

# Navigating Tax and Transfer Pricing for Global Capability Centres (GCCs) in India: Key Considerations for MNCs

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Global Capability Centres (GCCs) are offshore hubs set up by multinational corporations (MNCs) to deliver specialized services like IT, customer support, and business process management to their parent organizations. Operating as internal units within the global corporate structure, GCCs have become a cornerstone of India's digital economy. India is currently home to over 1,700 GCCs, which generate \$64.6 billion in annual revenue and employ 1.9 million professionals as per a recent NASSCOM report. By 2030, the industry is projected to grow to \$100 billion, with the workforce expected to exceed 2.5 million.<sup>[1]</sup> The sector's growth is rapid, with roughly two new centres established weekly. To bolster this expansion, the Central Government introduced a framework in the February budget to guide states in promoting GCCs in emerging cities, focusing on talent availability, infrastructure development, local bylaw reforms, and industry collaboration. At the state level, governments are rolling out incentives to attract GCC investments. Tamil Nadu offers payroll subsidies to create high-paying jobs<sup>[2]</sup>, while Madhya Pradesh provides up to 75% land cost rebates and 100% reimbursement of stamp duty and registration charges (capped at ₹6 lakh).<sup>[3]</sup> Uttar Pradesh's dedicated GCC policy includes 20% reimbursement on rent, electricity, and data services (up to ₹180 crore), 30-50% land subsidies, payroll reimbursements, fresher hiring incentives, and R&D grants.<sup>[4]</sup> These measures highlight the fierce inter-state competition to capture high-value, service-oriented investments.

For MNCs looking to establish or scale GCCs in India, navigating the complex tax and transfer pricing landscape is critical to ensure compliance, optimize operations, and minimize costs and risks. Below are the key considerations and practical steps to manage these challenges effectively.

The choice of legal entity shapes a GCC's taxation and operational flexibility. The two most common

structures are private limited companies (LTDs) and limited liability partnerships (LLPs). A LTD offers a lower effective tax rate and a robust corporate framework but subjects dividend distributions to shareholder taxation. Conversely, LLPs provide greater flexibility in capitalization and compliance, and their profit distributions to partners avoid additional taxation. The decision hinges on factors like long-term goals, capital needs, and compliance capacity. For instance, a LTD is often preferred for its global recognition, while an LLP suits those prioritizing flexibility and tax-efficient distributions.

## **Corporate Taxation**

Corporate taxation significantly impacts GCCs. Most are incorporated as LTDs under the Companies Act, 2013, operating as distinct entities from their foreign parents. Under the Income Tax Act, 1961, domestic companies are taxed on global income at 30% (plus surcharge and cess), or 25% if specific conditions are met. Opting for the concessional tax regime under section 115BAA reduces the rate to 22% (effective 25.17% with surcharge and cess), but it requires foregoing certain deductions and incentives. GCCs in Special Economic Zones (SEZs) or Software Technology Parks (STPIs) enjoy tax holidays, customs duty exemptions, and GST refunds, though compliance demands are higher. Strategic tax planning, considering both domestic and international laws, is crucial to optimize tax liabilities and leverage available benefits.

## **Indirect taxation**

Indirect taxes, particularly GST, form another key consideration for GCCs. Those in the IT/ITeS sector often provide services such as software development to foreign affiliates, which may qualify as “export of services” under section 2(6) of the IGST Act if payments are received in foreign exchange and the supplier and recipient are legally distinct entities (e.g., Indian subsidiary and foreign parent/affiliate). Where this test is met, the supply is treated as a zero-rated export. To avail this benefit without upfront tax payment, GCCs are required to obtain GST registration and furnish a Letter of Undertaking (LUT) under Rule 96A of the CGST Rules. Conversely, if the Indian unit is only a branch or liaison office of the overseas entity, it is treated as the same legal person under GST and the supply does not qualify as an export.

GCCs can claim refunds on unutilized input tax credit (ITC) for inward supplies, but supporting documentation, export invoices, foreign inward remittance certificates (FIRC), and proper refund application mapping is critical to avoid delays or rejections. Valuation of intercompany transactions, especially in cost-plus models, is another challenge. As per Rule 28 of the CGST Rules, when services are provided to related parties or between distinct persons, the transaction value must generally be determined at the open market value. Where the open market value is not available, Rule 30 permits valuation based on the cost of provision of such services plus a 10% markup. However, this requirement is relaxed in cases where the recipient is eligible to avail full input tax credit (ITC), in which case the invoice value declared is deemed to be acceptable.

## **International Taxation**

GCCs frequently make cross-border payments to foreign parents or affiliates for services like IT support, management advisory, software licenses etc., triggering withholding tax (WHT) under section 195 of the Income Tax Act, 1961. Domestic WHT rates range from 10% to 30%, but DTAAAs may offer reduced rates subject to qualifying conditions. To avail such lower DTAA rates, the recipient would be required to provide the Tax Residency Certificate (TRC) issued by the government of the country to which the recipient is a tax resident, Form 10F to be filed on the Indian Income Tax portal, and, where applicable, a no-Permanent Establishment (PE) declaration.

In cost-plus models, inadequate documentation of reimbursements may lead to their reclassification as royalties or fees for technical services, thereby attracting withholding tax (WHT). Depending on the contractual arrangement, some clients may require grossing up of tax on net-of-tax payments while others may not, which can significantly impact overall costs and transfer pricing outcomes. Non-compliance could result in disallowance of expenses, along with interest and penalties. Accordingly, robust intercompany agreements and comprehensive documentation are essential to substantiate the nature of payments and ensure proper WHT compliance.

Permanent Establishment (PE) risks are another major concern. A PE establishes a taxable presence for the foreign enterprise in India, leading to significant tax and compliance obligations. A Fixed Place PE can arise if the GCC handles core business functions from a fixed Indian location, especially if the premises are at the foreign parent's disposal. Indian tax authorities scrutinize the 4-pillar criteria to ascertain the existence or otherwise of a Fixed Place PE of a foreign enterprise in India. The Finance Act, 2024 increased the corporate tax rate for certain companies (other than domestic companies) to 35%. While this rate applies more broadly, it directly impacts situations where profits are attributed to a PE in India, making PE classification financially more onerous. In **Hyatt International SouthWest Asia Ltd. vs. Addl. Director of Income Tax** [TS-954-SC-2025], the Supreme Court clarified that attribution of profits to a PE requires an independent evaluation of the PE's activities. The Court stressed that income attribution cannot merely be tied to the global income or loss of the foreign enterprise, but must reflect the economic value of functions actually performed in India. To mitigate these risks, GCCs should stick to support functions, maintain operational independence, and document boundaries in intercompany agreements. Secondment arrangements, common for talent transfer, risk creating a Service PE if the foreign entity retains control over seconded employees. The Delhi High Court's ruling in **Centrica India Offshore Pvt Ltd v. CIT (2014)** [TS-237-HC-2014(DEL)] emphasized that a Service PE arises when secondees remain under the foreign entity's control. Detailed secondment agreements proving the GCC's full control over employees are therefore essential.

An Agency PE can also emerge if the GCC negotiates or finalizes contracts on behalf of the foreign entity, as seen in *Rolls Royce PLC v. DIT* (2008). Hence, clear documentation and operational limits are key to avoiding PE exposure.

## Transfer Pricing

Transfer pricing is a critical focus, as GCCs must adhere to the arm's-length principle for intra-group transactions under the Income Tax Act, 1961. Operating as limited-risk service providers, most GCCs use a cost-plus model, adding an arm's length markup to direct and indirect costs. A Functions, Assets, and Risks (FAR) analysis is essential to determine an appropriate markup by benchmarking against comparable independent entities. Finding true comparables is tough due to GCCs' unique, captive nature, often leading to audit disputes. Thorough documentation is crucial to defend pricing. India offers relief through Safe Harbour Rules (SHR), Advance Pricing Agreements (APAs), and Mutual Agreement Procedures (MAP). SHRs allow preset markups if certain conditions like low-risk functions, employee cost/total cost meet the threshold as per the said Rules. APAs provide certainty for up to nine years with 815 signed till FY 2024-25, including 174 in FY 2024-25 alone. These tools reduce litigation risks, particularly for IT, banking, and engineering services.

## Closing comments

India's emergence as a global hub for knowledge-based services makes GCCs integral to MNC strategies, driven by skilled talent, cost efficiency, and innovation. However, the tax and regulatory landscape demands careful navigation. Selecting the optimal legal entity, crafting robust transfer pricing policies, and managing PE risks are non-negotiable. Leveraging SHRs and APAs provides certainty, while staying updated on the evolving tax policies ensures compliance. Early engagement with advisors and meticulous documentation are not just best practices, they're essential for uncovering the full potential of GCCs in India's dynamic digital economy while minimizing tax and transfer pricing risks.

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[1] [https://www.business-standard.com/industry/news/govt-eyes-smaller-cities-for-gcc-growth-with-new-incentive-framework-124121100592\\_1.html](https://www.business-standard.com/industry/news/govt-eyes-smaller-cities-for-gcc-growth-with-new-incentive-framework-124121100592_1.html)

[2] <https://www.thehindu.com/news/national/tamil-nadu/tamil-nadu-budget-announces-payroll-subsidies-to-boost-women-workforce-global-capability-centres/article67864648.ece>

[3]

<https://mpsedc.mp.gov.in/Uploaded%20Document/UpcomingEvents/10122024030121Madhya%20Pradesh%20GCC%20Policy%202024.pdf>

[4] <https://thefinancestory.com/up-gcc-policy-introduced-aims-to-hit-its-1-trillion-economy>