

A Paper on Taxation For e-Commerce

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Abstract: It can be said that the emergence of electronic commerce (hereinafter referred to as EC) is the largest occurrence in human history, next to the early 20th century Industrial Revolution. Whereas the key beneficiaries of the industrial revolution were Europe and the United States, there are strong signs that India, along with the United States and China, will be the main beneficiaries of the EC revolution. The basis for this indication is the massive pool of technical manpower. EC's development modifies the way business is conducted. Traditional industry worldwide has been based on two principles for centuries: Presence in physics; and Physical shipping. Henceforth, It is pertinent to understand the principles in regards to the taxation laws and its implementation and the same is briefly analyzed in this paper.

Key Words: Commerce, India, Law, Taxation, Revenue generation, Finance aspect, Growth, Development.

INTRODUCTION

In order to carry out operations, physical presence is no longer required (i.e., commercial transactions are no longer determined by territorial boundaries) and physical transactions are replaced by bytes of data. Since EC can be carried out almost instantaneously across the globe and around the clock, it becomes important to inquire whether income can be charged. For every byte of data that follows, the lure of setting national tariffs and charging every commodity sold hopes to herald a new economy for the taxman. Many countries are concerned by the extreme proliferation of the Internet, as they should be, since the Internet is the world's greatest open communication infrastructure. This is not only a threat to national sovereignty, but also a transgression of the conventional notion of political and monetary liberty by overriding traditional tax concepts. As wealth is created through cyber space, it would be difficult to establish accounting processes and monetary power. Cyberspace taxation will be one way to obtain a certain degree of monetary power. The division of tax rights would be based on mutually agreed principles and a shared definition of how to enforce these principles. A need for collaboration between them has also been established, in addition to the need for consensus between governments and companies.

INTERNET ELECTRONIC COMMERCE ASPECTS

The EC also poses new concerns about the characterization of taxes in the context of double tax treaties. Moreover, although the EC does not give rise to any radically new questions relating to transfer pricing, certain difficulties may emerge in applying conventional methods of exchange, in establishing comparability, in deciding on the tax treatment of incorporated undertakings and in dealing with the criteria of documentation and information reporting. If these issues are not resolved, depletion of the tax base, especially in developing and underdeveloped countries, will occur. Principles of Fundamentals: In addition, a taxpayer is taxed on his worldwide profits in the region where he lives (residence based taxation). In the case of a corporation, this is typically the place where the business is incorporated, licensed, or has a central command and control position.

If the business has a known source of income there, it can also be taxable in another region (source based taxation). Tax treaties typically regulate the implementation of domestic source laws by having a minimum nexus to permit taxes in that jurisdiction. Accordingly, the taxation of company profits on the basis of the source law includes the existence of a PE of the undertaking sought to be taxed in the country of origin. Where income or capital is taxable in the country of birth, it is the responsibility of the country of residence to grant double taxation relief. Such relief shall be provided either by exemption from taxation of such wages in the country of residency or by credit for taxes paid in the country of birth [2].

Permanent establishment: Under the tax treaties laid down in the OECD Tax Convention, a corporation delivering services overseas is taxable only if it has PE in the country in which it does business. A 'PE' is a "fixed place of business through which an enterprise carries on business for most tax treaty purposes." A PE includes 'a fixed business location' (the simple PE rule) that may include premises, machinery or services. The 'locked' characteristic includes a particular fixed long-term relation between the place of business and a certain section of the surface of the earth.

Secondly, if the facilities offered are part of a development or installation project lasting for more than a specific period of time, a PE can be constituted pursuant to Article 5(3), i.e. a PE house. The third part of the PE is Article 5(5) and (6), in which it is possible to constitute a 'Agency PE.' This is the case if a service provider in a country has a dependent agent there who, by frequently concluding contracts on behalf of the principal, engages his principal in company. Typically, however, tax treaties exempt all offices and facilities that are used merely for sales purposes or for the collection, exhibition or distribution of products and facilities from the concept of a fixed place of operation. Fundamental Principles: A taxpayer is normally taxed on his worldwide income in the country of his residence (residence based taxation). In the case of a corporation, this is typically the place where the business is incorporated, licensed, or has a central command and control position [3].

DISCUSSION

If the business has a known source of income there, it can also be taxable in another region (source based taxation). Tax treaties typically regulate the implementation of domestic source laws by having a minimum nexus to permit taxes in that jurisdiction. Accordingly, the taxation of company profits on the basis of the source law includes the existence of a PE of the undertaking sought to be taxed in the country of origin. Where income or capital is taxable in the country of birth, it is the responsibility of the country of residence to grant double taxation relief. Such relief shall be provided either by exemption from taxation of such wages in the country of residency or by credit for taxes paid in the country of birth.

EC's evolution has revolutionized the way industry works. It also questioned the adequacy and basic truth of the concepts of international taxation that formed the basis for the declaration of tax responsibility, such as physical appearance, position of establishment, etc. Company performed via the internet caters to clients located globally. This raises legal concerns around boundaries. Transactions that in one state may be lawful and legitimate may not be enforceable in another. Wealth development by cyber space will also require the use of financial firms "offshore" to store this wealth. This will represent an elaborate method of tax avoidance, sometimes untraceable. Due to the introduction of the EC, improvements in corporate activity would impact taxes in the following ways:

(i) Loss of control by any customer of the location of the transaction: as the geographical location of the activity becomes less important, it becomes more difficult to ascertain the location of the activity and, thus, the source of revenue.

(ii) No way of distinguishing users: proof of identification criteria for Internet usage are usually very poor. Just certain portions of an internet address (or domain name) show who is responsible for holding the name. It does not have a device or user relationship relating to that address or even where the system is located.

(iii) Limited use of information reporting and withholding institutions: Historically, taxation laws have placed readily identifiable reporting and withholding standards on financial institutions. In the other hand, one of the EC's biggest commercial benefits is that the need for intermediate entities is always reduced. The possible lack of these intermediate functions provides the tax administration with a dilemma [4].

Electronic commerce is a general term that encompasses all business activities carried out by electronic means, including fax, telex, EDI, internet, and telephone. For the purposes of this article, the word is restricted to trade and economic transactions involving contact between devices, whether by an open or closed network [5]. Moreover, it has also been said that: It is possible to assume that electronic commerce includes commercial transactions, whether between private individuals or commercial institutions, which take place on or over electronic networks. Intangibles, data objects or physical goods could be the matters dealt with in transactions. The most significant aspect is that an interactive medium is used for communication transactions.

The mechanism by which EC is performed has expanded with the exponential development of the Internet. An awareness is required of the processes involved in the functioning of the Internet. In general, all devices linked to a network are known by their Internet Protocol (IP) numbers. In this IP number system, computers connect with each other, behaving just like two traditional telephones. In addition, a domain name is given for unique IP numbers denoting a device. Contact takes place in the form of packets that, before reaching their destinations, will travel across many networks. Data packets are of a particular size and are broken up and distributed if their content reaches that size. For better reliability, the data component of the packet may be encrypted.

CONCLUSION

The Internet's phenomenal pace would cause us to redefine our world views and to recreate the laws and regulations that apply it. Since conducting business through EC is rapidly becoming the standard of the day, the pace of knots at which foreign organizations and nations' families are implementing strategies to face EC's challenges is too late. Current income tax canons based on foundation laws tend to be being obsolete. International organizations such as the OECD and the International Fiscal Organization have an urgent need to establish more fair standards for cross-border EC transactions so that the allocation of tax receipts can be more equitable. Countries suffering tax erosion should not be tempted to take desperate steps that may be short-term and thus likely to negatively affect the development of the EC economy. EC has made geological precincts obsolete and transformed the planet into a digital civilization. The creation of the EC must not be disrupted by bureaucratic and administrative challenges. The prevention of dissonance between nations on the distribution of profits from taxation of EC transactions is of special importance. Nations must make a concerted effort through a body consisting of members of all nations to establish the taxation concepts of these operations. The obstacle for the future is this.

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