

IT & ITES POLICY OF MAHARASHTRA, 2023

PIVOTAL FOR IT INDUSTRY?

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Maharashtra has demonstrated overtime that it is a pioneer in policy planning, it being one of the first states in India to devise an IT & ITES Policy that was announced in 1998. The state’s avant-garde vision, planning and effective execution of subsequent IT & ITES Policies of 2003 and 2009 have led to a strong IT base and have exhibited consistent growth figures for IT exports and investments. Due to effective changes in the IT & ITES Policy, 2015 (“**2015 Policy**”), the IT ecosystem in Maharashtra has evolved swiftly to keep up with global pace, making it one of the best technology investment destinations, not only in India but in Asia.

The state’s IT policies have continually evolved in consonance with the global trends and demands. In that vein, the Information Technology and Information Technology Enabled Services Policy of Maharashtra, 2023 (“**2023 Policy**”) was introduced by the Industries, Energy and Labour Department of the Government of Maharashtra vide its Resolution No. ITP-2021/CR-170/Ind-2 dated June 27, 2023. The 2023 Policy shall be valid for a period of 5 years or until such time any new or revised policy is announced by the State Government.

Ambitions and goals of the 2023 Policy:

✦ Attract INR 950 billion new investments	✦ Innovative, equitable, inclusive and sustainable tech development
✦ Achieve INR 10,000 billion through IT & ITES exports	✦ Global tech destination & innovation hub
✦ Preferred investment & innovation spot	✦ Create 3.50 million jobs and increase skill development
✦ Promoting IP creation, innovation & indigenous tech	✦ Technology ambassador in the country through improved governance
✦ Developing & nurturing a highly skilled talent pool	✦ Accelerating Maharashtra's tech journey

In order to meet such goals, the 2023 Policy has transfused a radiance of joy by introducing some new incentives and exemptions. The following are the primary characteristics of the 2023 Policy:

➤ **MAHITI PORTAL**

The MAHITI portal will be a unified and integrated single window platform for time bound clearances serving numerous objectives such as (i) online applications for letter of intent / de-novo letter of intent; (ii) online registration of IT / ITES units / parks, data centers; (iii) online application for incentives and exemptions; (iv) daily updates and information on IT & ITES; (iv) interactive incentive calculator, etc. The MAHITI portal would enable B2B functionality by creating a channel that allows various IT & ITES businesses to list their units and services for connecting and interacting with domestic and international customers.

➤ STAMP DUTY EXEMPTION

The 2023 Policy divides exemption eligible locations into two broad categories:

- Zone I Area: This area includes Municipal Corporations in Mumbai Metropolitan Region and Pune Metropolitan Region; and
- Zone II Area: This area includes areas other than those in Zone I and No Industry Districts, Aspirational Districts and Naxalite affected areas.

Type of Document	Exemption Percentage and Eligibility
Hypothecation, pawn, pledge, deposit of title deeds, conveyance, charge on mortgage property, lease, mortgage deed and security bond on mortgage deed.	a) 100% on new units in public / private IT parks and expansion of existing units in areas other than Zone I; b) 75% on new units in public IT parks and expansion of existing units in areas other than Zone I; c) 50% on new units in private IT parks located in Zone I.
All the documents mentioned above and public assignment of lease.	100% on new units and expansion of existing units in IT parks for SEZ, STPI registered units.
Merger, demerger, reconstruction of registered IT & ITES units, leave and license agreement and public assignment of lease.	75% on new units and expansion of existing units.

The exemptions available under the 2023 Policy can be claimed depending on the eligibility and the conditions as laid down therein.

In case of data centers, 100% stamp duty exemption can be claimed for purchasing land / premises required for setting up a new data centre and/or for its expansion as well as hypothecation, pawn, pledge, deposit of title deeds, conveyance, lease, assignment of lease, leave and license agreement, merger, de-merger and reconstruction.

➤ BOOST FOR DATA CENTERS

The 2015 policy only provided incentives to data centres with minimum 10,000 square feet white / raised space and 750 KVA power, within 2 years of operation and designed for Tier 2 and above level certification by an independent agency. No such restrictions have been laid down under the 2023 Policy.

As per the 2015 Policy, electricity duty was exempt only for 10 years in some areas and 15 years in other areas. However, as per the 2023 policy, the electricity duty is permanently exempted for new and existing data centers registered with the Directorate of Industries. Electricity is a major expenditure component of a data centre and hence this will help in reducing the operational costs.

The 2015 Policy provided power tariff subsidy for 3 years at INR 1 per unit. However, subsidy at INR 1 per unit for 5 years for new data centre units located in areas other than Zone I has been provided under the 2023 Policy.

Some of the other key incentives exclusive to data centers are as under:

- ✦ Data centres can avail power through open access. This will enable data centres to buy relatively cheaper power directly from the power producers.
- ✦ Data centers can also avail renewable energy under open access system after paying cost component to DISCOMs as per existing norms. Data centers willing to establish captive power farms (wind / solar) will be facilitated by the State Government in line with the prevailing policy of Energy Department.
- ✦ Data centres shall be exempted from the statutory power cuts and will be given continuous power supply i.e. 24x7x365.
- ✦ 100% stamp duty exemption for purchasing land / premises required for setting up new data centers and for further expansion.
- ✦ Dial before dig policy to help data centres manage down time. The service will be designed to protect data centres' network of underground lines and cables and ensure the safety of those working around this infrastructure.
- ✦ Data centres shall be given infrastructure status on a par with sectors such as railways, roadways and power to enable the industry to avail benefits such as long-term credit from lenders at easier terms and also industry status to avail benefits of tariffs, concessions and initiatives related to various laws for ease of doing business.
- ✦ Data centres located in any Industrial Area Development Authority such as MIDC, will be provided 24x7 uninterrupted water supply, both inside and outside the data center parks.
- ✦ Data centers will be permitted to avail additional FSI as per prevailing Development Control Regulations ("**DCR**"). Basement parking, storage and space used for diesel generator sets installation will not be considered as part of FSI.
- ✦ There will be relaxed restrictions on building data centers. DCRs will be suitably amended on parameters such as parking norms, height of floors, FSI, etc.
- ✦ Infrastructure support like road, power, connectivity, water, etc. will be provided by MIDC. The State Government will provide financial assistance required for laying transmission lines and sub-station related infrastructure to data center parks to be setup by MIDC and the State Government will earmark land parcels in MIDC areas to be developed as dedicated data centre parks.

- ✦ For promoting use of renewable energy within data centres, the developer / operator shall be eligible for getting licenses for green power energy distribution and consumption within data centre parks.
- ✦ Property tax shall be levied at par with residential rates as applicable in the relevant jurisdictions.

➤ **INTEGRATED INFORMATION TECHNOLOGY TOWNSHIP**

The minimum land criteria for establishing an Integrated Information Technology Township (“**IITT**”) has been reduced from 25 Acres of contiguous land to 10 Acres of contiguous land with staggered proportion of usage component under the 2023 Policy. The 2023 Policy allows 50% for IT & ITES use and 50% for usage without any restriction.

MIDC will be declared as the special planning authority throughout Maharashtra excluding areas belonging to CIDCO. The project completion period for IITTs having aggregate land area of 10 to 25 Acres shall be 7½ years whereas for IITTs having aggregate land area more than 25 Acres shall be 10 years.

IITTs will be permitted in any zone across Maharashtra. The developer may undertake project implementation with or without zone conversion of the proposed area. However, FSI norms will continue to remain in terms of the prevailing classification as per applicable DCR norms viz. for projects proposed in no development zone, green zone, special zone, etc.

➤ **THRUST FOR AVGC & EMERGING TECHNOLOGIES**

The 2023 Policy acknowledges that Animation, Visual Effects, Gaming & Comics (“**AVGC**”) is a sunrise sector having enormous potential for wealth creation and employment generation. Mumbai is the entertainment capital of India and it is home to some of the largest Hollywood and Bollywood VFX studios. The 2023 Policy focuses on bridging the demand-supply gap by attracting global companies in this sector thereby capturing a sizable share of outsourced AVGC work and facilitating the ecosystem development. The 2023 Policy envisages to promote indigenous digital content by establishing a dedicated task force and center of excellence under Maharashtra hub.

In addition to the common incentives, significant interventions are proposed for AVGC industry such as customized capital assistance, market development assistance, skill development assistance, specialized infrastructure, production studios, digital art centers, exhibition galleries, etc. and a dedicated IT & ITES promotion fund.

The 2023 Policy aims to create a blueprint for growth of emerging technologies such as Artificial Intelligence, 3D Printing, Internet of Things, Robotics, Cloud Computing, Immersive Technology, Nanotechnology, etc. which shall be given fiscal and non-fiscal support in terms of the 2023 Policy.

➔ INCENTIVES FOR DEVELOPMENT

Additional FSI

Minimum Road Width	Maximum Permissible FSI (Greater Mumbai Region)	Maximum Permissible FSI (Rest of Maharashtra)
12 metres	Up to 3	Up to 3
18 metres	Up to 4	Up to 3.50
27 metres	Up to 5	Up to 4

Additional FSI limit shall be applicable as above or as per the prevailing DCR norms, whichever is higher. However, in case of no development zone, agricultural zone or any other special zone as declared by Urban Development Department, the prevailing DCR rate shall be applicable.

Premium to be paid for Additional FSI

Area	Premium
Vidharbha, Marathwada, Dhule, Nandurbar, Ratnagiri and Sindhudurg.	No premium.
Areas other than those mentioned above including Municipal Corporation of Greater Mumbai.	50% of the prevailing premium rate.
Area declared as central business district by special planning authority.	

Permissible limits for mixed use development

Area	Land Use		Applicability
	IT & ITES Units	Allied / Support Services	
Zone I	60%	40%	a) IT parks including 2% built-up area for incubation centers.
Areas excluding Zone I	50%	50%	b) Standalone buildings / group of buildings in IT parks with a minimum built-up area of 20,000 square feet.

Penalty for use of built-up area for non-IT & ITES use

On utilisation of the built-up area in a private IT park / data center or an existing IT park / data center (having benefited from additional FSI) for non-ITES / commercial activities / any other activity not permitted under the 2023 Policy, a per day penalty of 0.30% of the prevailing ready reckoner value of the built-up area used for non-IT & ITES shall be levied. The penalty can be recovered from the moment the occupancy certificate / building completion certificate was issued to the IT park / data center until such date till the non-compliance continues. In contrast to the 2015 Policy, the 2023 Policy provides that the penalty must be levied on the end user / owner of the unit. Moreover, the developer of the IT park / data center will not be allowed to sell / lease the built-up area reserved for IT & ITES / data center activity to non-IT & ITES / non-data center user, in any case.

➤ **DE-NOVO LOI**

IT parks with incomplete construction or IT parks where the letter of intent (“**LOI**”) has expired due to various exigent reasons, may apply for a ‘De-novo Letter of Intent’ for the IT park in terms of the following criteria:

IT parks with complete construction but are unregistered:

Private IT parks that have been operational for more than the stipulated period and have completed construction, but the LOI has expired, will be issued a de-novo LOI for 3 years without charging any differential premium. To be eligible, the developer must have secured an occupancy certificate / building completion certificate from the concerned planning authority.

This provision will apply to IT parks that have not yet applied for a de-novo LOI as of the effective date of the 2015 Policy. However, at least 50% of the built-up area should have been occupied by IT / ITES units during this time period.

IT parks with incomplete construction:

Private IT parks that are still under construction and will not get completed within the stipulated timelines for any reason whatsoever, will be eligible to obtain a de-novo LOI by paying a 30% differential premium. This premium will be calculated using the incremental ready reckoner rates for IT parks during the applicable period.

The de-novo LOI will be granted based on the merits of each individual proposal and will initially be valid for a period of 3 years. If the construction of the IT park is not completed despite the extension, then further extension may be granted by the Industries Department at its discretion.

⇒ CRITICAL INFRASTRUCTURE FUND

The State Government will establish a separate 'Critical Infrastructure Fund for IT & ITES Industries' from the premium paid for availing additional FSI by the developers of private IT parks. This fund shall be utilized for important infrastructure needs of IT parks or clusters of IT & ITES units such as roads, drainage, power or any other infrastructural needs.

Each planning authority shall deposit the premium they collect from developers of the private IT parks for availing additional FSI in this fund. 50% of the total premium collected by the planning authorities shall be deposited in the fund at source. The matching contribution from the State Government will also be deposited in this fund.

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