



Tax Exemption for Foreign Companies on Procurement of Data Centre Services in India

BUDGET PROPOSAL

The Finance Bill, 2026 proposes to amend Schedule IV read with Section 11 of the IT Act to exempt income earned by a foreign company from procuring data center services from a specified data center in India. The exemption will apply to income accruing or arising in India, or deemed to accrue or arise in India, for the period up to tax year ending March 31, 2047.

The proposed exemption is subject to conditions, including that the specified data center must be notified by the Central Government, owned and operated by an Indian company, and that the foreign company does not own or operate the data center infrastructure. Further, all services provided to Indian users by the foreign company must be routed through an Indian reseller entity.

Further, it is proposed to introduce a safe harbor margin of 15% on cost where data center services are provided from India to a related entity.

IMPACT

The proposal introduces long-term tax certainty for global technology and digital service providers sourcing data centre services from India. By eliminating potential tax exposure on India-sourced income, the exemption is expected to significantly enhance India's attractiveness as a data centre and AI infrastructure hub, while ensuring that ownership and operational control remains with Indian entities.

The mandatory routing of Indian user transactions through Indian reseller entities also ensures continued domestic tax presence, while balancing the objective of attracting foreign business.

ELP's INSIGHTS

Although the presence of a data center in India could otherwise give rise to a permanent establishment and corresponding tax exposure for foreign companies, the proposed provision expressly exempts such income, thereby removing a key structural impediment. The measure aligns with India's evolving data governance and privacy framework, including the Digital Personal Data Protection regime, and reflects a calibrated incentive to attract global digital business without ceding control over critical digital infrastructure.

The exemption, extending up to 2047, provides the long-term certainty essential for capital-intensive investments, where commercial viability depends on predictable tax outcomes.

At the same time, the conditions attached to the exemption ensure that economic substance and value creation remain firmly anchored in India. Indian ownership and operation of data centers promote domestic investment and employment, while mandatory routing of Indian user transactions through Indian reseller entities preserves a continuing domestic tax presence.

The proposed 15% safe harbor for related-party data center services further strengthens the framework by reducing transfer pricing disputes and compliance burdens.