

# Confused digital firms breach payment deadline as no clarity on Google Tax

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India's Google Tax, the recently introduced 2 per cent equalisation levy on all online/digital sale of goods or services by a non-resident to an Indian customer through digital medium, has become a compliance nightmare for companies in absence of any clarity and FAQs from the tax department.

Although the last date for submitting the taxes for the first quarter was July 7, many companies have not paid the taxes as they are waiting for the clarifications. Any delay in payment of taxes invites an interest of 1 per cent every month.

There is no clarity on the number of issues and are ambiguities in terms of interpretation of the law. It is not clear on which transaction they should be paying the equalisation levy and to what amount.

The scope of the term 'online sale of goods' itself is so wide that online operators are seeking clarity if it means just digital goods or any kind of goods. There are confusions with regards to the definition of digital and electronic facility or platform. Some experts are saying that a sale through a digital platform can also mean sales concluded through e-mails.

"Right now the e-commerce platforms charge some kind of fee or commission for assisting a merchant on sale of goods over its network. The question is whether the e-commerce platform should be paying 2 per cent on the commission amount or the entire transaction amount," says Dhaval Jariwal, partner in chartered accountancy firm PNDJ & Associates LLP.

Then there are questions whether a foreign e-commerce or digital platform which pay the equalisation levy here will get a credit in their home countries or not.

The law on equalisation levy says that an Indian consumer will be identified based on the IP address located in India. But experts ask what if someone uses a virtual private network (VPN).

Sunil Arora, tax partner at chartered accountancy firm ASA & Associates, finds another anomaly. He says that Section 10 (50) of the Income Tax Act, which says no income tax would be levied on the income that has been subjected to Equalisation Levy, will come into force from April 1, 2021 but the levy itself comes into force from April 1, 2020. "So what happens to the taxes paid during the current financial year? Will these be taxed twice," he questions.

Amit Jindal, partner, Felix Advisory, says there should be an advance ruling authority sort of a body to clarify issues on Equalisation Levy.

"There is no mechanism in place at present which could enforce certainty on the taxpayer as to the applicability of Equalisation Levy provisions on its business. A forum modelled on the lines of Authority of Advance Ruling (AAR) or a certificate from the tax officer may be provided so that a taxpayer may apply up front for certainty on whether EL applies to his case or not," he says.