

## ENCRYPTION OF TRANSACTION

Powerful encryption technologies are now available to everyday Internet user and are expected to become commonly used in the next two to three years. These technologies allow users to encrypt all of the transaction so that only the parties involved can decrypt the information.

This means that if the income tax officer or other tax authority is able to interrupt a transaction, he will not be able to read it or understand its content in order to identify whether the transaction involves accessible goods or not. The use of encryption technologies will not only be conducted by tax evaders but also by the most honest citizen who just wishes for his transaction to be secure collecting the tax from end users.

Another important problem in **e-taxation** is collection of tax from millions of individuals rather than intermediaries. This will increase the cost of tax collection. Internet makes the physical location of the seller's business irrelevant. Whereas, the conventional notions of the sales tax law are based on the location of seller's business itself. Making use of the unique feature of the Internet, the seller may operate his market in a state effectively from far beyond the state's borders where it may be immune to the state's taxing jurisdiction. The VAT systems currently in place in 30 OECD countries are credit invoice tax systems. This method has a basis that relies on a number of rules and one of these rules is the "place of supply rule". This rule tries to ensure that appropriate goods and services are subject to **taxation** only once. The OECD has recommended that the place of supply rules be called the place of **taxation** rules so as to minimise any prospect of misunderstanding about the extent and implication for countries arising from any consensus reached on the place of **taxation**.

### **E-Commerce Taxation**

The well-planned tax system in India with the authority to levy taxes is divided between the Central and State Governments.

- Central Government collects direct taxes like personal income tax, corporate tax
- State Governments collect local and state sales tax.

In India the tax policies should be carefully formulated based on a policy that is clear and transparent and is consistent with the international norm of characterization of revenues. The Government should honor the principle of neutrality as laid down by the OECD in characterization of income from e-commerce transactions.

India has signed tax treaties with various countries. These are mainly based on OECD. These treaties are making it mandatory to reduce the loss of income due to double taxation and also to give relief to Indian Assesses from double taxation. Taxation of e-commerce has become a major concern for international agencies and tax authorities worldwide. In Europe, North America and Australia and in many Asian countries substantial research has been conducted on the impact of e-commerce on taxation.

Among the plethora of book reports, articles and papers produced on the topic, the work of OECD stands out as the most significant. The theme underlying throughout OECD work done till now is, that the Government has to successfully meet the challenges posed by e-commerce for taxation systems and a global coordinated approach is required to tax a truly global phenomenon.

## OECD Report

The recent report of OECD paved way for a statement of broad **taxation** principles that should apply to e-commerce as reported in "*The Economic Times*" dated, 3rd June, 2000.

"All double **taxation** avoidance treaties to be reviewed". In sum and substance, same principles of conventional **taxation** should apply to e-commerce.

**Neutrality : Taxation** should be neutral and equitable between different forms of e-commerce and thus, avoiding double taxation or international non-taxation.

**Efficiency** : Compliance costs for business and administration costs for the Governments should be minimized as far as possible.

**Certainty and Simplicity** : Tax rules should be clear and simple to understand so that tax payers know where they stand.

**Effectiveness and fairness : Taxation** should produce the right amount of tax at the right time and the potential for evasion and avoidance should be minimized.

**Flexibility : Taxation** system should be flexible and dynamic to ensure that they keep pace with technological and commercial developments.

These principles can be applied through existing tax rules and there should be no discriminatory tax treatment of e-commerce. The OECD ministerial conference held in Ottawa in October 1998 endorsed the principles summarized above. They proceeded to implement these taxation frame work conditions by establishing five technical assistance groups (TAGS). These comprise government officials from OECD as well as non-OECD states and representatives of the international business community. The work carried out by TAGs focused upon three major areas:

**1. Consumption Tax Issues** : TAG has examined the principle of **taxation** at the place of consumption and the collection mechanisms that best serve to ensure the effective operation of this principle. The consumption Tax TAG'S report proposes guidelines defining the place of taxation for cross border services and intangible property by reference to the recipients business establishment for (B2B transactions) and by reference to the recipient's usual jurisdiction of residence for (B2C transaction).

**2. International Direct Tax Issues** : TAG has found upon the definition of royalties in the OECD Model Tax Convention in the context of a wide range of payments made in e-commerce transactions. This work mainly involves questions of characterizing income arising from different types of e-commerce transactions. In two independent exercises, changes have been made to the commentary on Art. of OECD model tax convention, clarifying the application of the permanent establishment's definition of e-commerce and reports have been issued concerning profit attribution to a permanent establishment, both generally and specifically relating to permanent establishments involved in e-commerce transactions. Permanent Establishments -The revised commentary to Art 5 of OECP Model Tax Convention clearly states that a non-resident enterprise with an Internet website alone would not be regarded as having permanent establishment in the country in which the website is located. The revised commentary