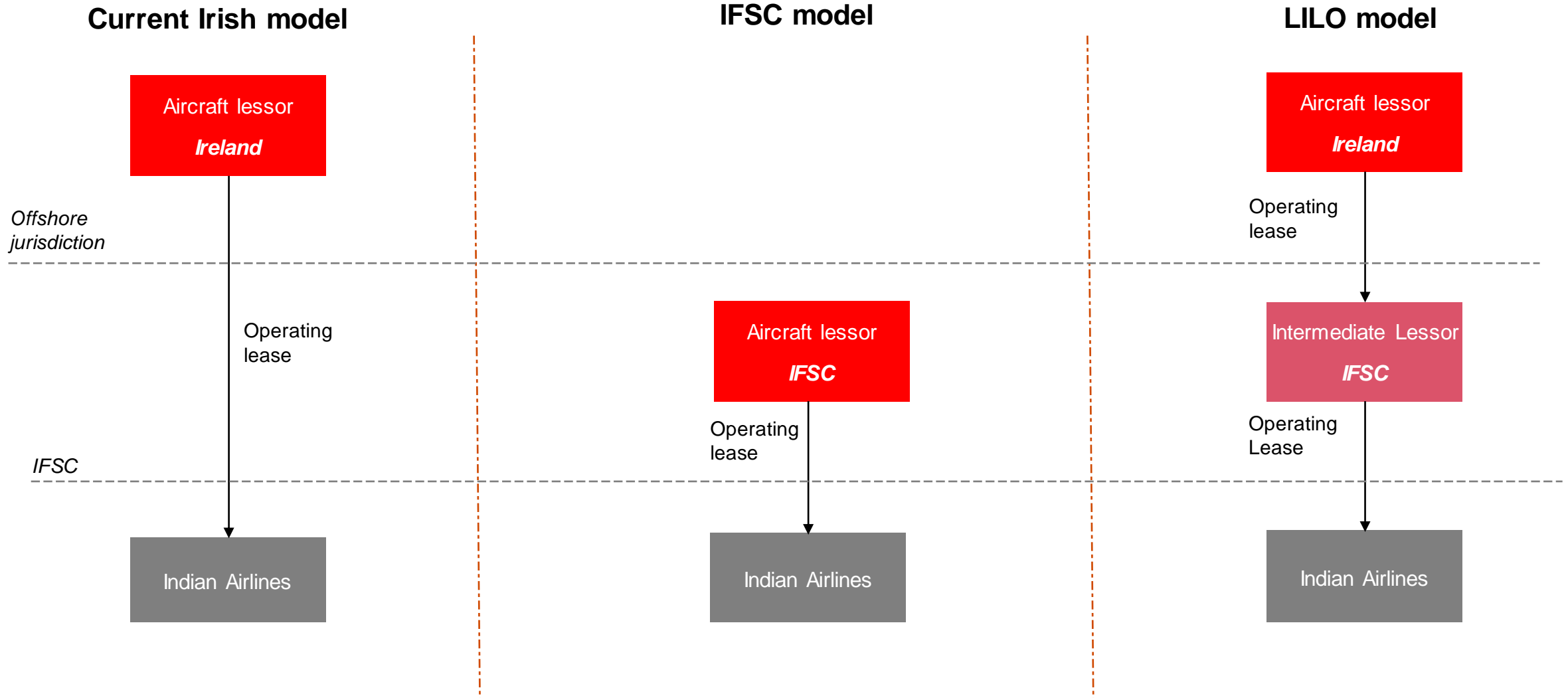
Direct tax

Section 02

Indirect tax



Few leasing structures



Tax framework – Direct tax (1/2)

Corporate tax rate



- 100% profit linked deduction for any 10 consecutive years out of first 15 years of operations, at the option of the Company
- Post tax holiday, 25.17% for domestic companies that opted to forego certain deductions (with an exception of deductions available to IFSC)
- Depreciation on aircraft and aircraft engines is allowed at 40% on a written down value (WDV) basis
- Unabsorbed depreciation can be carried forward to the subsequent years to be set off against future profits, without any time limit.

Minimum Alternate Tax (MAT)



- MAT @ 9% (plus applicable surcharge and cess) of book profits applies to a Company setup as a unit in IFSC
 - Not applicable to companies in the IFSC opting for new tax regime of 22%

Dividend paid to shareholders of company in IFSC



- Dividend distributed by IFSC unit is taxable in the hands of shareholder
- IFSC unit shall withhold tax on such distribution
 - Taxes withheld on dividend income shall be available as credit in the hands of the shareholders.

Tax framework – Direct tax (2/2)

Withholding tax (WHT)



On interest payment

- No WHT on interest paid to non-residents by units in the IFSC i.e., interest income exempt from tax

On lease rentals

- No WHT on aircraft lease payments, in the nature of royalty or interest, paid to non-residents by units in the IFSC (provided operations commence before 31 March 2024) i.e., operating/ finance lease rentals exempt from tax
- 'Aircraft' has been defined to mean aircraft, helicopter or an engine or any part thereof
- WHT of 2% or 10% applicable on lease rentals paid to IFSC units even if they are eligible to claim tax deductions – Relaxation awaited

Capital gains on disposal of aircraft



- 100% profit linked deduction available on capital gains arising on transfer of aircraft or aircraft engine leased by IFSC unit to any person (provided operations commence before 31 March 2024)

Other incentives – stamp duty



- Exemption on all activities related to setting up of units in the IFSC and acquisition of any movable property (including aircraft) or immovable property for a period of 10 years commencing from 4 August 2020

Tax framework – Indirect taxes

Import of goods/ services into the IFSC



Procurement on outright purchase basis

- Import of aircraft/ aircraft engine into the IFSC is not subject to basic custom duty (BCD)

Procurement on operating lease basis

- Leasing of aircraft/ aircraft engine into the IFSC is not subject to Integrated Goods and Services Tax (IGST), provided services are procured for authorised operations in an SEZ

Leasing (operating lease) of aircraft/ aircraft engine to an Indian airline company by a unit in the IFSC



- Import of aircraft/ aircraft engine by an Indian airline company (operator) from an Indian lessor located in the IFSC is not subject to BCD, provided the aircraft is imported by the operator (or on behalf of the operator) for scheduled air operations
- Leasing of aircraft/aircraft engine by a unit in the IFSC to an Indian airline company is subject to IGST under forward charge at the rate of 5% on lease rental payments

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