Chapter 15
Taxation Policy Measures for E–Retailers

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ABSTRACT

The internet has already revolutionized many aspects of modern business and living and promises to bring even more radical future changes. In contrast, tax laws are normally slow to changing realities. It is anticipated that trade in tangible (physical) goods with e-commerce will not introduce problems. However, trade in intangible (electronic or digital) goods can be problematic because they will be difficult if not impossible to track. The chapter discusses the important concepts woven around the idea of taxing e tailing transactions and aims at coming up with a conclusion which will help further to determine the appropriate tax policies for e retailers keeping in mind the global framework. The chapter aims at discussing the concept of Internet Taxation, E-Retailing laws and regulations in Global Context. The chapter also discusses broad outlines relating to taxability of E-Retailing transactions from VAT and CST angle under different scenarios and arguments in favor and against of taxing the e tailing transactions. The chapter also discusses important acts passed in different economies for taxing online retailers including Marketplace Fairness Act 2013 and Internet Tax Freedom Act. It is concluded by discussing the possible effects of the online retail tax. It could be argued that e-commerce for most part will not require new tax principles. Existing principles still apply only the old ways of doing things need to be digitized. The internet and e-commerce certainly does introduce some new business models and products that would not have been possible with old technology. And in some case, new laws may be required or old laws amended. Trade in intangibles or goods that are in digital format promises to be the main problem area.

1. INTRODUCTION

As more purchases are made over the Internet, states are looking for new ways to collect taxes on online sales. There is a common misperception that the U.S. Constitution prohibits states from taxing internet sales. This is not true. States may impose sales and use taxes on such, even when the retailer in outside the state. However, if the seller does not have a constitutionally sufficient connection (“nexus”) to the state, then the seller is under no enforceable obligation to collect the tax and remit it to the state. The purchaser is still generally responsible for paying the tax, but few comply and the tax revenue goes uncollected.

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From the inception of the internet until the late 1990s, it was free of regulations by government in the United States at all levels and also free on any specifically targeted tax levies, duties, imposts or license fees. By 1996, however, that began to change, as several US states and municipalities began to see internet services as a potential source of tax revenue. The 1998 Internet Tax freedom Act halted the expansion of direct taxation of the internet, grandfathering existing taxes in ten states. In United States alone, some 30,000 taxing jurisdictions could otherwise have claim to taxes on a piece of the Internet. The law, however, did not affect sales axes applied to online purchases. These continue to be taxed at varying rates depending on the jurisdiction, in the same way that phone and mail orders are taxed. The absence of direct taxation of the internet does not mean that all transactions taking place online are free of tax, or even that internet is free of all tax. In United States, nearly all online transactions are subject to one form of tax or the other. The Internet Tax Freedom Act merely precludes states in the United States from imposing their sales tax or any other kind of gross receipts tax, on certain online services. E-Retailing transactions are growing by leaps and bounds, day by day, because of convenience, choice, cost competitiveness and transparency being offered. The growth of E-Commerce is reducing the ability of federal, state and local governments to raise revenue from traditional sources in traditional ways. Consequently, legislatures are reassessing specific tax policies with respect to e-commerce and asking how such policies may impede or facilitate economic objectives. With increase in volume and value of these transactions, naturally it is important to explore the possibility of levy of VAT or CST as the case may be and to investigate about possible evasion of tax.

The chapter discusses these important concepts woven around the idea of e-tailing and taxation policy measures and aims at coming up with a conclusion which will help further to determine the appropriate tax policies for e retailers keeping in mind the global framework.

The chapter aims at discussing about the following points:

1. The concept of Internet Taxation.
2. Broad outlines relating to taxability of E-Retailing transactions from VAT and CST angle under different scenarios including:
   a. Taxation policy when E-Retailers act only as a facilitator and does not own any material on his own.
   b. Taxation policy where the E-Retailers purchases the material on his own and then re sells to the buyers.
   c. Taxation policy when the E-Retailers holds the material of the seller as an agent in his custody.
3. Global taxation policy for e retailers
4. Discussion of important acts passed in different economies for taxing online retailers including Marketplace Fairness Act 2013 (Passed in USA to make it easier for states to collect web sales taxes).
5. Arguments in favor and against of taxing the e tailing transactions.
6. Possible effects of the online retail tax

2. BACKGROUND

Though there exists no standard definition for the term e-commerce, it is generally used in the sense of denoting a method of conducting business through electronic means rather than through conventional
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