



India courts Big Tech cloud giants, shields local players with reseller rule

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By [Freny Patel](#)

Amazon, Google and Microsoft could receive a tax holiday until 2047 on global cloud revenues if they route foreign workloads through Indian data centers, under India's Budget 2026-27 push to attract AI investment, boost infrastructure and jobs, while managing competition, data protection and enforcement risks.

Amazon's AWS, Google and Microsoft would be eligible for a tax holiday on global cloud revenues until 2047 if they route foreign workloads through Indian data centers, under a proposal aimed at attracting the next wave of artificial intelligence computing investment.

India's Budget 2026-27 introduced the 21-year incentive as part of a broader effort to position the country as a global hub for AI and cloud infrastructure. Alongside a 15 percent safe-harbor rate, the proposal targets foreign companies that establish data centers in India to serve global markets, offering long-term investment certainty and reducing the risk of prolonged transfer-pricing disputes.

Aaron Kamath, co-lead of the technology, digital media and commercial law practice at Nishith Desai Associates, said the incentives will "materially improve India's competitiveness in the global data infrastructure market, catalyze large-scale investment in data centers and AI infrastructure, drive employment and encourage greater access for Indian customers to a wider range of global service providers."

The broader policy objective is to reposition India from a predominantly consumption-driven market into a critical node in the global AI economy. As US technology companies race to expand worldwide data-center capacity amid surging AI workloads, demand for computing power has intensified, with India emerging as a key destination for this new wave of investment, legal experts said.

While the incentives align with the National Data Centre Policy 2025, foreign firms would be required to use Indian resellers to serve domestic customers. Huzefa Tavawalla, partner and head of digital disruption at Cyril Amarchand Mangaldas, said the requirement is likely intended to protect local competitors. "The intent could be to have a level playing field for domestic service providers," he told MLex, adding that the practical impact will depend on the final wording in the Income Tax Act.

Under the proposal, revenues earned from customers abroad would be exempt from tax, while services sold within India must be routed through locally incorporated reseller entities and remain subject to standard corporate taxation.

For global cloud providers, the policy offers more than tax relief. It provides long-term fiscal certainty for capital-intensive investments. Over the past two years, Amazon, Google and Microsoft have committed close to \$60 billion to Indian infrastructure. The government expects the new incentives to accelerate investment, projecting total sector spending to rise from about \$70 billion to as much as \$200 billion.

For global hyper-scalers, the proposed tax holiday represents a structural invitation to relocate a significant portion of their international cloud and data-processing workloads to India, said Tushar Kumar, advocate at the Supreme Court of India. “In practical terms, it enables such enterprises to treat India not merely as a consumption market, but as a strategic production and export base for digital services, thereby integrating Indian data-center infrastructure into their worldwide delivery architecture,” he added.

— 'Permanent establishment' concerns —

Historically, global companies have avoided hosting international data in India due to concerns that owning or directly controlling data-center infrastructure could create a “permanent establishment,” potentially exposing a portion of their global revenue to Indian taxation. As a result, companies often opted to host data in jurisdictions such as Singapore or the UAE, despite higher latency and performance costs.

The budget introduces a workaround by allowing foreign companies to claim the tax holiday only if they do not own the data centers. Instead, they must partner with Indian owner-operators who manage land, power and cooling, with the foreign company acting as a tenant-user of the infrastructure and remaining insulated from a taxable physical presence.

To further limit disputes, the government has introduced a 15 percent safe-harbor margin on related-party data-center services. This allows Indian operators to earn a defined, taxable return while providing foreign companies with predictable cost structures.

At the same time, the requirement that services to Indian customers be routed through Indian reseller entities ensures that domestic revenues remain within the tax net. “This ensures that while global profits remain tax-exempt, the revenue earned from the Indian market is still subject to standard domestic corporate taxes,” said Ankit Jain, partner at Ved Jain and Associates.

Kamath cautioned that the tax break does not automatically give Indian facilities a competitive edge. Data centers and cloud service providers do not operate in horizontal markets but in a vertical relationship, and “Indian data centers may not have an advantage against offshore data centers,” he said.

— Regulatory and competitive risks —

Despite enthusiasm around the incentives, legal and data-privacy experts have raised concerns that fiscal measures may be moving faster than regulatory safeguards.

Alay Razvi, managing partner at Accord Juris, said that while the Digital Personal Data Protection, or DPDP, Act is in place, “firm operational compliance — such as audits and breach response — is not yet fully synced with these tax breaks.”

There is also a competitive imbalance risk, as global players receive long-term certainty on export-oriented revenues while domestic companies face higher compliance and capital costs, Razvi said. The opportunity, he added, is to align incentives with trust by tying benefits to “demonstrable privacy-by-design, enforceable accountability and neutral access for Indian operators.”

Raheel Patel of Gandhi Law Associates warned that “treating data centers as neutral real estate ignores that they are strategic choke points for data sovereignty.”

With the DPDP Act likely to introduce restrictions on cross-border transfers of digital personal data, the availability of long-term tax exemptions extending to 2047 provides a strong incentive for companies to establish and scale large data centers within India, said Rashmi Deshpande, partner at Fountainhead Legal.

“Together, these measures signal a clear push towards data localization, positioning India as an increasingly attractive jurisdiction for both domestic and foreign enterprises to store and process data locally,” she said.

Deshpande added that concerns previously expressed by jurisdictions such as the EU over data sharing with India are likely to be mitigated by the DPDP framework, “particularly when viewed alongside fiscal incentives that underscore India’s commitment to becoming a trusted and commercially viable global data-hosting hub.”

Keeping data in India also simplifies compliance with domestic privacy laws and strengthens oversight of data security and sovereignty, Jain said. However, because foreign companies do not own assets locally, “the government may find it difficult to enforce heavy penalties or seize assets in the event of a severe data breach.”

The DPDP Board will therefore need to develop robust digital enforcement mechanisms to ensure that “tax-exempt” does not translate into “regulation-exempt,” he added.

Ultimately, the success of the proposal is likely to hinge on how effectively India aligns its fiscal incentives with regulatory enforcement. As global cloud providers weigh long-term capital commitments, clarity around taxation, data protection and enforcement will be critical in determining whether India can convert policy ambition into durable investment.

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Areas of Interest: Artificial Intelligence, Data Privacy & Security

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