

Technology & Tax Series

June 29, 2020

TECHNOLOGY & TAX SERIES – ISSUE II: INDIA EQUALIZATION LEVY EXPANDED – A SURPRISE MOVE!

The COVID-19 pandemic has brought the world economy on its knees and it is estimated that the government deficits worldwide could reach to USD 30 trillion by 2023.¹ While most businesses are suffering amidst the COVID-19 crisis, the digital economy in general has been resilient from the impact of the pandemic. Unsurprisingly, not only there is a pressing need to bolster tax revenue, the digital economy offers an attractive source for deriving such revenue. The Finance Minister of France while informing that France will introduce a digital tax stated that “*Never has a digital tax been more legitimate and more necessary*”.²

Recently, the US Treasury Secretary in a letter to four European Finance Ministers indicated that the US wishes to suspend its participation in talks on the development of Pillar 1 of the digital economy taxation project until 2021.³ The OECD tax chief, Mr. Pascal Saint Adams later clarified that US has not walked away from digital tax negotiations, he also mentioned that the outcome of the international digital tax discussions hinges on the result of US elections.⁴ It is therefore clear that only time will tell if an international consensus on Pillar One and Pillar Two will be reached in future.

While India has been active in the development of global talks on digital taxation on the international front, the Indian government is also keen to monetise from digital transactions at the earliest. In a surprise move, the Finance Act, 2020 expanded the scope of equalization levy (“EL”) to apply EL at rate of 2% on ‘e-commerce operators’ on ‘e-commerce supply or service’ to specified persons (“**Expanded EL**”). Since then much has been talked about the Expanded EL.

In this context and in continuation of our ‘Technology & Tax Series’, we are pleased to announce the second issue of this series – ‘**India Equalization levy expanded – a surprise move!**’.⁵

In this issue, we deep dive into provisions of the Expanded EL, highlight several interpretational issues which may arise and discuss the sufficiency of the definitions provided under these provisions. Further, we also deal with issues regarding sufficiency of nexus and practical challenges that may arise for e-commerce operators, along with few illustrative case studies depicting practical scenarios.

While it was envisaged earlier that the Expanded EL was an interim measure until a consensus is reached on the international front, it seems like the Expanded EL is here to stay. In this regard, we are certain that this issue might be of interest to you.

¹ McKinsey & Company, 2020, *COVID-19: Briefing materials Global health and crisis response*. Retrieved from <https://www.mckinsey.com/business-functions/risk/our-insights/covid-19-implications-for-business>

² <https://in.reuters.com/article/us-france-digital-tax/france-to-impose-digital-tax-this-year-regardless-of-any-new-international-levy-idINKBN22Q25B>

³ <https://www.nytimes.com/2020/06/17/us/politics/us-digital-tax-talks.html>.

⁴ <https://news.bloombergtax.com/daily-tax-report-international/u-s-still-committed-to-digital-tax-talks-oecd-tax-chief-says-1>

⁵ This article was published by International Forum, Bloomberg Tax & Accounting.

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

Little International Guide (India) 2024

November 08, 2024

Unmasking Deepfakes

October 25, 2024

Are we ready for Designer Babies

October 24, 2024

Research Articles

The Bitcoin Effect

November 14, 2024

Acquirers Beware: Indian Merger Control Regime Revamped!

September 15, 2024

Navigating the Boom: Rise of M&A in Healthcare

August 23, 2024

Audio

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

Renewable Roadmap: Budget 2024 and Beyond - Part I

August 26, 2024

Renewable Roadmap: Budget 2024 and Beyond - Part II

August 26, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

“Investment return is not enough” Nishith Desai with Nikunj Dalmia (ET Now) at FI8 event in Riyadh

October 31, 2024

Analysing SEBI's Consultation Paper on Simplification of registration for FPIs

September 26, 2024

