Tax alert: TOLA 2026 tabled in Lok Sabha

5 August 2026

The Taxation and Other Laws (Amendment) Bill, 2026 was introduced and tabled in the Lok Sabha on 4 August 2026.

Background

The Taxation and Other Laws (Amendment) 2026 [TOLA 2026] was presented by the Hon'ble Finance Minister (FM) on 4 August 2026 in the lower house of the Parliament. The government also issued Frequently Asked Questions (FAQs) in relation to the same.

The TOLA 2026, *amongst others:*

- Introduces certain amendments to the Income-tax Act, 2025 [ITA 2025] and the Finance Act, 2026 [FA 2026].
- Replaces the Income-tax (Amendment) Ordinance, 2026 [Ordinance 2026] promulgated by the President of India on 5 June 2026. Refer the following link for our tax alert on the same. https://www.deloitte.com/content/dam/assets-zone1/in/en/docs/services/tax/2026/in-tax-gbt-interest-and-capital-gains-income-on-government-securities-to-be-exempt-for-fiis-bank-for-international-settlements.pdf

Key highlights of the TOLA 2026 are as follows

1. **Relaxation of conditions for eligible investment fund not constituting a business connection in India**

   Currently, income of a non-resident is deemed to accrue or arise in India, amongst others, if it accrues or arises (directly or indirectly) through or from a business connection in India. Further, section 9(12) of the ITA 2025, amongst others, provides that fund management activity carried out by an eligible fund manager (on behalf of eligible investment fund), shall not constitute business connection in India, of that eligible investment fund. Various conditions have been prescribed in this regard for an eligible investment fund and an eligible fund manager.

   The TOLA 2026 now proposes to relax the eligibility conditions applicable to eligible investment funds (for the exclusion from business connection in India).

   Key proposed changes

   It is now proposed to delete the following conditions mentioned in Schedule I of the ITA 2025 with respect to the eligible investment funds:

i. Requirement for the fund to be subject to investor protection regulations in its jurisdiction.
ii. Minimum investor threshold of 25 unconnected investors.
iii. Restriction of maximum 10% participation interest per investor.
iv. Requirement that participation of 10 or fewer investors does not exceed 50%.
v. Restriction on investing more than 25% of corpus in a single entity.
vi. Prohibition on investments in associate entities.
vii. Minimum monthly average corpus requirement of INR 100 crore.
viii. Requirement for arm's length/minimum remuneration to the eligible fund manager.

Pursuant to the deletion of the above-mentioned conditions, an eligible investment fund and eligible fund manager would now need to satisfy certain conditions which have been retained and provided in **Annexure**.

Comment: As per the FAQs, the proposed relaxations have been provided pursuant to representations from stakeholders so that the fund manager could relocate to India without the foreign fund forming a business connection in India. These relaxations are anticipated to promote fund management activity and provide tax certainty.

2. Amendment in Schedule IV of ITA 2025 [Income not to be included in total income of eligible non-residents, foreign companies and other such persons]

a. Exemption to foreign companies supplying capital goods/equipment or tooling for contract manufacturing of electronic goods

Currently, Schedule IV of the ITA 2025, exempts income of a foreign company arising from providing capital goods, equipment or tooling to a resident contract manufacturer for use in manufacturing of electronic goods in India. The exemption is available subject to certain conditions and is available up to tax year 2030-31.

The TOLA 2026 now:

i. Specifies the electronic goods which the contract manufacturer may produce as follows:
   a. mobile phones; or
   b. laptops, all-in-one personal computers and tablets; or
   c. servers and ultra small form factor (USFF); or
   d. sub-assemblies to the finished goods mentioned in clauses (a) to (c); or
   e. hearables and wearables and accessories related to the finished goods mentioned in clauses (a) to (c).

ii. Extends the exemption available to foreign companies for a period of 15 years till tax year 2040-41.

Comment: The said amendment is expected to bring clarity to the electronic goods qualifying under the said exemption provision.

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

The TOLA introduces a new provision exempting certain foreign companies earning income from storage of components in a warehouse in a custom bonded area[1] for providing them to contract manufacturer[2] to be used for manufacturing of 'specified electronic goods'.

The definition of 'specified electronic goods' is the same as mentioned above under Para 2.a[3]. Further, the following conditions have been provided in this regard:

a. The exemption shall be available in respect of income arising on sale of components by the respective foreign company;
b. The contract manufacturer produces electronic goods on behalf of any foreign company; and
c. The exemption shall be subject to furnishing of information in such form manner as may be prescribed.

The exemption is applicable from 1 October 2026 for a period of 15 years up to tax year 2040-41.

Comment: The said exemption is expected to give clarity to the taxation of foreign companies on sale of components to a contract manufacturer for production of specified electronic goods. The same, along with exemption of income of foreign company from provision of capital goods/ equipment or tooling, may incentivise contract manufacturing of specified electronic goods in India.

c. Exemption to certain foreign companies procuring data centre services

Currently, the ITA 2025 exempts 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 is subject to certain conditions and is available for a period up to tax year ending 31 March 2047.

To avail the said exemption, amongst other conditions, the foreign company (using data centre services) was required to be notified by the Central Government. Further, the "specified data centre" was defined to mean 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.

The TOLA 2026, now:

a. Omits the condition for notification of the foreign company by the Central Government;
b. Omits the condition for the notification of the specified data centre by the Central Government (in the Ministry of Electronics and Information Technology);
c. Allows lease model of ownership of specified data centre to be operated by the Indian company;
d. Provides that the specified data centre shall fulfil such conditions as may be prescribed.

Comment: As per the FAQs, representations were made before the Government that the condition of 'specified data centre' being **owned and operated** by the Indian company may be somewhat

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[1] The expression "custom bonded area" means a warehouse as referred to in section 65 of the Customs Act, 1962.

[2] 'Contract manufacturer' has been defined to mean an Indian company which produces 'specified electronic goods' on behalf of any foreign company in a custom bonded area.

[3] We have not reproduced the definition of 'specified electronic goods' for sake of brevity.

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.

Further, as per the FAQs, the condition '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',** 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**.

d. Exemption to foreign institutional investors and Bank for International Settlements

The Central Government had issued the Ordinance 2026 in June 2026 to amend the ITA 2025 to exempt Foreign Institutional Investors and Bank for International Settlements, from interest and capital gains income earned on government securities. The said exemption is subject to furnishing of information in certain form and manner, as would be prescribed.

It is now proposed that the amendment would be enacted through TOLA 2026 and consequently, the Ordinance 2026 has been repealed.

e. Exemption to foreign companies on sale of rough diamonds

A new provision has been proposed to be inserted in Schedule IV of the ITA 2025 wherein any income of a specified foreign company on sale of rough diamonds would be exempt, subject to fulfillment of the following:

(i) The sale of rough diamonds is carried out in any special notified zone (SNZ)[4] - currently, SNZ in Mumbai and Surat as per the FAQs; and

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

The following foreign companies have been specified for the exemption:

(a) engaged in the business of diamond mining; or

(b) being a sightholder of the company referred to in clause (a); or

(c) being a broker, aggregator or a tender and auction entity connected with sale of rough diamonds.

Further, the term 'rough diamond' has been defined to mean any diamond that is unworked or simply sawn, cleaved or bruted and falling under the specified heading under the Customs Tariff Act, 1975 (51 of 1975)[5] and accompanied by the Kimberley Process Certificate.

The exemption is applicable from 1 October 2026 for a period of 15 years up to tax year 2040-41.

Comment: The said exemption is expected to incentivise sale of rough diamonds by specified foreign company in specified SNZ and consequently, is expected to benefit the growth of diamond industry.

3. Amendment in Schedule V of the ITA 2025 [Income not to be included in total income of certain eligible persons including investment funds, business trust and their unit holders]

Schedule V of the ITA 2025 exempts certain income, amongst others, of certain eligible business trust (which are generally pass-through) and its unit holders, subject to certain conditions. The business

[4] Special notified zone (SNZ) as referred to in section 9(9)(c)(ii)(C) of the IT Act, 2025.

[5] Tariff Heading 7102 10, 7102 21, or 7102 31 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)

trust collects funds from unit holders and invests in real estate or infrastructure through a company [Special Purpose Vehicle (SPV)].

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

The TOLA 2026 now proposes to amend Schedule V of the ITA 2025 to provide exemption on dividend received by a unit holder, even where SPV opts to be taxable under the new tax regime.

Amendment in FA 2026

Pursuant to above amendment in Schedule V of the ITA, it also proposes to levy an additional surcharge of 15 per cent. Thus, the surcharge on such SPV which opts to be taxed under the new tax regime has been increased from 10 per cent to 25 percent.

Comment: As per the FAQs, amendments were made by the FA 2026 so as to enable companies to move to the new tax regime [Minimum Alternate Tax (MAT) being final tax under for companies opting for old tax regime and accumulated MAT credit is available only for companies opting for new tax regime].

Therefore, the 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 to move to the new tax regime.

Comment

The TOLA 2026 currently has been tabled before the Lok Sabha. Once passed, it will be tabled before the Rajya Sabha and after it is passed, TOLA 2026 will become an Act on receipt of the President's assent. The changes as proposed in the TOLA 2026 shall be applicable from 1 April 2026, unless specifically mentioned above.

Annexure

1. **Conditions for being an eligible investment fund:**
   a. Fund is not resident in India.
   b. Fund is resident in a country or specified territory having a DTAA with India or in a notified jurisdiction.
   c. Aggregate investment by Indian residents does not exceed 5% of the corpus.
   d. Fund does not carry on or control and manage, directly or indirectly, any business in India.
   e. 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.
2. **Conditions for eligible fund manager shall be any person who fulfills following conditions:**
   a. the person is not an employee of the eligible investment fund or a connected person of such fund
   b. the person is registered as a fund manager or an investment advisor in accordance with the specified regulations
   c. the person is acting in the ordinary course of his business as a fund manager; and
   d. the person along with connected persons, shall not be entitled, directly or indirectly, to more than 20% of the profits accruing or arising to the eligible investment fund from the transactions carried out by the fund through the fund manager.