



**Equalisation levy on e-commerce
supply and services**

Scope expanded by the Finance Act, 2020

Subject matter experts



Kamlesh Varshney

Joint Secretary, TPL-1, Ministry of Finance, Government of India



Ashutosh Dikshit

Tax Policy, Partner, Deloitte India



Shefali Goradia

Direct Tax, Partner, Deloitte India

Equalization Levy – An overview

- The tax challenges associated with the digitalization of the economy were one of the main focus areas for the OECD Base Erosion and Profit Shifting Project, leading to the 2015 BEPS Action Plan 1 report. The report addresses the tax challenges facing the digital economy.
- The report evaluated certain options (but not recommended) including unilateral levy in the form Equalization Levy ('EL').
- India was the first country to introduce EL in 2016. It was introduced as a separate legislation not being part of the existing Income Tax Act, 1961.
- Other countries have also followed suit with similar taxes and decided to move ahead with unilateral measures to tax the digital economy.
- The OECD has also been simultaneously hosting negotiations with more than 130 countries that aim to adapt the international tax system. The current proposal would require multinational businesses to pay some income tax where their consumers or users are located. According to the OECD, an agreement is expected in 2020.
- As the outcome of these multilateral negotiations is pending and to protect its tax base, India has decided to expand the scope of EL to cover e-commerce supply or services by a non resident e-commerce operator.

New Equalization Levy

Key Features

New Equalization Levy – Applicability

'E-commerce operator' a non-resident who owns, operates, or manages digital or electronic facility or platform for online sale of goods or provision of services or both.

'E-commerce supply or services'

Online sale of goods owned by e-commerce operators

Online provision of services provided by e-commerce operators

Online sale of goods or provision of services or both, facilitated by e-commerce operators

Any combination of the above mentioned activities

New Equalization Levy



E-commerce supply or services rendered to:

- A person resident in India
- A non- resident in specified circumstances
- A person who buys goods or services using an IP address located in India



Rate of Levy

- 2 percent imposed on consideration received or receivable by e-commerce operators from e-commerce supply or services



Effective date

- 1 April 2020



Exclusions

- Non-resident e-commerce operators who have permanent establishments in India and e-commerce supply or services are effectively connected to those establishments
- Cases where EL is leviable on online advertisement and related activities
- Cases where sales, turnover or gross receipts of the non-resident e-commerce operators from online sale or services, are less than INR 20 million during the financial year

Payment and compliance timelines

Non-resident e-commerce operators need to pay EL quarterly within the following due dates:

Quarter closing date	Due Date
30 June	7 July
30 September	7 October
31 December	7 January
31 March	31 March

Exemption from normal provisions of Income Tax Act, 1961

Income tax provisions would not be applicable on income arising from e-commerce supply or services on or after the effective date (currently the exemption is applicable from 1 April 2021)



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

This material is prepared by Deloitte Touche Tohmatsu India LLP (DTTILLP). This material (including any information contained in it) is intended to provide general information on a particular subject(s) and is not an exhaustive treatment of such subject(s) or a substitute to obtaining professional services or advice. This material may contain information sourced from publicly available information or other third party sources. DTTILLP does not independently verify any such sources and is not responsible for any loss whatsoever caused due to reliance placed on information sourced from such sources. None of DTTILLP, Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this material, rendering any kind of investment, legal or other professional advice or services. You should seek specific advice of the relevant professional(s) for these kind of services. This material or information is not intended to be relied upon as the sole basis for any decision which may affect you or your business. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser.

No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person or entity by reason of access to, use of or reliance on, this material. By using this material or any information contained in it, the user accepts this entire notice and terms of use.