

Digital Tax

July 8, 2020

US-India Strategic Partnership Forum (USISPF), an industry body representing some of the big companies in both the countries, has sought relief from the finance ministry on the tax that India introduced on e-commerce activities (2% digital economy tax called the 'equalisation levy').

Digital Tax

The Digital Service Tax was conceived as a way to **tax technology companies that don't have a physical presence in a jurisdiction yet earn significant revenue in the jurisdiction.**

The "Equalization Levy" – a tax aimed at foreign digital companies has been in place since 2016 and levied a 6% tax payable on gross revenues from online advertising services, which raked over Rs. 550 crores in fiscal year 2017-2018. The new amendment, effective from April 1, 2020, essentially expands the equalization levy from online advertising to **nearly all online commerce activities done in India by businesses that do not have taxable presence in India through applicability of 2% on its revenues** (The tax applies only to companies with annual revenues in excess of approximately Rs 20 million). It covers all business to business and business to consumer transactions, third-party and related party transactions, across digital and non-digital businesses, where goods and services are sold online.

In addition to the equalization levy, India introduced the concept of "**Significant Economic Presence**" (SEP) for the purposes of **corporate income tax**, which expanded to include the following:

- Advertisement which targets a customer residing in India or who accesses advertisement through internet protocol

(IP) address located in India.

- Sale of data collected from a person residing in India or who uses an IP address located in India.
- Sale of goods/services using data collected from a person residing in India or who uses IP address located in India.

The Covid-19 outbreak has compelled businesses to transcend from traditional to digital models of work. With business models evolving on account of mass digitization, the complexities from a regulatory and taxation standpoint have only amplified. The advent and access to technology have enabled businesses to carry on business-as-usual with minimal physical presence. India has the second-largest online users in the world, with over 560 million internet users, and hence, from the viewpoint of its tax revenue base, digital businesses can not be overlooked.