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Imm. Past President  
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9<sup>th</sup> May, 2020

To,  
Smt. Nirmala Sitharaman,  
Hon'ble Finance Minister,  
Ministry of Finance, North Block,  
New Delhi – 110 001

Hon'ble Madam,

**Sub: Representation for deferment of applicability of Equalisation Levy (EL) on 'E-commerce Supply or Services' (ESS EL)**

The Chamber of Tax Consultants, established in 1926, is one of the oldest non-profit organizations of tax practitioners of Mumbai, having Advocates, Chartered Accountants and Tax Practitioners as its members. Many senior tax professionals who regularly appear before ITAT, high courts and the Supreme Court are its Past Presidents. We have been making regular representations before various government authorities in the social and economic interests of the nation.

**Objective of our representation:**

Equalisation Levy on ecommerce supply and services (section 165A of Finance Act 2016) is sought to be implemented from 1<sup>st</sup> April, 2020. The same has been enacted on 27<sup>th</sup> March, 2020 only! It has given no time to the stakeholders to study, understand, seek clarifications and implement the same. Hence we urge you to defer the implementation to at least till 1<sup>st</sup> October, 2020. While we appreciate the need for EL, the immediate implementation is causing a lot of difficulties. The details are given below.

**A. Background and Issue**

1. Finance Bill had proposed to introduce Explanation 3A to Section 9(1)(i) of the Income Tax Act. In addition to the above, the Finance Act 2020 has extensively expanded the scope of EL by amending Chapter VIII of Finance Act, 2016 w.e.f 1<sup>st</sup> April, 2020. It has brought within its scope, almost all e-commerce transactions. ESS EL was not at all proposed in the Finance Bill 2020, but was directly introduced in the Finance Act 2020 which was passed by the Parliament on 27<sup>th</sup> March, 2020 and was immediately made effective from 1<sup>st</sup> April, 2020. Due to this, **it was not open for the public to debate and discuss the ESS EL provisions.**

2. Further, the outbreak of Novel Corona Virus (COVID-19) across many countries of the world has caused immense loss to the lives of people. It has been termed as pandemic by the World Health Organisation and various Governments including Government of India. Lockdown has been proposed by many countries including India. It has caused disruptions in supply cycles and financial cycles. Amidst such situation when the global economy is in lockdown condition, compliance of amended EL by non-residents is becoming very difficult.

3. Government of India has acknowledged the difficulties and announced various measures to defer applicability of various statutory provisions and compliance burden. The relaxation measures included extension of various due dates and applicability dates under Income Tax Act like TDS applicability in respect of domestic E-commerce traders, "The Direct Tax Vivad Se Vishwas Act, 2020" VSV and filing of Return of Income etc. Amidst such a situation, going ahead with the implementation of expanded EL immediately from 1 April 2020 is a big surprise to stakeholders in the world.

4. While we understand that the first payment of EL is in July, 2020, considering that it is a new levy, **there will be a lot of changes required in business models**, operations, changes in software's, etc. in case of such non-resident e-commerce operators to track the e-commerce transactions and to comply with the new provisions.

The parties also have to negotiate as to who will bear the cost of EL. Here too one fears that it is the Indian resident's payers who will have to bear the cost of EL.

## B. Our requests

We request for following reliefs:

### 1. Defer the new provisions of EL till 1<sup>st</sup> October, 2020

Considering the difficulties in communicating the changes to the stakeholders, and implementing the same under the lockdown situation, **we urge that these provisions be deferred at least till 1<sup>st</sup> October, 2020**. We wish to mention that Government has given reliefs including postponement of Section 194-O- TDS provisions to domestic e-commerce traders - till 1<sup>st</sup> October, 2020.

### 2. Give time for consultation and discussion

India has a well settled mechanism of consultative and transparent process of formulating any policy. This has been widely appreciated. It would, therefore, be desirable that the levy is introduced after proper consultation and after ensuring that taxpayers are ready with the understanding and implementation of the levy.



**The Chamber of  
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We will be glad to have a discussion with you at any time convenient.

Thank You,

Yours faithfully,

For the Chamber of Tax Consultants

Sd/-

Sd/-

Sd/-

**Vipul K. Choksi**  
President

**Mahendra Sanghvi**  
Chairman  
Law & Representation Committee

**Apurva Shah**  
Co-Chairman

CC:

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