



TAXATION OF DIGITAL ECONOMY BY K.R. SEKAR

DIGITAL ECONOMY- INTRODUCTION AND CHALLENGES

- The growth of digital economy is significant and most of the business models is moved to Digital Model.
- The growth of Digital Economy has posed the following challenges:
 - Conflict between source based taxation and residence based taxation
 - Historical concept of PE is not relevant any more,
 - Preparatory & Auxiliary services need to be redefined to bring Digital business under PE rule.
 - Concept of “Virtual PE” has gain significant discussion.
 - Market based taxation – new concept is being discussed as a possible method of attribution of profits.
 - Is Virtual PE and Attribution of Profits is a right answer for Taxation of Digital Economy in the absence of treaty changes?
 - Countries look at new avenue of raising resources as the Digital Economy create new method of taxation
 - Equalization Levy
 - Digital Service Tax.

RESPONSE TO TAXATION OF DIGITAL ECONOMY

- OECD

- Action plan 1 recommended methods to taxation of Digital Economy
 - Imposition of WHT
 - Modifying the rules of PE and Attribution of Profits
 - Levy of Indirect Taxes.
- Recommending Pillar 1 and Pillar 2 approach.
- OECD has released model rules for reporting by platform operators with respect to sellers in the sharing and gig economy. Under these rules, the onus of collecting information and passing it to the tax authorities is on platform providers. The information is required for those sellers/service providers who provide accommodation, transport and personal services.

- UN

- The UN released a draft proposal giving source countries the right to tax cross-border payments for automated digital services via a withholding tax on gross income or an apportionment formula on net income. The automated digital services within this scope are online advertising services, online intermediation platform services, social media services, digital content services, Cloud computing services, sale or other alienation of user data, and standardized online teaching services.

DIGITAL ECONOMY- RESPONSE FROM FEW COUNTRIES

- Most Countries introduced Digital Service Tax (DST) on
 - Revenues from Advertising spaces on Digital Platform
 - Providing Digital Intermediary services
 - Providing goods and services through Digital Platform.
- Few Countries introduced Digital PE as a concept
- Few Countries introduced WHT on these transaction.

INDIA'S RESPONSE

- Introduced Equalization levy with effect from 1st June 2016.
- Expanded the scope of Equalization levy with effect from 1st October 2020.
- Digital PE as a concept introduced and effective from 1st April 2022.
- Domestic WHT on E Commerce Transactions.
- Some Judicial precedents in India has adopted a "Virtual PE" approach.
- Revenue authorities impose WHT on Digital Transactions as "Royalty"- Recent guidelines on MAP by CBDT is a deterrent for solutions.

