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## Levy on e-commerce companies a broader issue in the taxation regime: Tax experts

By [Sachin Dave](#), ET Bureau | Mar 02, 2016, 12:55 PM IST[Post a Comment](#)
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MUMBAI: The government's recent announcement on a levy on e-commerce companies' revenues could well become one of the first cases in the world where digital companies are brought under the tax jurisdiction through an old [economy taxation](#) laws, say industry trackers.

Equalisation levy— that was announced in the budget— would only impact the advertisement revenues these companies generate out of India. Yet, this would be one of the first instances when such a tax is levied on digital companies.

"Not only the advertisement charges paid by Indian advertisers (on advertisements visible in India) to a non-resident is covered under the equalisation levy, but also the advertisement charges paid by Indian advertisers (on advertisements NOT visible in India) to a non-resident, will be liable to such a levy," said [Jeenendra Bhandari](#), Partner, MGB & Co LLP, a tax consultancy.

Industry experts point out that going ahead even when a domestic company pays for advertisement on a social networking platform—targeting foreign customers and not visible in India— there would be a 6% tax on such an expense. This set to marginally impact the advertising revenues of the ecommerce firms earning advertising revenue from India.



*In the budget announcement the government said that such a levy would only be on companies that have a permanent establishment or PE in India.*

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Experts say that this levy could have a far reaching implication as far as international taxation is concerned. "Such a levy is not only stretching the arm of tax too much but also creating extra territorial jurisdiction of the Indian [income tax](#) department over any international payments. This anomaly can be corrected by simply inserting the words that the advertisement for which the payment is made by the Indian advertiser should relate to a business or profession carried out 'in India'," said Bhandari.

This is for the first time that the global e-commerce companies would be taxed in one way or another. In what is criticized by many revenue authorities across the world, e-commerce companies have set up their headquarters in tax havens circumventing tax on revenues and patents.

In the budget announcement the [government](#) said that such a levy would only be on companies that have a permanent establishment or PE in India. However, industry trackers say that the way India decides whether a company has a PE has been under quite a scrutiny. Basically, there are some conditions when a PE is created in India, but which eventually means that the company has to adhere to domestic taxation laws.

Industry trackers say that the digital business models have created new tax challenges. "If permanent establishment (PE) principles are to remain effective in the new economy, the fundamental PE components developed for the old economy i.e. place of business, location, and permanency must be reconciled with the new digital reality," said a person close to the development.

"Considering the potential of new digital economy and the rapidly evolving nature of business operations and to address the challenges in terms of taxation of such digital transactions [equalisation levy](#) at 6% is introduced," he added.

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