

Equalisation levy on e-commerce operators



Overview

- Taking a cue from the G20 / OECD Base Erosion and Profit Shifting (BEPS) Action 1 dealing with digital economy, India introduced an Equalisation Levy ('EL') in 2016 at the rate of 6 percent on non-resident companies engaged in online advertisement and related activities.
- The scope of the said provision has now been expanded to include EL of 2 percent on consideration received or receivable by an 'e-commerce operator' from 'e-commerce supply or services', and is effective from 1 April 2020.



Key features of the new EL

Applicability – Non-resident e-commerce operators who own, operate, or manage digital or electronic facility or platform for online sale of goods or online provision of services or both and derive revenues from e-commerce supply or services made or provided or facilitated by it.

Scope of e-commerce supply or services:

- Online sale of goods owned by the e-commerce operator
- Online provision of services by e-commerce operators
- Facilitation of online sale of goods or provision of services or both by e-commerce operator
- Any combination of the above

E-commerce supply or services rendered to the following:

- 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

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

Effective date: 1 April 2020

Exclusions – Cases outside the scope of EL

- 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 (as these are covered by different provisions)
- Sales, turnover, or gross receipts are less than INR 20 million during the financial year

Payment and compliance timelines

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

An annual statement needs to be furnished to the tax authorities on or before 30 June of the subsequent financial year.

Exemption from applicability of normal income tax provisions on the revenues subjected to EL



Way forward – what should companies do?

Assess the applicability of EL provisions and their impact on the following key areas:

- Existing business models
- Technology platforms, and mode of contracting and delivery
- Customer contracts and the remuneration arrangements

Assess the preparedness and support needed to implement EL provisions in the following areas:

- Stakeholder communication
- Technological changes to meet the compliance requirements
- Filings and payments with tax authorities

Concluding thought

The EL imposed on e-commerce transactions will have a significant impact on non-residents supplying goods or services through digital means, given the wide definition of the term 'e-commerce supply or service'. Multinational enterprises earning income from India or persons targeting customers in India will need to evaluate EL's impact on their businesses. As the provision of EL is not part of the income tax law, the tax treaty benefits may not be available in relation to such a levy.

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