GOOGLE TAX - ECONOMY

NEWS: Amid U.S. pressure, the government has proposed abolishing the 'Google tax' in the Financial Bill, 2025.

WHAT'S IN THE NEWS?

- The **Finance Bill, 2025** proposes the removal of the **6% Equalisation Levy (EL)** on digital advertising services provided by foreign companies, effective **April 1, 2025**.
- This move is widely seen as a response to **former US President Donald Trump's call for a reciprocal tax** on Indian companies in retaliation for the levy.
- Experts suggest that while the proposal may be a **diplomatic gesture**, it remains uncertain whether it will lead to a **softening of the US's critical stance** on India's digital taxation policies.

Understanding Equalisation Levy (EL)

- The Equalisation Levy is often informally referred to as **"Google Tax"**, as it primarily targets foreign tech giants who earn revenue from Indian customers without a physical presence in India.
- The purpose of the EL is to **level the playing field** by taxing foreign digital businesses similarly to domestic companies that are already subject to Indian taxes.
- Introduced in **2016**, the original EL imposed a **6% tax on payments** made to non-resident companies for **online advertising and digital marketing services**.

Scope and Applicability of 6% Levy

- The 6% Equalisation Levy applies only when **payments made to a non-resident service provider exceed ₹1 lakh in a financial year**.
- The levy **does not apply to individuals using such services for personal purposes** — it is restricted to payments made for **business or professional activities**.
- The levy was primarily intended to tax companies like **Google and Facebook** that generate substantial revenue from Indian advertisers.

Expansion of Equalisation Levy in 2020 and Repeal in 2024

- In **2020**, the scope of the Equalisation Levy was expanded to include a **2% levy on all revenue earned by non-resident e-commerce operators** through the **online sale of goods or provision of services** in India.

- This broader version of the levy applied to **companies selling products online**, streaming services, app stores, and marketplaces without a physical presence in India.
- The **United States criticized** the 2% levy as being **“discriminatory”**, arguing that it targeted US-based companies while giving exemptions to Indian firms.
- In response to the **growing diplomatic pressure**, **India repealed the 2% EL in 2024**, although the original **6% levy remained**, until the proposed change in 2025.

Significant Economic Presence (SEP) Provision

- India introduced the **Significant Economic Presence (SEP)** framework to establish a **“business connection”** for taxation purposes, even without physical presence.
- The SEP rule allows Indian tax authorities to **tax foreign companies** if they have a **substantial digital or economic presence** in India, such as recurring revenue or user base from Indian customers.
- SEP thresholds are determined based on the **value of transactions** or the **number of users or downloads**, and it is designed to **complement the Equalisation Levy regime**.

Key Amendments in Finance Bill, 2025

- A new legal term, **"Total Undisclosed Income"**, has been added to clarify that **search and seizure operations** under income tax law are specifically aimed at **detecting and penalising unreported income**.
- The Bill introduces a definition of **“Virtual Digital Space”**, which includes:
    - Email servers and social media platforms
    - Online investment, trading, and banking accounts
    - Cloud storage and remote digital servers
    - Digital applications used for economic or social activities

Treatment of Virtual Digital Assets (VDAs)

- The Bill recognises **cryptocurrencies and other VDAs** as **"property"** under the Income Tax Act.
- As a result, cryptocurrencies are now treated as **capital assets**, making gains from their sale or transfer **subject to capital gains tax**.
- This expands the scope of tax laws to include modern digital assets alongside traditional categories like real estate or stocks.

Enhanced Powers to Tax Officers in Digital Investigations

- Tax authorities are now legally empowered to **override passwords, access codes, or encryption** that protect access to digital accounts or virtual spaces during investigations.
- This includes powers over:
    - Trading and investment accounts
    - Cloud-based financial data
    - Cryptocurrency wallets and exchanges
- The aim is to **ensure that digital platforms cannot be misused for tax evasion or hiding wealth**.

India’s Commitment to OECD’s BEPS Framework

- The Equalisation Levy and SEP provisions align with India's participation in the **OECD's Base Erosion and Profit Shifting (BEPS) Action Plan**, aimed at **curbing tax avoidance by multinational corporations**.
- **BEPS refers to strategies** used by multinationals to shift profits from high-tax countries to low or no-tax jurisdictions using legal loopholes.
- India supports the OECD's effort to ensure **profits are taxed in countries where the underlying economic activity occurs and value is created**.

BEPS Action 1 and Digital Economy Taxation

- **BEPS Action 1** addresses challenges posed by the digital economy, including **loss of tax revenue from cross-border digital transactions**.
- The OECD's policy paper suggests an **Equalisation Levy as a temporary measure**, until a **global consensus** on digital taxation is reached.
- India was one of the first countries to implement such a levy in line with OECD recommendations.

Two-Pillar Global Tax Solution

- In **October 2021**, India joined the US and other OECD/G20 nations in adopting a **two-pillar strategy** to tackle digital economy taxation:
    - **Pillar One**: Focuses on the **reallocation of taxing rights** to market jurisdictions, even if the company has no physical presence there.
    - **Pillar Two**: Proposes a **global minimum corporate tax** and lays down **anti-abuse rules** to prevent tax base erosion and profit shifting.

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