

# Taxation of Digital Platforms and Gig Economy: Challenges in Direct Taxation for Businesses in India

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## ABSTRACT

The rapid growth of digital platforms and the gig economy has revolutionized traditional business models but introduced significant complexities in direct taxation. Often operating across borders, these businesses face challenges in income attribution, compliance burdens, and navigating gaps in existing tax laws. India has attempted to address these issues through the Equalisation Levy and Significant Economic Presence (SEP) provisions. However, these approaches have been criticized for their limited scope and effectiveness in capturing the unique features of digital business operations.

This research critically evaluates India's direct taxation framework for digital platforms and gig economy participants. It explores the legislative gaps that hinder equitable taxation, examines the compliance challenges faced by businesses and workers, and compares India's approach with international best practices, including OECD's Base Erosion and Profit Shifting (BEPS) framework. The study delves into key concepts such as income attribution for digital platforms, self-employment classification for gig workers, and cross-border tax challenges. Additionally, the research highlights the role of technological advancements and policy reforms in shaping future tax frameworks.

Through thoroughly examining the Indian tax system and its interaction with the digital economy, the study identifies areas for improvement and offers actionable reforms. These recommendations aim to ensure that taxation policies are fair, efficient, and capable of keeping pace with the evolving digital landscape. By addressing these critical issues, the research seeks to contribute to the discourse on adapting direct tax laws for India's rapidly expanding digital economy while drawing lessons from international practices.

**KEYWORDS:** Base Erosion and Profit Shifting (BEPS), Digital platforms, Gig economy, Indian direct taxation, Significant Economic Presence (SEP)

## 1. INTRODUCTION

The rise of digital platforms like e-commerce websites, ride-sharing apps, and freelance marketplaces has radically transformed global business models. Often operating with minimal physical infrastructure, these platforms present unique challenges for tax authorities worldwide. In particular, the gig economy, characterized by short-term, flexible, and freelance work arrangements, further complicates income classification and compliance with tax obligations.

In India, businesses operating on digital platforms face difficulties in determining the appropriate income attribution and tax liabilities due to the **virtual presence** of these businesses, as well as their complex cross-border transactions. Tax laws in India have been amended in response, with provisions like the **Equalisation Levy** and **Significant Economic Presence (SEP)** aimed at capturing revenues

generated by foreign digital businesses. However, these measures have been met with criticism for their limited effectiveness, as they fail to adequately address the complexities of digital business operations.

Global initiatives such as the **OECD's Base Erosion and Profit Shifting (BEPS)** framework provide a more comprehensive approach to taxing digital platforms. However, integrating these global best practices into India's existing tax system presents its own set of challenges. This research explores these issues by critically examining India's direct taxation framework for digital platforms and gig economy businesses. It evaluates legislative gaps, compliance challenges, and the effectiveness of existing measures, with a focus on income attribution, cross-border taxation, and the evolving nature of self-employment in the gig economy.

The study also compares India's tax approach with international practices and offers recommendations for reforms to create a more equitable and efficient tax system that can effectively capture the revenue generated by the digital economy in India.

### 1.1 RESEARCH PROBLEM

The study seeks to address the following key problem: How can Indian direct tax laws effectively address the challenges posed by the digital economy and gig platforms, ensuring fair taxation and minimizing revenue losses?

### 1.2 SCOPE OF THE STUDY

The research focuses on:

- The applicability and adequacy of current direct tax provisions for digital platforms and gig economy businesses.
- Comparative analysis of international tax practices and their relevance to India.
- Legal challenges and policy recommendations to improve compliance and equity in taxation.

### 1.3 LITERATURE REVIEW

1. Research on **"Taxing Digital Platforms"** by Hayashi & Kim (2024)<sup>1</sup> highlights the multifaceted nature of Digital Services Taxes (DSTs), framing them as a response to the inability of traditional international tax norms to address the digital economy's complexities. It emphasizes that DSTs are designed to tax profits of major digital platforms like Google and Amazon, which have significant user bases in jurisdictions where they lack physical presence. Beyond the fair allocation of taxing rights, the adoption of DSTs is tied to broader concerns, including economic competition between the EU and the U.S., societal anxieties about digital platforms, and antitrust issues surrounding the power of tech giants. The study also underscores that DSTs originate from political motivations rather than scholarly tax principles, leading to a misalignment with existing tax frameworks. It recognizes that DSTs challenge dominant tax theories, oscillating between attempts to fit into established categories and the potential to introduce innovative concepts, reflecting the evolving landscape of global taxation.

2. Adelakun's research titled **"The Gig Economy: Challenges for Tax System"** (2024)<sup>2</sup> examines the complexities and dynamics of modern tax systems, focusing on the challenges of ensuring tax compliance within the gig economy, which is influenced by transparency and accountability. Utilizing Saunders' Research Onion framework, the study incorporates both quantitative and qualitative data collected through structured questionnaires and interviews. Findings reveal that 66.6% of respondents

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<sup>1</sup> Andrew Hayashi & Young Kim, *Taxing Digital Platforms*, SSRN (2024), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4681167](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4681167).

<sup>2</sup> Beatrice Adelakun, *THE GIG ECONOMY: CHALLENGES FOR TAX SYSTEM*, Journal of Knowledge Learning and Science Technology (2024), <https://jklst.org/index.php/home/article/view/201?articlesBySameAuthorPage=14>.

strongly agree on the importance of tax compliance, while opinions about the alignment of tax systems with gig economy needs are mixed, with 33.3% divided across agreement and disagreement. The study identifies key challenges for gig workers, such as inadequate communication from tax authorities, insufficient efforts by digital platforms, and the influence of social norms, which contribute to reluctance in tax payment. It concludes that current tax systems fail to adequately consider the gig economy during their design, highlighting the need for reform to address these gaps and enhance compliance.

3. **Bohio**, in his paper titled **“Taxation of Digital Economy- a Cross-Country Comparison” (2024)**<sup>3</sup> provides an expositional overview of the challenges posed by the rapid expansion of the digital economy on traditional tax systems across jurisdictions. Valued at over six trillion dollars and growing, the digital economy enables businesses to transcend physical borders, revolutionizing global commerce. However, this transformation has complicated the ability of tax administrations to assess and collect taxes, particularly income taxes and VAT, from digital companies. A central issue is the global debate regarding value creation in digital forums and whether user jurisdictions should have taxing rights over the income generated by digital companies. The study explores the impact of this growth on traditional tax frameworks and analyses how countries worldwide are addressing the taxation of digital companies, including considerations of base erosion and profit shifting (BEPS) and the implementation of measures such as Digital Service Taxes (DSTs). By examining these issues, the study highlights the intersection of digitalization and international taxation, emphasizing the need for innovative approaches to meet these emerging challenges.

4. **Nanu** in his research titled **“Direct taxation of the digital economy” (2023)**<sup>4</sup> explores the evolving landscape of direct taxation in the digital economy, focusing on corporate income tax. As digitalization permeates various sectors, particularly economic activities conducted by taxpayers, the study underscores the urgency of addressing tax jurisdiction over profits derived from the digital economy at national, European, and global levels. The research employs a combination of legal provisions, scholarly interpretations, and practical insights from taxpayers encountering challenges in this domain. By examining these facets, the study provides a dual contribution: theoretical analysis of a modern direct taxation framework and practical guidance for companies and nations in determining tax obligations. This paper not only sheds light on contemporary tax mechanisms but also seeks to resolve jurisdictional ambiguities, thereby offering actionable solutions for stakeholders in the digital economy.

5. **Tyutyuryukov & Guseva**, in their research paper **“From remote work to digital nomads: tax issues and tax opportunities of digital lifestyle” (2021)**<sup>5</sup> examine the taxation challenges posed by the rise of digital independent workers, including digital nomads, as a result of remote work, digitalization, and the gig economy. This emerging group operates globally with minimal or no fixed residence, exposing limitations in traditional tax rules based on residence criteria. Key issues include the severing of connections between income tax revenue and local infrastructure expenditure, the disruption of PAYE systems, and the risk of digital nomads falling outside established tax residency frameworks. The study evaluates the tax potential of this group, their income structures, and the personal tax challenges associated with their digital lifestyles. It further explores global approaches to taxing digital independent

<sup>3</sup> Mumtaz Bohio, *Taxation of Digital Economy- a Cross-Country Comparison*, SSRN (2024), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5036459](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5036459).

<sup>4</sup> Florentin Nanu, *Direct taxation of the digital economy*, SHS Web of Conferences (2023), [https://www.shs-conferences.org/articles/shsconf/pdf/2023/26/shsconf\\_copeji2023\\_01004.pdf](https://www.shs-conferences.org/articles/shsconf/pdf/2023/26/shsconf_copeji2023_01004.pdf).

<sup>5</sup> Vladimir Tyutyuryukov & Natalia Guseva, *From remote work to digital nomads: tax issues and tax opportunities of digital lifestyle*, ScienceDirect (2021), <https://www.sciencedirect.com/science/article/pii/S2405896321018802>.

workers, noting that proposals such as PAYE taxation by Russian policymakers overlook the diverse nature of their income. Many workers opt to register as sole proprietors or self-employed, leveraging favourable tax regimes where available. It concludes by emphasizing the need for further research to address their tax behaviour, enhance tax controls, and resolve double taxation issues, signalling the necessity for innovative solutions tailored to this evolving workforce.

#### **1.4 RESEARCH OBJECTIVES**

1. To identify gaps in Indian direct tax laws concerning digital platforms and the gig economy.
2. To evaluate the impact of existing tax measures like the Equalisation Levy.
3. To propose reforms for equitable and efficient taxation of digital businesses.

#### **1.5 RESEARCH QUESTIONS**

1. What are the key challenges in taxing digital platforms and gig economy businesses?
2. How does the Indian direct taxation framework address these challenges?
3. What role does the Equalisation Levy play in taxing the digital economy?
4. How do international taxation practices compare to India's approach?
5. What are the legal and compliance issues faced by gig workers under current tax laws?
6. Can existing provisions like Section 9 of the Income Tax Act adequately address cross-border digital transactions?
7. How effective is the concept of Significant Economic Presence (SEP) in India?
8. What are the potential solutions to revenue losses from the digital economy?
9. How can tax compliance be improved for gig workers and digital platforms?
10. How can tax policy balance revenue generation and ease of doing business for digital platforms?

#### **1.6 HYPOTHESIS**

1. Current Indian direct tax laws are inadequate to address the unique challenges posed by digital platforms and gig economy businesses.
2. The Equalisation Levy is a partial solution and requires significant reform to cover all facets of the digital economy.
3. Adopting international best practices can enhance India's tax framework for digital businesses.

#### **1.7 RESEARCH METHODOLOGY**

This research employs a doctrinal and non-empirical research methodology, relying on the critical analysis of statutory provisions, judicial precedents and existing government policies. The study utilizes secondary sources such as legal texts, journals and official reports to examine gaps in the existing framework. Comparative analysis is conducted to assess international practices, especially OECD's BEPS framework, and their relevance to India. The research emphasizes the interpretation of laws and policy evaluation to propose actionable reforms, relying on secondary data.

#### **1.8 LIMITATIONS OF THE STUDY**

- The study has a limited focus on indirect taxes like GST.
- There is an absence of primary data collection from businesses or tax authorities.
- The study is restricted to Indian direct tax laws with references to international practices for comparative purposes.

## **2. OVERVIEW OF THE DIGITAL ECONOMY AND GIG PLATFORMS**

The rapid expansion of the digital economy and gig platforms has significantly altered traditional economic models, introducing new challenges for taxation and regulatory frameworks. The digital

economy comprises businesses that operate primarily through online platforms, leveraging technology to facilitate transactions, services, and interactions. Gig platforms, a subset of the digital economy, connect independent workers with short-term jobs or freelance opportunities. Companies such as **Uber, Swiggy, Amazon, and Upwork** exemplify how digital platforms have transformed industries by eliminating the need for physical infrastructure, offering greater flexibility, and optimizing resource utilization. However, this shift also raises critical questions about how these businesses should be taxed, particularly in jurisdictions where they have significant economic influence but no physical presence.

### 2.1 DIGITAL BUSINESS MODELS AND THEIR DISTINCT FEATURES

Digital business models differ fundamentally from traditional business models in several ways. Traditional businesses typically rely on **physical infrastructure and localized operations**, whereas digital platforms function through **virtual presence, leveraging data-driven technologies and global connectivity** (Brynjolfsson & McAfee, 2014)<sup>6</sup>. This transition from a location-based economy to a platform-driven economy has created novel tax challenges, as revenues are often generated across multiple jurisdictions without a clear physical footprint. Additionally, digital businesses monetize data, network effects, and intangible assets, which complicates tax assessment and revenue attribution (OECD, 2020)<sup>7</sup>.

### 2.2 TAXATION CHALLENGES IN THE DIGITAL ECONOMY

The digital economy presents **complex taxation challenges**, primarily due to the difficulty in attributing income, determining tax jurisdiction, and addressing cross-border tax implications. Since digital platforms operate in multiple countries without a physical presence, traditional tax rules based on physical establishments (permanent establishments or PEs) fail to capture their economic activities effectively. Furthermore, digital transactions often involve **multiple layers of value creation, including user participation, data-driven advertising, and algorithmic decision-making**, making it difficult to ascertain where profits should be taxed. Another major issue is **base erosion and profit shifting (BEPS)**, where multinational digital companies shift profits to low-tax jurisdictions, minimizing their tax liability in high-tax economies (OECD, 2015)<sup>8</sup>.

### 2.3 INDIA'S RESPONSE TO DIGITAL TAXATION CHALLENGES

India has recognized the challenges posed by digital businesses and has taken **proactive steps** to introduce tax measures targeting them. One of the earliest measures was the **Equalisation Levy**, introduced in 2016, which imposed a **6% tax on online advertising revenues earned by non-resident digital companies** (Government of India, 2016)<sup>9</sup>. This was later expanded in 2020 to cover e-commerce transactions, ensuring that **foreign digital service providers contribute to India's tax revenues**. Additionally, the **Significant Economic Presence (SEP) concept, introduced in 2018 under the Income Tax Act, broadens the definition of a taxable presence**, allowing India to tax non-resident digital companies based on revenue thresholds and user engagement (Finance Act, 2018)<sup>10</sup>. These measures indicate India's commitment to adapting its tax laws to the digital age, though challenges remain in enforcement and international coordination.

<sup>6</sup> Brynjolfsson, E., & McAfee, A. (2014). *The Second Machine Age: Work, Progress, and Prosperity in a Time of Brilliant Technologies*. W.W. Norton & Company.

<sup>7</sup> OECD (2020). *Tax Challenges Arising from Digitalisation – Economic Impact Assessment*. Paris: OECD Publishing.

<sup>8</sup> OECD (2015). *Addressing Base Erosion and Profit Shifting (BEPS)*. Paris: OECD Publishing.

<sup>9</sup> Government of India (2016). *Finance Act, 2016 (Equalisation Levy Provisions)*. New Delhi: Ministry of Finance.

<sup>10</sup> Finance Act, 2018. *Significant Economic Presence (SEP) Amendments to the Income Tax Act, 1961*. Government of India.



### 3. EVOLUTION OF TAXATION IN THE DIGITAL ECONOMY: HISTORICAL PERSPECTIVE AND GLOBAL DEVELOPMENTS

The taxation of the digital economy has evolved significantly over the past few decades, shaped by technological advancements, globalization, and changing business models. Initially, tax systems were designed for traditional brick-and-mortar businesses with a clear physical presence, making it relatively straightforward to determine where economic activities occurred and how they should be taxed. However, with the rise of digital platforms and the gig economy, existing tax frameworks have struggled to keep pace, leading to **gaps in tax collection, profit shifting, and revenue losses for governments** (OECD, 2015)<sup>11</sup>. This chapter examines the historical development of digital taxation, explores global initiatives to address these challenges, and reviews various countries' approaches to taxing digital businesses.

#### 3.1 HISTORICAL EVOLUTION OF DIGITAL TAXATION

The challenges of taxing digital businesses first emerged in the late **1990s and early 2000s** with the rapid growth of e-commerce platforms like **Amazon and eBay**. Traditional tax systems relied on the **permanent establishment (PE) principle**, which required a business to have a physical presence in a country to be subject to its taxation. However, **early e-commerce businesses operated across multiple jurisdictions without significant physical presence, raising concerns about tax avoidance** (Cockfield, 2006)<sup>12</sup>.

During the early 2000s, countries began experimenting with **indirect taxation of digital goods and services**, primarily through **Value Added Tax (VAT) or Goods and Services Tax (GST)** on cross-border digital transactions. For example, in **2003, the European Union (EU) introduced VAT rules requiring non-EU suppliers of digital services to charge VAT in the country of consumption** (European Commission, 2003)<sup>13</sup>. Similar measures were later adopted by Australia (2017), New Zealand (2016), and India (2016) to tax foreign digital service providers.

By the mid-2010s, concerns over **profit shifting and tax base erosion by multinational digital companies** led to more aggressive international tax reforms. Companies such as **Google, Apple, Facebook, and Amazon (collectively referred to as GAFAM)** were criticized for shifting profits to low-tax jurisdictions, significantly reducing their effective tax rates. This led to the development of global initiatives aimed at **curbing tax avoidance in the digital economy** (Zucman, 2018)<sup>14</sup>.

#### 3.2 OECD'S BEPS PROJECT AND GLOBAL TAXATION TRENDS

The **OECD's Base Erosion and Profit Shifting (BEPS) project**, launched in **2013**, has been a cornerstone of global efforts to address tax avoidance in the digital economy. The BEPS project focuses on **ensuring that profits are taxed where economic activities take place and where value is created** (OECD, 2015)<sup>15</sup>. One of its most significant outcomes was **BEPS Action Plan 1**, which specifically examined the challenges of digital taxation and proposed reforms, including:

- Expanding the definition of **permanent establishment** to include significant economic presence.
- Implementing **digital taxation measures**, such as withholding taxes on digital services.
- Enhancing **profit allocation rules** to prevent tax base erosion.

<sup>11</sup> OECD (2015). *Addressing Base Erosion and Profit Shifting (BEPS): Final Report*. Paris: OECD Publishing.

<sup>12</sup> Cockfield, A. J. (2006). *The Rise of the OECD as Informal World Tax Organization Through National Responses to E-Commerce Tax Challenges*. Yale Journal of Law & Technology, 8(1), 136-172.

<sup>13</sup> European Commission (2003). *Council Directive 2002/38/EC on VAT for Electronically Supplied Services*.

<sup>14</sup> Zucman, G. (2018). *The Hidden Wealth of Nations: The Scourge of Tax Havens*. University of Chicago Press.

<sup>15</sup> OECD (2015). *Addressing Base Erosion and Profit Shifting (BEPS): Final Report*. Paris: OECD Publishing.

In **2021**, the OECD further advanced these efforts by introducing a **two-pillar approach** under the **OECD/G20 Inclusive Framework**.

- **Pillar One** proposes reallocating taxing rights over digital companies to market jurisdictions where users generate revenue, regardless of physical presence.
- **Pillar Two** introduces a **global minimum tax of 15%** to prevent profit shifting to low-tax jurisdictions (OECD, 2021)<sup>16</sup>.

These measures aim to create a **fairer global tax system** but face challenges in implementation due to varying national interests and enforcement difficulties.

### 3.3 EU'S DIGITAL SERVICES TAX AND OTHER INTERNATIONAL INITIATIVES

The European Union has taken a **regional approach to digital taxation**, particularly through the **Digital Services Tax (DST)**, which was proposed in **2018** as a temporary solution until broader OECD-based reforms take effect. The DST applies to **large digital companies with annual revenues exceeding €750 million**, imposing a **3% tax on revenues from online advertising, digital marketplaces, and user-generated content platforms** (European Commission, 2018)<sup>17</sup>.

In addition to the EU, individual countries have adopted **unilateral tax measures** to address digital taxation gaps:

- **France introduced its own DST in 2019, imposing a 3% tax on revenues of large digital companies.** This led to trade tensions, particularly with the United States, which viewed the measure as unfairly targeting American firms (French Ministry of Finance, 2019)<sup>18</sup>.
- **The UK implemented a 2% Digital Services Tax in 2020**, targeting tech companies earning more than £25 million in annual UK revenues (HM Treasury, 2020)<sup>19</sup>.
- **India expanded its Equalisation Levy in 2020**, imposing a **2% tax on digital transactions involving foreign e-commerce operators** (Finance Act, 2020)<sup>20</sup>.

While these measures help **recover tax revenues**, they have also sparked diplomatic and economic disputes, as multinational corporations and their home governments contest the unilateral imposition of digital taxes.

### 3.4 COUNTRY-SPECIFIC APPROACHES TO DIGITAL TAXATION

Countries have responded to digital taxation challenges with diverse policy measures:

- **France:** Implemented the **Digital Services Tax (DST)** but agreed to suspend collections in 2021 following OECD negotiations on global tax reforms (French Ministry of Finance, 2021).
- **Singapore:** Adopted a **GST-based approach**, requiring foreign digital service providers to register for GST and charge **7% tax (now 8% from 2023)** on B2C digital services (Inland Revenue Authority of Singapore, 2020)<sup>21</sup>.
- **United States:** Relies primarily on **corporate income tax reforms** rather than specific digital taxes, arguing that OECD-led measures should be the preferred global approach (US Treasury Department, 2021)<sup>22</sup>.

<sup>16</sup> OECD (2021). *Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy*. Paris: OECD Publishing.

<sup>17</sup> European Commission. (2018). *Proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services*. COM (2018) 148 final.

<sup>18</sup> French Ministry of Finance (2019). *Implementation of the Digital Services Tax in France*.

<sup>19</sup> HM Treasury (2020). *UK Digital Services Tax Guidance*.

<sup>20</sup> Government of India. (2020). *The Finance Act, 2020*. Ministry of Law and Justice, New Delhi.

<sup>21</sup> Inland Revenue Authority of Singapore (2020). *GST on Digital Services: Implementation Guidelines*.

- **Australia and New Zealand:** Have implemented **GST on digital services and low-value imported goods**, ensuring tax neutrality between local and foreign suppliers (Australian Taxation Office, 2017)<sup>23</sup>.

#### 4. INDIAN DIRECT TAX FRAMEWORK FOR DIGITAL BUSINESSES: ANALYSIS OF PROVISIONS AND AMENDMENTS

India's direct tax framework has undergone significant changes to address the challenges posed by digital businesses and gig economy platforms. Traditional tax principles, which rely on physical presence to establish tax liability, have been insufficient in capturing the economic value generated by digital platforms operating across borders. To tackle these issues, **India introduced targeted tax provisions within the Income Tax Act, 1961, including Section 9, the Equalisation Levy, and the Significant Economic Presence (SEP) concept.** These measures aim to bring digital businesses within the Indian tax net, ensuring that profits generated from Indian users and markets are subject to taxation. However, while these amendments represent a step forward, they also present **challenges in enforcement, compliance, and compatibility with international tax norms.**

##### 4.1 INCOME TAX ACT, 1961 – SECTION 9 AND TAXATION OF CROSS-BORDER DIGITAL TRANSACTIONS

Section 9 of the **Income Tax Act, 1961**, is a key provision in determining the taxability of non-residents in India. It states that income shall be deemed to accrue or arise in India if it is directly or indirectly attributable to a business connection, property, asset, or source of income in India (Income Tax Act, 1961)<sup>24</sup>. Traditionally, this provision was used to tax foreign entities with a physical presence in India. However, with the rise of **digital businesses operating remotely**, enforcing this provision became difficult, as companies like **Google, Facebook, and Amazon generate substantial revenues from Indian consumers without maintaining a fixed place of business in the country.**

To address this, India has expanded the interpretation of '**business connection**' to include **Significant Economic Presence (SEP)**, making it possible to tax foreign companies that generate revenue or have significant user engagement in India, even without a physical presence. Despite these amendments, **Section 9 remains inadequate in effectively taxing the digital economy**, as profit attribution rules remain vague, and many digital companies **restructure operations to minimize tax liability through treaty benefits.**

##### 4.2 THE EQUALISATION LEVY: A STEP TOWARDS DIGITAL TAXATION

In 2016, **India introduced the Equalisation Levy (EL) to tax digital advertising services** provided by foreign entities to Indian businesses. This measure, under the Finance Act, 2016, imposed a **6% tax on payments made to non-resident companies for online advertisements**, particularly affecting tech giants like **Google and Facebook** (Government of India, 2016)<sup>25</sup>. The rationale behind this levy was that these companies earned substantial revenues from India without paying corporate tax in the country. In 2020, the scope of the Equalisation Levy was expanded to include a **2% tax on e-commerce transactions**, affecting **foreign digital businesses engaged in online sale of goods and services to Indian customers.** This amendment aimed to **ensure that digital platforms benefiting from India's**

<sup>22</sup> U.S. Treasury Department (2021). *USTR Welcomes Agreement with Austria, France, Italy, Spain, and United Kingdom on Digital Services Taxes.*

<sup>23</sup> Australian Taxation Office (2017). *GST on Imported Digital Products and Services.*

<sup>24</sup> Income Tax Act, 1961, No. 43, Acts of Parliament, 1961 (India).

<sup>25</sup> Government of India (2016). *Finance Act, 2016 (Equalisation Levy Provisions).* New Delhi: Ministry of Finance.



market contribute to its tax revenues. However, the Equalisation Levy has faced criticism, especially from the United States, which has argued that it unfairly targets American technology firms (USTR, 2021)<sup>26</sup>. Additionally, compliance issues have arisen as companies have attempted to shift tax burdens onto consumers or limit their services to avoid taxation.

#### 4.3 SIGNIFICANT ECONOMIC PRESENCE (SEP): ADDRESSING TAXATION BEYOND PHYSICAL PRESENCE

The concept of Significant Economic Presence (SEP) was introduced in 2018 as an amendment to Section 9 of the Income Tax Act, 1961, to expand India's right to tax non-resident entities based on their digital presence. The Finance Act, 2020, further refined the provisions by defining SEP based on:

1. **Revenue Threshold:** If a non-resident's revenue from Indian customers exceeds a prescribed limit.
2. **User-Based Nexus:** If a non-resident has a systematic and continuous engagement with Indian users, such as through digital platforms (Finance Act, 2020)<sup>27</sup>.

This amendment was a significant move towards aligning Indian tax laws with international discussions on digital taxation, particularly OECD's BEPS Action Plan 1. However, SEP's effectiveness remains limited due to double taxation treaty restrictions, which prevent India from imposing these rules on companies from countries with which India has tax treaties, unless corresponding changes are made in the treaties. As a result, many large digital corporations continue to avoid taxation in India by leveraging tax treaty benefits.

#### 4.4 LIMITATIONS OF INDIA'S DIGITAL TAX MEASURES

While the Equalisation Levy and SEP provisions represent important steps in adapting India's tax framework to the digital economy, several challenges remain:

- **Ambiguity in Profit Attribution:** The taxation of digital businesses under SEP lacks clear guidelines on how profits should be allocated between jurisdictions.
- **Double Taxation Risks:** The absence of global consensus on digital taxation increases the risk of disputes, as countries impose overlapping tax measures.
- **Enforcement and Compliance Issues:** Companies often pass tax burdens onto consumers or restructure their operations to avoid taxation, reducing the effectiveness of these provisions.
- **International Trade Tensions:** Countries such as the United States have objected to India's digital tax measures, arguing that they unfairly target foreign tech firms.

#### 4.5 CASE LAW ANALYSIS

Several judicial decisions have shaped the interpretation of India's direct tax provisions concerning digital businesses:

1. **Google India Pvt. Ltd. v. ACIT (2017)**<sup>28</sup>: In this case, the Income Tax Appellate Tribunal (ITAT) ruled that payments made to Google Ireland for online advertising were taxable as royalty, leading to a higher tax liability for Google India. This case highlighted the uncertainty in characterizing digital payments and paved the way for introducing the Equalisation Levy.
2. **Flipkart Internet Pvt. Ltd. v. ACIT (2021)**<sup>29</sup>: This case before the Karnataka High Court addressed the applicability of permanent establishment (PE) rules to e-commerce companies, with the court

<sup>26</sup> USTR (2021). *Investigation into India's Digital Services Tax Measures*. United States Trade Representative Report.

<sup>27</sup> Finance Act, 2020. *Significant Economic Presence (SEP) Amendments to the Income Tax Act, 1961*. Government of India.

<sup>28</sup> Google India Pvt. Ltd. v. ACIT, (2017) 85 taxmann.com 296 (ITAT Bang.).

<sup>29</sup> Flipkart Internet Pvt. Ltd. v. ACIT, (2021) 436 ITR 658 (Kar. HC).

ruling that **Flipkart's server location alone did not constitute a PE**, reinforcing the need for the SEP framework.

India's direct tax framework has evolved to address the challenges posed by digital businesses, with provisions like **Section 9, the Equalisation Levy, and Significant Economic Presence (SEP)** playing crucial roles. While these measures represent **significant progress**, challenges remain in terms of **international tax disputes, enforcement, and treaty compatibility**. Moving forward, India may need to consider **aligning its digital tax policies with global frameworks such as the OECD's Two-Pillar Approach** to ensure a more equitable and effective taxation system for the digital economy.

## 5. CHALLENGES IN TAXING DIGITAL PLATFORMS: LEGAL, COMPLIANCE AND CLASSIFICATION ISSUES

The taxation of digital platforms presents significant **legal, compliance, and classification challenges** for Indian tax authorities. Unlike traditional businesses that operate from fixed locations and have tangible assets, **digital businesses function across multiple jurisdictions, often without a physical presence in the markets they serve**. This has led to difficulties in determining **income attribution, enforcing tax compliance, and correctly classifying digital transactions** under existing tax laws. Additionally, **gig economy workers and digital entrepreneurs often underreport income**, creating enforcement challenges for tax authorities. These issues highlight the need for **a more robust and adaptive tax framework** that effectively captures the complexities of the digital economy while ensuring compliance and fairness.

### 5.1 LEGAL CHALLENGES IN TAXING DIGITAL BUSINESSES

One of the biggest hurdles in taxing digital platforms is **income attribution**. Traditional tax laws follow the **principle of source-based taxation**, where income is taxed in the jurisdiction where economic activity occurs. However, **digital businesses challenge this approach**, as they generate revenue from users in one country while being legally incorporated in another. **For instance, companies like Google, Facebook, and Amazon earn significant revenue from Indian consumers but often route transactions through low-tax jurisdictions to minimize tax liability**.

To address this, India introduced the **concept of Significant Economic Presence (SEP)** under Section 9 of the **Income Tax Act, 1961**, allowing tax authorities to impose tax liability on foreign companies with substantial digital interactions in India, even if they lack a physical presence, as already discussed earlier. However, this measure has limitations. **SEP's effectiveness is restricted by India's tax treaties**, which override domestic law and often require a **permanent establishment (PE) test** for taxation.<sup>30</sup> Since many digital businesses do not meet the **traditional PE threshold**, they can **legally avoid Indian taxes despite significant revenue generation from Indian users**.

Another **legal challenge** relates to the **characterization of digital transactions**. Courts have debated whether payments made for digital services should be classified as **royalties, fees for technical services (FTS), or business income**. This distinction is crucial because it determines **whether withholding tax applies under Section 195 of the Income Tax Act, 1961** as also discussed in the case of *Google India Pvt. Ltd. v. ACIT, 2017*. The lack of clear classification rules results in **prolonged litigation between tax authorities and digital businesses**.

<sup>30</sup> Avi-Yonah, Reuven S. "International Taxation of Electronic Commerce." Tax Law Review 52, no. 3 (1997): 507-555.

## 5.2 COMPLIANCE ISSUES FACED BY DIGITAL BUSINESSES

Digital platforms, especially foreign-based companies, face significant **compliance burdens** under India's tax laws. The introduction of the **Equalisation Levy** imposed a **6% tax on digital advertising revenues in 2016** and later expanded to a **2% levy on e-commerce transactions in 2020**. However, **several compliance issues arise**, such as:

1. **Tax Remittance and Registration:** Many foreign businesses are **unaware of their tax obligations** in India, leading to **non-compliance or delayed remittances**. Unlike **GST, which has a clear registration framework for foreign entities**, direct tax compliance remains complex.<sup>31</sup>
2. **Risk of Double Taxation:** Digital businesses subject to the **Equalisation Levy may also face corporate tax in their home country**, leading to potential **double taxation** since the Equalisation Levy is not considered a **creditable tax under tax treaties**.
3. **Lack of Enforcement Mechanisms:** The Indian tax authorities **struggle to enforce compliance against foreign digital firms** that have no physical presence or assets in India. Many companies **adjust business models to shift tax liability elsewhere**, further complicating enforcement.

Additionally, **gig economy workers and freelancers**, who earn through digital platforms like **Upwork, Fiverr, and Swiggy**, often **fail to report their income properly** due to the informal nature of such work. The absence of clear **withholding tax rules for gig workers** allows many individuals to remain **outside the tax ambit, leading to revenue leakage**.

## 5.3 CLASSIFICATION CHALLENGES IN TAXING DIGITAL PLATFORMS

A key issue in digital taxation is **how digital businesses should be classified for tax purposes**. Traditional businesses are either **goods-based enterprises or service providers**, but **digital platforms often blur these distinctions**. This creates **ambiguities in tax treatment, affecting direct taxation as well as indirect taxation such as GST obligations**.

1. **Are Digital Platforms Business Entities or Service Providers?**
  - **E-commerce platforms like Amazon and Flipkart** act as **intermediaries**, connecting buyers and sellers but do not own inventory. **Should they be taxed on total transaction value or only on their commission earnings?**
  - **Gig economy platforms like Uber and Swiggy** classify themselves as **technology service providers**, arguing that they merely facilitate transactions between users. **This classification affects taxability, as direct tax obligations may differ based on business models.**
2. **Royalty vs. Business Income – Classification Disputes**
  - Digital service payments, especially for **software licenses, cloud computing, and online content subscriptions**, face **classification disputes** on whether they should be **taxed as royalties (subject to withholding tax) or business income (taxable only if PE exists)**.
  - In **Google India Pvt. Ltd. v. ACIT (2017)**, the ITAT ruled that **payments made to Google Ireland for online ads were royalties**, subjecting them to withholding tax. This ruling has **wider implications for similar digital transactions**.
3. **GST and Digital Taxation Conflicts**
  - Apart from direct tax issues, **digital platforms also face uncertainty under India's GST framework**, particularly in determining whether transactions should be taxed as **'electronic services' or 'e-commerce supplies.'**

<sup>31</sup> Andres Baez Moreno & Yariv Brauner, *Taxing the Digital Economy Post BEPS. Seriously*, 58 COLUM. J. TRANSNAT'L L. 121 (2019).

- The **classification of digital services affects GST rates, place of supply rules, and compliance obligations**, leading to frequent disputes between tax authorities and businesses.

#### 5.4 TAX REPORTING AND ENFORCEMENT CHALLENGES

Tax authorities face **serious enforcement challenges** when taxing digital platforms and gig economy workers. The **lack of centralized reporting mechanisms** for digital transactions means that **income earned by freelancers, influencers, and platform-based workers often goes unreported**. This has led to **tax evasion and revenue losses** for the government.

Key enforcement issues include:

1. **Underreporting of Income:** Many **gig workers and social media influencers** earn through digital payments, including **cryptocurrency and foreign remittances**, which are difficult to track.
2. **Absence of Third-Party Reporting:** Unlike traditional employers who **deduct TDS (Tax Deducted at Source)**, many digital platforms do not **report payments made to workers, leading to tax leakages**.
3. **Global Nature of Digital Transactions:** Many freelancers **operate from India but receive payments in foreign bank accounts, making tax enforcement difficult** without cross-border tax agreements.

To address these issues, **India has introduced TDS on e-commerce transactions under Section 194O of the Income Tax Act, 1961, requiring platforms to deduct tax before making payments to sellers**. Section 194O was introduced in the Union Budget 2020. When an E-Commerce operator facilitates a sale of products or provides services through an E-Commerce participant, they must deduct TDS in accordance with Section 194O. Section 194O's TDS on e-commerce operators is in effect from October 1, 2020. However, **gig economy earnings remain largely unregulated, allowing many individuals to avoid taxation**.

Thus, the taxation of digital platforms presents **significant legal, compliance, and classification challenges**. While **India has implemented several tax measures**, including SEP, Equalisation Levy, and digital TDS provisions, **many loopholes remain, particularly in enforcing compliance among foreign companies and gig workers**. There is an urgent need for:

- **Clearer tax classification rules** for digital businesses.
- **Stronger enforcement mechanisms** to ensure compliance by foreign digital firms.
- **Improved reporting systems** for gig economy workers to prevent tax evasion.

A **coordinated approach with global tax frameworks, such as OECD's BEPS initiatives, is essential** to create a fair and effective taxation system for the digital economy.

#### 6. TAXATION OF GIG WORKERS: ISSUES OF INCOME ATTRIBUTION, SELF-EMPLOYMENT CLASSIFICATION AND COMPLIANCE

The gig economy in India has experienced significant growth, and India currently has around 10 million gig workers, up almost 30 percent from 7.7 million in 2020-21.<sup>32</sup>

This sector encompasses a diverse range of occupations, from ride-sharing drivers and food delivery personnel to freelance professionals. The rise of gig work presents unique challenges in taxation, particularly concerning income classification, attribution, and compliance.

<sup>32</sup> Aryaman Gupta, *Nearly 98% of gig workers earn under Rs 5 lakh per annum, shows TeamLease data*, <https://www.moneycontrol.com/news/business/startup/nearly-98-of-gig-workers-earn-under-rs-5-lakh-per-annum-shows-teamlease-data-12938134.html>.

### 6.1 CLASSIFICATION OF INCOME: EMPLOYEE VS. INDEPENDENT CONTRACTOR

A fundamental issue in taxing gig workers is determining their employment status i.e. whether they are employees or independent contractors. In India, this distinction significantly impacts tax obligations and access to labour rights. Traditionally, Indian labour laws recognize two primary categories: employees and independent contractors. Employees are entitled to various labour protections and benefits, whereas independent contractors have more flexibility but fewer protections.<sup>33</sup>

Gig workers often operate with substantial autonomy, choosing when, where, and how to work, aligning more closely with the characteristics of independent contractors. However, this classification has been criticized for leaving gig workers without essential legal protections. The lack of a clear legal framework has led to debates about the need for an intermediate classification that acknowledges the unique nature of gig work.<sup>34</sup>

### 6.2 INCOME ATTRIBUTION IN THE GIG ECONOMY

Attributing and reporting income for gig workers presents distinct challenges. Unlike traditional employment, gig workers often lack formal payslips or consistent payment schedules, making it difficult to track and report earnings accurately. The flexibility inherent in gig work means that income can be irregular and sourced from multiple platforms, complicating the attribution process.<sup>35</sup>

For tax purposes, gig workers are generally required to maintain detailed records of their earnings and expenses to accurately report taxable income. However, the absence of standardized documentation can lead to underreporting and challenges in verifying income. This situation underscores the need for tailored tax compliance mechanisms that accommodate the unique income patterns of gig workers.

### 6.3 CHALLENGES IN TAX COMPLIANCE FOR GIG WORKERS

Gig workers face several tax compliance challenges, namely:

1. **Underreporting of Earnings:** The informal nature of gig work and the lack of formal tax documents can lead to underreporting of income, either intentionally or due to lack of awareness.
2. **Lack of Formal Tax Documents:** Without payslips or standardized income statements, gig workers may find it challenging to provide necessary documentation for tax filings.
3. **Income Tracking Difficulties:** The flexibility and variability in gig work can result in inconsistent income, making it difficult to track and report earnings accurately.

These challenges are compounded by a lack of awareness about tax obligations among gig workers, leading to non-compliance and potential legal issues.

### 6.4 INADEQUACY OF THE CURRENT INDIAN TAXATION FRAMEWORK

The existing taxation framework for self-employed individuals in India may not adequately address the unique circumstances of gig workers. Traditional tax regulations are designed with conventional employment structures in mind, potentially overlooking the nuances of gig work. This inadequacy can result in compliance difficulties and unintended tax liabilities for gig workers.

To address these issues, there is a need for reforms that consider the distinctive nature of gig work, including simplified tax reporting processes and clearer guidelines on income classification and deductions applicable to gig workers.

<sup>33</sup> Ola Ahmed, *Legal Landscape of the Gig Economy in India: Challenges and Implications*, Record Of Law (Aug. 31, 2024), <https://recordoflaw.in/legal-landscape-of-the-gig-economy-in-india-challenges-and-implications/>

<sup>34</sup> Ni Kadek Ayu Sri Undari, & Haruka Sugiyama. (2024). *Gig Economy Worker's Legal Status: Employee or Independent Contractor? Focus Journal Law Review*, 4(1). <https://doi.org/10.62795/fjl.v4i1.259>

<sup>35</sup> *Tax Compliance in the Evolving Gig Economy*, (January, 2025), <https://in.knavcpa.com/insights/tax-compliance-in-the-evolving-gig-economy-a-guide-for-indias-freelancers/>.



As outlined above, the taxation of gig workers in India involves complex issues related to income classification, attribution, and compliance. As the gig economy continues to expand, it is crucial to develop a taxation framework that recognizes the unique characteristics of gig work, ensuring fair tax practices while providing necessary protections and support to gig workers.

## 7. INTERNATIONAL TAX PRACTICES: COMPARATIVE STUDY WITH OECD AND OTHER COUNTRIES

The globalization of the digital economy has challenged traditional taxation frameworks, leading to initiatives like the OECD's Base Erosion and Profit Shifting (BEPS) framework. This chapter examines the OECD's recommendations for taxing the digital economy, analyses how countries such as the United States, United Kingdom, and European Union have implemented these guidelines, and evaluates India's alignment with these international practices.

### 7.1 OECD BEPS FRAMEWORK: ADDRESSING THE DIGITAL ECONOMY

The OECD's BEPS framework comprises 15 action plans aimed at curbing tax avoidance strategies that exploit gaps and mismatches in tax rules. Action 1 specifically addresses the tax challenges of the digital economy, proposing measures such as the concept of a "virtual permanent establishment" to tax digital entities lacking a physical presence in a jurisdiction. This approach seeks to establish a taxable nexus based on significant digital presence rather than physical location.

### 7.2 COMPARATIVE ANALYSIS OF DIGITAL PLATFORM TAXATION

#### United States

The United States has grappled with the complexities of taxing digital services, leading to a multifaceted approach that includes both federal and state-level initiatives.

#### **Federal Initiatives:**

At the federal level, the U.S. has historically refrained from implementing a specific digital services tax (DST). Instead, the focus has been on broader tax reforms to address base erosion and profit shifting (BEPS) concerns. **The Tax Cuts and Jobs Act (TCJA) of 2017** introduced measures such as the **Global Intangible Low-Taxed Income (GILTI)** and the **Base Erosion and Anti-Abuse Tax (BEAT)** to curb profit shifting by multinational corporations, including those in the digital sector.

#### **State-Level Actions:**

In the absence of a federal DST, individual states have pursued their own measures. Notably, Maryland enacted a **Digital Advertising Gross Revenues Tax in 2021**<sup>36</sup>, imposing a tax on revenues derived from digital advertising services. This law targets companies with global annual gross revenues exceeding \$100 million, with tax rates ranging from 2.5% to 10%, depending on the company's global revenues. The tax applies to revenues earned from digital advertising services within Maryland, reflecting a state-level effort to tax digital activities.

#### **Legal Challenges:**

Maryland's digital advertising tax has faced legal challenges, particularly concerning its compatibility with federal laws such as the **Internet Tax Freedom Act (ITFA)**<sup>37</sup>. The ITFA, enacted in 1998 and made permanent in 2016, prohibits state and local governments from imposing discriminatory taxes on

<sup>36</sup> Comptroller of Maryland, *Digital Advertising Gross Revenues Tax Bulletin 21-2*, (Apr. 12, 2021), [https://www.marylandtaxes.gov/forms/Tax\\_Publications/Tax\\_Bulletins/Digital\\_Advertising\\_Tax\\_Bulletins/DIGITAL%20ADVERTISING\\_041221\\_E.pdf](https://www.marylandtaxes.gov/forms/Tax_Publications/Tax_Bulletins/Digital_Advertising_Tax_Bulletins/DIGITAL%20ADVERTISING_041221_E.pdf).

<sup>37</sup> Congressional Research Service, *The Internet Tax Freedom Act and Federal Preemption*, IN FOCUS (Oct. 18, 2021), <https://crsreports.congress.gov/product/pdf/IF/IF11947>.

electronic commerce. Critics argue that Maryland's tax discriminates against digital advertising compared to traditional advertising mediums, potentially violating the ITFA. As of early 2025, these legal challenges are ongoing, with significant implications for state-level taxation of digital services.

### **International Response:**

The U.S. government has expressed strong opposition to unilateral digital services taxes implemented by other countries, viewing them as discriminatory against American technology companies. In response, the U.S. has considered retaliatory measures, including tariffs on countries that impose such taxes. For instance, in February 2025, the U.S. administration announced plans to investigate digital services taxes adopted by several countries, signalling potential trade tensions over digital taxation policies.<sup>38</sup>

### **Judicial Developments:**

The U.S. Supreme Court's decision in **South Dakota v. Wayfair, Inc. (2018)**<sup>39</sup> marked a significant shift in the taxation of online sales. The Court ruled that states could require out-of-state sellers to collect and remit sales tax, even without a physical presence in the state. This decision has implications for digital platforms operating across state lines, as it expands states' authority to tax remote sellers, thereby influencing the broader landscape of digital taxation in the U.S.

### **United Kingdom**

The United Kingdom has proactively addressed the taxation challenges posed by the digital economy through the implementation of a Digital Services Tax (DST) and other regulatory measures.

### **Implementation of the DST:**

In April 2020, the UK introduced a 2% DST on the revenues of specific digital services, including search engines, social media platforms, and online marketplaces, that derive value from UK users. The tax applies to companies with global revenues exceeding £500 million and UK revenues over £25 million. This measure aims to ensure that digital businesses contribute fairly to the UK tax system, reflecting the value they derive from UK users.

### **Scope and Impact:**

The DST specifically targets revenues generated from UK users, irrespective of the company's physical presence in the country. This approach addresses the challenge of taxing digital companies that operate across borders without a significant physical footprint. The tax has primarily affected large multinational enterprises, many of which are based in the United States, leading to international discussions on the fairness and impact of such unilateral measures.

### **International Tensions:**

The UK's implementation of the DST has led to tensions with the United States, which views the tax as unfairly targeting American technology companies. In response, the U.S. administration has considered retaliatory measures, including tariffs on UK goods. These developments underscore the challenges of unilateral digital taxation measures in an interconnected global economy.<sup>40</sup>

### **Regulatory Overreach Concerns:**

Beyond taxation, the UK's regulatory measures affecting digital platforms have raised concerns about extraterritorial overreach. For example, the **UK's Online Safety Act**<sup>41</sup>, which imposes stringent content

<sup>38</sup> Gavin Bade, *Trump Weighs Tariffs to Counteract Foreign Taxes on Tech Firms*, The Wall Street Journal (February 21, 2025), <https://www.wsj.com/tech/trump-weighs-tariffs-to-counteract-foreign-taxes-on-tech-firms-d0a00a14>.

<sup>39</sup> *South Dakota v. Wayfair, Inc.*, Supreme Ct. the U.S. (Supreme Ct. the U.S. 2018).

<sup>40</sup> Gavin Bade, *Trump Weighs Tariffs to Counteract Foreign Taxes on Tech Firms*, The Wall Street Journal (February 21, 2025), <https://www.wsj.com/tech/trump-weighs-tariffs-to-counteract-foreign-taxes-on-tech-firms-d0a00a14>.

<sup>41</sup> Online Safety Act 2023 (UK Legislation 2023).

moderation requirements on digital platforms, has been criticized by U.S. stakeholders for potentially infringing on free speech principles and imposing undue burdens on American companies. These regulatory actions have contributed to a complex landscape of digital platform governance in the UK.<sup>42</sup>

### **Future Outlook:**

The UK government has expressed a willingness to adapt its DST in line with international agreements, particularly those emerging from the OECD's Inclusive Framework on BEPS. However, until a global consensus is reached, the UK is likely to maintain its DST to ensure that digital businesses pay their fair share of tax in the jurisdictions where they operate. This stance reflects the UK's commitment to addressing the challenges of digital taxation while engaging in multilateral efforts for a coordinated solution.

### **European Union**

The European Union (EU) has actively pursued strategies to address the taxation challenges posed by the digital economy, aiming to create a cohesive framework that ensures fair taxation across its member states.

### **Proposed EU-Wide Digital Services Tax (DST):**

In March 2018, the European Commission introduced a proposal for a Digital Services Tax (DST) to address the under-taxation of digital activities within the EU. The proposal aimed to impose a 3% tax on gross revenues from specific digital services, including online advertising, digital intermediary activities, and the sale of user-generated data. This tax was proposed to apply to companies with total annual worldwide revenues exceeding €750 million and EU revenues over €50 million. The DST was intended as a temporary solution to ensure that digital businesses contribute fairly to public finances, reflecting the value they derive from EU users.<sup>43</sup>

### **Challenges and Criticisms:**

The proposed DST faced several challenges, including concerns about its potential impact on investment, innovation, and economic growth within the EU. Critics argued that the tax could lead to double taxation and disproportionately affect certain business models, particularly those of large multinational technology companies. Additionally, there were apprehensions about the administrative complexity of implementing the DST across diverse tax systems within the EU.<sup>44</sup>

### **Unilateral Measures by Member States:**

Due to the lack of unanimous agreement on the EU-wide DST proposal, several member states implemented their own digital services taxes. Italy introduced a 3% levy on digital company revenues in 2019, targeting firms with global sales of at least €750 million, including €5.5 million in Italy.<sup>45</sup> This unilateral approach reflects the urgency felt by individual countries to address perceived inequities in the taxation of digital businesses operating within their jurisdictions.

### **OECD's Inclusive Framework and EU's Position:**

In parallel with regional efforts, the Organisation for Economic Co-operation and Development (OECD)

<sup>42</sup> Ryan Bourne, *UK's digital overreach risks Trump's wrath*, (February 2025), <https://www.thetimes.com/us/business/article/uks-digital-overreach-risks-trumps-wrath-d9xrkdzft>.

<sup>43</sup> European Commission, *Proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services*, European Union (March, 2018), [https://taxation-customs.ec.europa.eu/system/files/2018-03/proposal\\_common\\_system\\_digital\\_services\\_tax\\_21032018\\_en.pdf](https://taxation-customs.ec.europa.eu/system/files/2018-03/proposal_common_system_digital_services_tax_21032018_en.pdf).

<sup>44</sup> Bruno Basalisco, *The proposed EU digital services tax: Effects on welfare, growth and revenues*, Copenhagen Economics, <https://copenhageneconomics.com/publication/the-proposed-eu-digital-services-tax-effects-on-welfare-growth-and-revenues/>.

<sup>45</sup> Giuseppe Fonte, *Italy may strengthen digital services tax in 2025 budget, sources say*, Reuters (October, 2024), <https://www.reuters.com/world/europe/italy-may-strengthen-digital-services-tax-2025-budget-sources-say-2024-10-07/>.

has been working on a global solution to the tax challenges arising from the digitalisation of the economy, as already discussed above. The OECD's Inclusive Framework on Base Erosion and Profit Shifting (BEPS) involves over 140 countries collaborating to implement measures that tackle tax avoidance and ensure a more transparent tax environment. The EU has been an active participant in these discussions, aiming to align its policies with the emerging global consensus to prevent fragmentation and ensure coherence in international tax rules.

### **Current Status and Future Outlook:**

As of early 2025, the EU continues to engage in international negotiations to finalize a global tax pact that addresses the challenges posed by digitalisation.<sup>46</sup> Despite delays and differing positions among countries, there remains a strong commitment to reach an agreement that balances the interests of various stakeholders. The EU's continuous efforts reflect its dedication to creating a fair and effective tax system that adapts to the evolving digital economy.

### **7.3 INDIA'S ALIGNMENT WITH OECD STANDARDS AND INTERNATIONAL PRACTICES**

India has been an active participant in the OECD/G20 Base Erosion and Profit Shifting (BEPS) project, implementing several measures to align its tax policies with international standards. These initiatives reflect India's commitment to addressing tax avoidance and ensuring that profits are taxed wherever economic activities occur.

#### **1. Equalisation Levy (EL)**

In 2016, India introduced the Equalisation Levy, imposing a 6% tax on payments made to non-resident entities for online advertisements and related services. This measure targeted digital transactions that were not effectively taxed under existing international tax frameworks. In 2020, the scope of the Equalisation Levy was expanded to include a 2% tax on consideration received by non-resident e-commerce operators for e-commerce supply or services to specified persons. This unilateral measure was implemented to tax digital services provided by foreign companies to Indian consumers, addressing challenges posed by the digital economy.<sup>47</sup>

#### **2. Significant Economic Presence (SEP):**

India amended its domestic tax laws to introduce the concept of Significant Economic Presence (SEP), expanding the definition of 'business connection' to include digital entities with substantial economic engagement in India, even without a physical presence.<sup>48</sup> This aligns with the OECD's efforts to modernize tax concepts to address digitalization challenges.

#### **3. Multilateral Instrument (MLI):**

India ratified the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI), which modifies existing bilateral tax treaties to incorporate measures against tax avoidance.<sup>49</sup> This demonstrates India's commitment to aligning its tax treaties with OECD standards.

#### **4. Country-by-Country Reporting (CbCR):**

In line with BEPS Action 13, India implemented Country-by-Country Reporting requirements, mandating

<sup>46</sup> Leigh Thomas & Conor Humphries, *OECD still sees '100% commitment' to finalise global tax pact*, Reuters (September, 2024), <https://www.reuters.com/markets/oecd-still-sees-100-commitment-finalise-global-tax-pact-2024-09-19/>.

<sup>47</sup> Mukesh Patel et al., *India has significantly expanded its equalization levy*, RSM US (January, 2023), <https://rsmus.com/insights/services/business-tax/india-has-significantly-expanded-its-equalization-levy.html>.

<sup>48</sup> Srishty Jaura, *Legislative Precision: India's BEPS Response and International Tax Reforms*, Metalegal Advocates (May, 2024), <https://www.metalegal.in/post/legislative-precision-india-s-beps-response-and-international-tax-reforms>.

<sup>49</sup> *India deposits instrument of ratification of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS*, Ernst & Young LLP (India) (August, 2019), <https://taxnews.ey.com/news/2019-1482-india-deposits-instrument-of-ratification-of-the-multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-beps>.

g multinational enterprises to provide detailed financial and tax information for each jurisdiction they operate in.<sup>50</sup> This enhances transparency and aligns with OECD guidelines.

### 5. Participation in OECD's Inclusive Framework:

India actively participates in the OECD's Inclusive Framework on BEPS, collaborating with other countries to develop and implement measures addressing tax challenges arising from digitalization. This involvement ensures that India's tax policies are in harmony with global standards.

### 6. Divergence from OECD Proposals:

Despite these alignments, India has expressed reservations about certain OECD proposals, particularly those related to reallocating taxing rights under Pillar One of the OECD's two-pillar solution. India argues that the current proposals may not adequately address the concerns of developing countries and has advocated for solutions that ensure a fair distribution of taxing rights. Due to international tax laws that are no longer relevant, India is facing difficulties in taxing digital businesses. Although a multilateral agreement has been proposed, the OECD's slow progress has prompted developing countries to implement interim domestic measures.<sup>51</sup> India may not benefit as much from the proposed Multilateral Convention as it does from its current digital levy, and the convention limits India's sovereign authority to legislate on tax law.

As discussed above, India has proactively aligned its tax policies with OECD standards to address challenges posed by the digital economy. Through measures such as the Equalisation Levy, Significant Economic Presence provisions, ratification of the Multilateral Instrument, and implementation of Country-by-Country Reporting, India demonstrates its commitment to combating tax avoidance and ensuring fair taxation. However, India's cautious stance on certain OECD proposals highlights the need for solutions that consider the unique perspectives of developing economies. As the global tax landscape evolves, India's active participation in international discussions will be crucial in shaping an equitable and effective international tax framework. While India has implemented measures aligning with OECD recommendations, ongoing efforts are required to harmonize these initiatives with international practices and address the unique challenges posed by digital platforms.

## 8. CASE STUDIES: EXAMINATION OF SIGNIFICANT RULINGS AND PRACTICAL EXAMPLES FROM THE DIGITAL ECONOMY IN INDIA

The rise of digital businesses and gig platforms has introduced significant taxation challenges in India, particularly concerning income attribution, classification, and compliance. This chapter examines key case studies that highlight these complexities, including Google India's dispute over the taxation of online advertising revenues and the challenges faced by gig economy platforms such as Uber and Airbnb.

The taxation of digital businesses and gig workers presents unique issues such as:

- **Profit Attribution:** Determining where income should be taxed, especially for cross-border transactions.
- **Classification of Income:** Whether earnings from digital platforms should be categorized as business income, royalty, or fees for technical services.

<sup>50</sup> *Base Erosion Profit Shifting ("BEPS")*, KPMG, <https://kpmg.com/in/en/services/tax/transfer-pricing/beps.html>.

<sup>51</sup> Ashish Goel, *Why India must dig in its heels on global tax deal*, East Asia Forum (September, 2024), <https://eastasiaforum.org/2024/09/10/why-india-must-dig-in-its-heels-on-global-tax-deal/>.



- **Compliance Issues:** Ensuring digital businesses and gig workers fulfil their tax obligations, particularly in the absence of traditional withholding mechanisms.

### 8.1 CASE LAW: GOOGLE INDIA PVT. LTD. V. ACIT

One of the landmark cases in the realm of digital taxation in India is *Google India Private Limited v. Additional Commissioner of Income Tax*<sup>52</sup>. The crux of the dispute centred on payments made by Google India to its Irish affiliate, Google Ireland Limited (GIL), under a Distribution Agreement for the AdWords program. The primary issue was whether these payments should be classified as “royalty” or “business profits” and, consequently, their taxability in India.

#### **Brief Facts and Arguments presented:**

Google India entered into a Distribution Agreement with GIL to market and distribute AdWords programs to Indian advertisers. The Revenue contended that the payments made by Google India to GIL constituted “royalty” payments for the use of intellectual property and were thus taxable in India. Google India, however, argued that these payments were merely for the purchase of advertisement space and should be treated as business profits, which would not be taxable under the India-Ireland Double Taxation Avoidance Agreement (DTAA) in the absence of a Permanent Establishment (PE) in India.

#### **Tribunal’s Findings:**

The Income Tax Appellate Tribunal (ITAT) held that the payments made by Google India to GIL were in the nature of “royalty” as defined under Section 9(1)(vi) of the Income Tax Act, 1961, and Article 12 of the India-Ireland DTAA. The Tribunal observed that the AdWords program involved the use of intellectual property, including trademarks and brand features, and that Google India had access to confidential information and other IPRs, which constituted the use of or the right to use such intellectual property. Consequently, the payments were deemed taxable in India, and Google India was held liable for failing to deduct tax at source under Section 195 of the Act.

#### **Implications of the Decision:**

This ruling underscored the challenges in characterizing payments in the digital economy, particularly concerning the classification of payments for the use of intellectual property versus payments for services. The decision also highlighted the importance of withholding tax obligations for Indian entities making payments to non-residents.

### 8.2 CASE STUDY: UBER INDIA – TAXATION OF RIDE-HAILING PLATFORMS

Uber, a global ride-hailing platform, has faced significant taxation and compliance challenges in India. The taxation of its operations revolves around:

1. The classification of drivers as independent contractors versus employees.
2. The application of indirect taxes like Goods and Services Tax (GST).
3. The compliance burden on platform operators.

#### **Background of the Case**

Uber operates a digital platform that connects drivers with passengers. While Uber collects fares from passengers and remits payments to drivers after deducting its service fee, the question arises as to whether Uber is merely an intermediary or whether it should be taxed as a service provider.<sup>53</sup>

#### **Classification Issues**

A major taxation issue concerning Uber is the classification of its drivers. Indian tax authorities must det

<sup>52</sup> Google India Pvt. Ltd. v. ACIT, (2017) 85 taxmann.com 296 (ITAT Bang.).

<sup>53</sup> Reuters.Com, <https://www.reuters.com/world/india/uber-adopts-smaller-rivals-model-india-autorickshaw-rides-weather-competition-2025-02-18/>.

ermine whether Uber drivers are:

- **Employees** of Uber, in which case Uber would be responsible for tax deductions at source (TDS) on their earnings, OR
- **Independent contractors**, who are self-employed and responsible for their own tax filings.

Uber classifies its drivers as independent contractors, thus avoiding employer obligations such as payroll taxes and employee benefits. However, this classification has been challenged in various jurisdictions, with courts in the UK and other countries ruling that Uber drivers are “workers” rather than independent contractors (*Uber BV v. Aslam*, UK Supreme Court, 2021)<sup>54</sup>.

### GST and Indirect Taxation Challenges

Under Indian GST laws, ride-hailing platforms are classified as electronic commerce operators (ECOs) and are required to:

- Collect and remit GST on rides at the applicable rate.
- Deduct 1% Tax Collected at Source (TCS) from payments made to drivers under Section 52 of the CGST Act, 2017.

Uber initially argued that it was not providing transportation services but merely facilitating them. However, the introduction of GST clarified that platforms like Uber are liable for GST on services provided through their platform.

### Compliance Challenges for Gig Workers

For Uber drivers, taxation presents several challenges:

- Many drivers do not maintain proper financial records, leading to **underreporting of income**.
- Unlike salaried employees, gig workers do not receive **Form 16 (TDS certificate)**, making it harder to track their earnings.
- Filing income tax returns can be complex, especially for drivers unfamiliar with tax regulations.

### Implications

The Uber case highlights the classification dilemma of drivers between employees and independent contractors in the gig economy. The GST compliance burden on ride-hailing platforms ensures greater tax accountability but also increases regulatory complexity. Many gig workers remain outside the formal tax net due to low awareness and lack of enforcement.

## 8.3 CASE STUDY: AIRBNB – TAXATION OF SHORT-TERM RENTAL PLATFORMS

Airbnb, a global short-term rental marketplace, has revolutionized the hospitality industry. However, its business model raises significant taxation issues, particularly regarding income reporting and GST compliance.

### Background of the Case

Airbnb allows property owners to rent out their homes or rooms to guests via its digital platform. In India, such rental income is taxable under the Income Tax Act, but enforcement has been difficult.

### Classification of Rental Income

Property owners earning income through Airbnb must report it under one of the following categories:

- **Income from House Property** – If the rental is a passive source of income (e.g., long-term stays).
- **Income from Business or Profession** – If the property is actively managed like a business (e.g., short-term stays with services).

Many Airbnb hosts fail to report their earnings correctly, leading to tax evasion concerns.

<sup>54</sup> Uber BV v. Aslam, UKSC/2019/0029 (Supreme Court of the United Kingdom 2019).

### GST Compliance for Airbnb Hosts

Under Indian GST laws, if a host earns more than ₹20 lakh annually, they must obtain registration for GST and charge GST on rentals. Additionally, Airbnb, as an electronic commerce operator, must collect and remit TCS (Tax Collected at Source) at 1% under Section 52 of the CGST Act. Foreign Airbnb hosts renting out properties in India could be subject to Equalisation Levy, depending on the structure of the transaction.

### Compliance Challenges

Many small Airbnb hosts do not meet the ₹20 lakh threshold, creating tax disparity between small and large hosts. Underreporting of rental income is common, as transactions occur digitally but without strict government oversight.<sup>55</sup> Cross-border taxation issues arise when foreign Airbnb hosts rent out properties in India, leading to ambiguity in tax enforcement.

### Implications

Airbnb's case shows the difficulties in tax compliance for small-scale digital service providers. GST and equalization levy regulations ensure taxation of large hosts and foreign platforms, but enforcement gaps are still prevalent. The gig and sharing economy continue to challenge traditional taxation models, necessitating new frameworks for digital taxation.

These case studies highlight the intricate challenges in taxing digital businesses and gig economy participants in India. They underscore the need for clear guidelines on profit attribution, the classification of income, and robust compliance mechanisms. As the digital economy continues to evolve, tax authorities must adapt to ensure that taxation frameworks remain fair, effective, and conducive to economic growth.

## 9. RECOMMENDATIONS FOR EFFICIENT TAXATION OF DIGITAL PLATFORMS AND GIG ECONOMY BUSINESSES

The rapid expansion of digital platforms and gig economy businesses has outpaced the traditional tax frameworks of many jurisdictions, including India. While the introduction of the Equalisation Levy (EL) and Significant Economic Presence (SEP) concept under Indian tax laws represents a step towards addressing these challenges, several gaps remain. Key issues such as income attribution, tax compliance, and alignment with international best practices continue to pose difficulties for both tax authorities and digital businesses.

This chapter provides **policy and legal recommendations** aimed at making India's digital taxation regime more comprehensive, efficient, and aligned with global developments. The proposals focus on reforming the Equalisation Levy and SEP, improving income attribution models, leveraging technology for better compliance, and harmonizing India's tax laws with international frameworks while addressing the country's unique economic interests.

### 9.1 REFORMING THE EQUALISATION LEVY AND SIGNIFICANT ECONOMIC PRESENCE

The Equalisation Levy (EL) was introduced to tax digital transactions that escape traditional income tax frameworks. Currently, it is structured as:

- A **6% levy** on online advertising services provided by non-resident digital firms to Indian businesses.

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<sup>55</sup> Tina Aneja, *Implications of the Sharing Economy on Indian Tax Policies*, Volume 8 Issue 1 International Journal of Novel Research and Development (2023).

- A **2% levy** (since 2020) on gross revenues earned by foreign e-commerce operators from Indian customers.

However, the Equalisation Levy regime faces several challenges, namely:

- **Narrow Tax Base:** The levy applies only to a limited set of digital services, leaving many digital transactions untaxed.
- **Double Taxation Concerns:** Foreign companies argue that Equalisation Levy leads to double taxation since they may also be taxed in their home jurisdictions.
- **Compliance Burden:** Equalisation Levy requires foreign companies to register and comply with tax requirements, leading to enforcement difficulties.

### Recommendations for Reform

1. **Expanding the scope of EL:** The EL currently applies to online advertising and certain e-commerce transactions, but many digital services remain untaxed. Expanding it to cloud computing (AWS, Google Cloud), streaming platforms (Netflix, Spotify), and app-based financial services (digital wallets, AI-based financial advisory) would ensure comprehensive taxation. These sectors generate significant revenue from Indian users without a physical presence, creating tax disparities. Clear sector-specific guidelines are needed to define taxable services and prevent legal ambiguities.
2. **Introducing revenue-based thresholds:** A uniform EL rate does not consider the scale of businesses. Implementing a tiered tax system based on revenue thresholds would ensure that multinational giants like Google and Amazon pay a higher rate, while mid-sized firms face moderate taxation. Startups with revenues below ₹20 crore could be exempt or taxed at a nominal rate to avoid stifling innovation. Periodic reviews of these thresholds would keep them relevant to market changes.
3. **Taking measures to avoid Double Taxation:** Foreign companies often face double taxation under the EL, leading to trade tensions, particularly with the U.S. Strengthening tax treaty negotiations and integrating EL provisions within DTAAs can reduce disputes. Offering foreign tax credits or aligning EL with OECD BEPS Pillar One proposals would provide businesses with certainty while ensuring India retains its fair share of tax revenue. India should also improve dispute resolution mechanisms, such as fast-track arbitration panels, to enhance compliance and ease tax-related conflicts.

India introduced the **Significant Economic Presence (SEP) Framework** under Section 9(1)(i) of the Income Tax Act, 1961, expanding the definition of a taxable presence in India to include foreign entities with significant digital transactions. However, its effectiveness remains limited due to:

- **Uncertainty in Enforcement:** The rules depend on bilateral tax treaties, many of which do not recognize Significant Economic Presence as a valid basis for taxation.
- **Ambiguity in Thresholds:** The monetary and user-based thresholds need regular revision to reflect India's evolving digital economy.

### Recommendations for SEP Reform

1. **Introducing clear rules for income attribution:** One of the major challenges in taxing digital businesses under the Significant Economic Presence (SEP) framework is the lack of precise rules for income attribution. Without clear guidelines, tax authorities and businesses struggle to determine the proportion of a non-resident's income that should be taxed in India. To address this, India should establish well-defined criteria for income allocation based on user engagement, transaction value, and digital footprint within the country. For example, a structured formula considering ad revenue

from Indian users, subscription-based earnings, and data monetization could offer consistency and reduce litigation. This would align SEP taxation more closely with economic reality and ensure fair revenue distribution.

2. **Strengthening global co-operation:** SEP's effectiveness depends on international alignment, as unilateral measures often lead to double taxation and trade disputes. India should actively engage with the OECD and major trading partners to incorporate SEP principles into bilateral tax treaties. By negotiating treaty amendments that recognize digital presence as a taxable nexus, India can minimize treaty mismatches and enhance tax certainty for multinational corporations. Further, India should collaborate with other jurisdictions implementing similar digital tax measures to establish common reporting standards, which would streamline compliance and reduce disputes.
3. **Improving implementation clarity:** SEP provisions currently lack clarity on their practical application across different digital business models, leading to uncertainty for companies and enforcement challenges for tax authorities. To address this, India should issue detailed guidelines specifying how SEP applies to various digital services, such as social media platforms, e-commerce marketplaces, and software-as-a-service (SaaS) providers. These guidelines should define key thresholds, documentation requirements, and compliance procedures to facilitate smoother implementation. Additionally, creating a fast-track dispute resolution mechanism for SEP-related tax disputes would enhance confidence among global digital firms and improve overall compliance.

## **9.2 IMPROVING INCOME ATTRIBUTION MODELS FOR DIGITAL BUSINESSES AND GIG WORKERS**

As highlighted earlier, one of the biggest challenges in taxing digital businesses and gig workers is identifying the jurisdiction where income should be taxed. Current international tax principles rely on physical presence, which is inadequate for taxing platform-based digital businesses.

### **Income Attribution for Cross-Border Digital Businesses**

Digital firms generate income from multiple countries without a physical presence. Existing profit attribution methods under India's tax law and OECD guidelines, such as the arm's length principle (ALP), often fail to capture the real value creation of digital firms.

### **Recommendations for Reform**

1. **Adopting a "user-based" attribution model:** Similar to Pillar One of the OECD's Base Erosion and Profit Shifting (BEPS) initiative, India should allocate a share of digital firms' profits based on the number of users, revenues, and digital engagement in India.
2. **Hybrid profit allocation rules:** This refers to implementing a fractional apportionment system that considers both digital presence and value creation factors like user participation, data collection, and revenue generated from India.
3. **Aligning tax treatment with OECD BEPS Pillar One & Two:** India should engage in negotiations to harmonize SEP and EL with OECD's global tax proposals to avoid disputes with multinational digital firms.

### **Income Attribution for Gig Workers**

Gig economy workers face difficulties in tax compliance due to the lack of formal documentation, inconsistent income, and multiple sources of earnings.

### **Recommendations for Reform**

1. **Simplified presumptive taxation for gig workers:** India should work towards introducing a lower tax rate or turnover-based presumptive tax scheme for small gig workers earning below a threshold



(e.g., ₹10 lakh annually).

2. **Platform-based tax collection mechanism:** Indian Government can mandate gig platforms (e.g., Uber, Swiggy, etc.) to deduct TDS at a reduced rate before paying workers, similar to salaried employees.
3. **Better taxpayer awareness and digital integration:** India can improve outreach programs to educate gig workers about their tax obligations and digital tax-filing solutions.

### 9.3 LEVERAGING TECHNOLOGY FOR BETTER TAX COMPLIANCE

The digital economy presents an opportunity to use advanced technologies like blockchain, AI, and data analytics to enhance tax compliance.

- **Blockchain for transparent tax reporting:** Blockchain technology can revolutionize tax compliance by providing a tamper-proof, decentralized ledger of financial transactions. Blockchain-based invoicing systems can ensure that all digital transactions, including cross-border payments, are recorded transparently, minimizing underreporting and fraudulent practices. By implementing smart contracts, tax collection can be automated. For example, tax can be deducted in real-time from digital transactions on e-commerce platforms. This would eliminate manual tax filing errors and enhance efficiency for both businesses and tax authorities. Countries like Estonia have successfully integrated blockchain into their tax systems, demonstrating its potential for transparency and compliance.
- **AI and data analytics for tax enforcement:** AI-driven analytics can help tax authorities track digital business activities and detect tax discrepancies in real time. Machine learning algorithms can analyze massive datasets from digital platforms such as transaction values, ad revenue, and subscription fees to identify patterns of tax evasion. Collaboration with companies like Amazon, Google, and Zomato can allow authorities to integrate automated tax tracking mechanisms, ensuring that taxes are correctly assessed and remitted. AI can also help in risk assessment by flagging high-risk taxpayers who consistently underreport income, enabling authorities to conduct targeted audits instead of random inspections.
- **Digital tax IDs for gig workers:** Gig workers often struggle with fragmented income reporting due to multiple revenue streams from platforms like Uber, Swiggy, and Fiverr. To address this, a unique digital tax ID system can be introduced, linking earnings across platforms and ensuring accurate tax documentation. This ID can be integrated with the Aadhaar system, allowing seamless tracking of gig workers' income without requiring manual disclosures. Additionally, tax authorities can develop a mobile-based compliance tool where gig workers receive real-time tax liability estimates and simplified filing options. This would reduce compliance burdens and encourage voluntary tax registration among gig economy participants.

By leveraging blockchain, AI and digital tax IDs, India can modernize tax administration for the digital economy, ensuring higher compliance while reducing the complexities of enforcement. These technological advancements can bridge the existing tax gaps and create a more transparent, efficient, and equitable taxation framework for digital businesses and gig workers.

### 9.4 ALIGNING INDIA'S DIGITAL TAX LAWS WITH INTERNATIONAL BEST PRACTICES

India must align its digital tax policies with global frameworks like the OECD's BEPS Pillar One to ensure fair taxation while maintaining an investor-friendly environment. Strengthening coordination with the G20 Inclusive Framework on BEPS and revising bilateral tax treaties can prevent tax disputes

and foster a stable tax system. India's Significant Economic Presence (SEP) and Equalisation Levy (EL) should be harmonized with international standards to provide clarity for multinational digital firms.

Reforming Double Taxation Avoidance Agreements (DTAAs) is crucial, as current treaties do not adequately address digital transactions. India must update Permanent Establishment (PE) definitions to include digital presence, clarify tax treatment for online services, and enhance dispute resolution mechanisms to reduce litigation. Clearer tax rules will provide certainty to digital businesses and prevent revenue loss.

India should also strengthen tax cooperation with ASEAN, the EU, and the US to develop unified digital tax standards. Working with ASEAN can streamline cross-border e-commerce taxation, while aligning with EU Digital Services Tax (DST) policies can ensure consistency. Engaging with the US is essential to avoid trade disputes while ensuring fair taxation of global tech giants. Strengthening global collaboration will help India create a robust and future-ready tax framework, balancing revenue protection with economic growth.

As the digital economy grows, India's tax framework must evolve to ensure fair taxation while promoting business growth. Key recommendations include:

- **Expanding and refining the Equalisation Levy and SEP** to enhance coverage and enforcement.
- **Developing a user-based income attribution model** for cross-border digital firms.
- **Introducing simplified tax regimes for gig workers** and improving compliance through technology.
- **Aligning with global best practices** to ensure certainty in digital taxation.

By implementing these reforms, India can create a more equitable and efficient taxation system for the digital economy, ensuring that multinational firms and gig workers contribute fairly to tax revenues while fostering a thriving digital ecosystem.

## 10. CONCLUSION AND FUTURE SCOPE

The digital economy has fundamentally transformed business models, consumer behaviour, and the nature of work. However, India's taxation framework, rooted in traditional principles, struggles to effectively capture the complexities of digital transactions and gig economy earnings. This research has explored key challenges in taxing digital businesses and gig workers, the role of international tax practices, significant legal rulings, and policy reforms that India can adopt to build a more robust taxation system. This final chapter consolidates these findings, presents actionable recommendations, and outlines potential areas for further research in digital taxation.

### 10.1 SUMMARY OF KEY FINDINGS

The research reveals that India's existing tax framework does not fully address the intricacies of the digital economy, leading to tax avoidance, administrative inefficiencies and legal disputes. A major challenge arises in income attribution for digital platforms, which operate across multiple jurisdictions without a physical presence. India has attempted to address this through the Equalisation Levy and Significant Economic Presence (SEP) framework, yet enforcement remains a challenge due to gaps in tax treaties and resistance from multinational corporations.

For gig workers, the absence of a well-defined tax framework leads to inconsistent reporting, lack of compliance and difficulties in tracking earnings. Many gig workers fall into a grey area between self-employment and salaried income, making tax classification complex.

The comparative study of international tax practices, particularly OECD's BEPS framework, suggests that India needs to integrate global best practices while maintaining sovereignty over its tax policy. The case studies of Google India, Uber, and Airbnb demonstrate how multinational digital firms exploit existing tax structures, further emphasizing the need for a comprehensive digital tax policy.

## **10.2 POLICY RECOMMENDATIONS FOR STRENGTHENING INDIA'S DIRECT TAXATION FRAMEWORK**

### **Expanding and Refining Digital Tax Policies**

A key recommendation is to broaden the scope of the Equalisation Levy to include a wider range of digital services. Additionally, the SEP framework should be better integrated into tax treaties to ensure that foreign digital businesses operating in India pay their fair share of taxes.

A user-based profit allocation model should be explored, similar to the OECD's Pillar One approach, which allocates taxable profits based on digital engagement rather than physical presence. Such an approach would reduce tax avoidance by global digital firms and enhance revenue collection.

### **Strengthening Tax Compliance for Gig Workers**

India should introduce a simplified tax regime for gig workers, possibly through a presumptive taxation scheme that considers earnings across multiple platforms. This would reduce tax evasion, ease compliance, and provide legal clarity for gig economy workers. Digital platforms should also be required to deduct TDS on worker payments, ensuring that gig workers contribute taxes at the source rather than relying on self-reporting.

### **Leveraging Technology for Tax Administration**

The use of Artificial Intelligence, blockchain and big data analytics can revolutionize tax compliance and enforcement. Blockchain-based invoicing would ensure that digital transactions are transparently recorded, minimizing tax evasion. AI-powered systems can detect underreporting and discrepancies in gig workers' incomes, while data-sharing agreements between tax authorities and digital platforms could improve compliance.

### **Aligning India's Tax Framework with Global Best Practices**

India should work towards integrating SEP provisions with OECD's BEPS Pillar One and Two recommendations. Tax treaties must be amended to include digital taxation rules, preventing double taxation disputes and profit shifting. Furthermore, India should actively engage in global tax cooperation forums such as OECD, G20 and BRICS, to shape international digital tax policies in a manner that protects its economic interests.

## **10.3 FUTURE SCOPE FOR RESEARCH AND POLICY DEVELOPMENT**

### **Blockchain-Based Tax Solutions**

One of the most promising areas for future research is the application of blockchain in tax collection and enforcement. Blockchain could automate tax compliance for gig workers and digital businesses, reducing fraud and administrative burdens. Future studies could explore how India can integrate blockchain technology into GST and income tax frameworks for seamless and tamper-proof tax reporting.

### **AI in Tax Enforcement and Compliance**

The use of artificial intelligence in tax enforcement is another critical research area. AI-powered tax systems can analyze financial transactions, detect anomalies, and predict tax evasion risks. Countries like the US and UK are already using AI in tax compliance, and further studies should evaluate how India can implement AI-based risk assessment models to improve tax administration.

### **Evolving Models of Global Tax Cooperation**

Given the increasing complexity of digital taxation, future research should examine how India can effectively participate in global tax reform efforts. This includes studying the impact of OECD's BEPS Pillar One & Two, India's evolving tax treaties and the development of global minimum tax standards. Research can also assess how India can negotiate better tax agreements with major digital economies like the US and EU.

### **The Future of Gig Worker Taxation**

As the gig economy grows, future research should explore alternative taxation models for gig workers, such as platform-based taxation, income aggregation systems and dynamic tax brackets based on fluctuating earnings. Additionally, researchers should study the social security and legal rights of gig workers in the context of taxation to ensure a balanced approach between revenue collection and worker protection.

### **10.4 CONCLUSION**

India stands at a critical juncture in digital taxation. While progress has been made with the Equalisation Levy, SEP framework and other rules, substantial challenges remain in enforcement, income attribution and compliance. This research has highlighted the inadequacies of India's current tax system, examined global best practices, analyzed landmark case studies and proposed reforms to create a more equitable taxation model.

The proposed reforms emphasize expanding digital tax policies, simplifying compliance for gig workers, leveraging AI and blockchain for tax administration and aligning India's tax system with global frameworks. However, digital taxation is an evolving field, requiring continuous research, policy innovation and international cooperation. By adopting a forward-looking approach, India can build a tax framework that not only ensures fair revenue collection from digital businesses and gig workers but also supports the growth of its digital economy in a sustainable and equitable manner.

### **BIBLIOGRAPHY**

1. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4681167](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4681167)
2. <https://jklst.org/index.php/home/article/view/201?articlesBySameAuthorPage=14>
3. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5036459](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5036459)
4. [https://www.shs-conferences.org/articles/shsconf/pdf/2023/26/shsconf\\_copeji2023\\_01004.pdf](https://www.shs-conferences.org/articles/shsconf/pdf/2023/26/shsconf_copeji2023_01004.pdf)
5. <https://www.sciencedirect.com/science/article/pii/S2405896321018802>
6. <https://jardcs.org/abstract.php?id=2939>
7. <https://wne.fa.ru/jour/article/view/267>
8. <https://onlinelibrary.wiley.com/doi/10.1111/jpet.12257>
9. [https://www.academia.edu/101939923/Legal\\_and\\_economic\\_uncertainties\\_clouding\\_digital\\_taxation\\_unpacking\\_and\\_addressing\\_the\\_issues](https://www.academia.edu/101939923/Legal_and_economic_uncertainties_clouding_digital_taxation_unpacking_and_addressing_the_issues)
10. [http://vital.seals.ac.za:8080/vital/access/manager/Repository/vital:28568?site\\_name=GlobalView](http://vital.seals.ac.za:8080/vital/access/manager/Repository/vital:28568?site_name=GlobalView)
11. <https://psycnet.apa.org/record/2014-07087-000>
12. [https://www.oecd.org/en/publications/2013/02/addressing-base-erosion-and-profit-shifting\\_g1g2a9bc.html](https://www.oecd.org/en/publications/2013/02/addressing-base-erosion-and-profit-shifting_g1g2a9bc.html)
13. [https://www.oecd.org/en/publications/tax-challenges-arising-from-digitalisation-economic-impact-assessment\\_0e3cc2d4-en.html](https://www.oecd.org/en/publications/tax-challenges-arising-from-digitalisation-economic-impact-assessment_0e3cc2d4-en.html)
14. <https://incometaxindia.gov.in/Pages/equalization-levy.aspx>

15. [https://dea.gov.in/sites/default/files/frbm\\_amendment\\_acts\\_2018\\_1.pdf](https://dea.gov.in/sites/default/files/frbm_amendment_acts_2018_1.pdf)
16. <https://openyls.law.yale.edu/handle/20.500.13051/7857>
17. <https://eur-lex.europa.eu/eli/dir/2002/38/oj/eng>
18. <https://press.uchicago.edu/ucp/books/book/chicago/H/bo20159822.html>
19. [https://assets.publishing.service.gov.uk/media/5be4690fe5274a083215467b/Digital\\_Services\\_Tax\\_-\\_Consultation\\_Document\\_FINAL\\_PDF.pdf](https://assets.publishing.service.gov.uk/media/5be4690fe5274a083215467b/Digital_Services_Tax_-_Consultation_Document_FINAL_PDF.pdf)
20. <https://www.mof.gov.sg/policies/taxes/goods-and-services-tax#:~:text=With%20effect%20from%201%20January,is%20either%20taxable%20or%20exempt.>
21. <https://tv.ato.gov.au/media/bd1bdiubhz9bre#:~:text=The%20GST%20rate%20in%20Australia,amount%20the%20supplier%20must%20pay.>
22. [https://eur-lex.europa.eu/resource.html?format=PDF&uri=cellar%3A04c776da-4322-11e8-a9f4-01aa75ed71a1.0003.02%2FDOC\\_7](https://eur-lex.europa.eu/resource.html?format=PDF&uri=cellar%3A04c776da-4322-11e8-a9f4-01aa75ed71a1.0003.02%2FDOC_7)
23. [https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/october/ustr-welcomes-agreement-austria-france-italy-spain-and-united-kingdom-digital-services-taxes?utm\\_source=chatgpt.com](https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/october/ustr-welcomes-agreement-austria-france-italy-spain-and-united-kingdom-digital-services-taxes?utm_source=chatgpt.com)
24. <https://itatonline.org/archives/google-india-private-ltd-vs-acit-itat-bangalore-royalty-us-91vi-article-12-the-google-adwords-advertisement-module-is-not-merely-an-agreement-to-provide-advertisement-space-but-is-an-agreement/>
25. <https://indiankanoon.org/doc/69732097/>
26. <https://repository.law.umich.edu/articles/2328/>
27. <https://scholarship.law.ufl.edu/facultypub/890/>
28. <https://www.moneycontrol.com/news/business/startup/nearly-98-of-gig-workers-earn-under-rs-5-lakh-per-annum-shows-teamlease-data-12938134.html>
29. <https://recordoflaw.in/legal-landscape-of-the-gig-economy-in-india-challenges-and-implications/>
30. <https://ojs.balidwipa.ac.id/index.php/fjl/article/view/259>
31. <https://in.knavcpa.com/insights/tax-compliance-in-the-evolving-gig-economy-a-guide-for-indias-freelancers/>
32. <https://www.wsj.com/tech/trump-weighs-tariffs-to-counteract-foreign-taxes-on-tech-firms-d0a00a14>
33. [https://www.supremecourt.gov/opinions/17pdf/17-494\\_j4el.pdf](https://www.supremecourt.gov/opinions/17pdf/17-494_j4el.pdf)
34. [https://www.marylandtaxes.gov/forms/Tax\\_Publications/Tax\\_Bulletins/Digital\\_Advertising\\_Tax\\_Bulletins/DIGITAL%20ADVERTISING\\_041221\\_E.pdf](https://www.marylandtaxes.gov/forms/Tax_Publications/Tax_Bulletins/Digital_Advertising_Tax_Bulletins/DIGITAL%20ADVERTISING_041221_E.pdf)
35. <https://crsreports.congress.gov/product/pdf/IF/IF11947>
36. <https://transferpricingasia.com/2017/03/09/15-action-points-beps-explained/>
37. <https://www.legislation.gov.uk/ukpga/2023/50>
38. <https://www.thetimes.com/us/business/article/uks-digital-overreach-risks-trumps-wrath-d9xrkdzft>
39. [https://taxation-customs.ec.europa.eu/system/files/2018-03/proposal\\_common\\_system\\_digital\\_services\\_tax\\_21032018\\_en.pdf](https://taxation-customs.ec.europa.eu/system/files/2018-03/proposal_common_system_digital_services_tax_21032018_en.pdf)
40. <https://copenhageneconomics.com/publication/the-proposed-eu-digital-services-tax-effects-on-welfare-growth-and-revenues/>
41. <https://www.reuters.com/world/europe/italy-may-strengthen-digital-services-tax-2025-budget-sources-say-2024-10-07/>
42. <https://www.reuters.com/markets/oecd-still-sees-100-commitment-finalise-global-tax-pact-2024-09-19/>



43. <https://rsmus.com/insights/services/business-tax/india-has-significantly-expanded-its-equalization-levy.html>
44. <https://www.metalegal.in/post/legislative-precision-india-s-beps-response-and-international-tax-reforms>
45. <https://taxnews.ey.com/news/2019-1482-india-deposits-instrument-of-ratification-of-the-multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-beps>
46. <https://kpmg.com/in/en/services/tax/transfer-pricing/beps.html>
47. <https://eastasiaforum.org/2024/09/10/why-india-must-dig-in-its-heels-on-global-tax-deal/>
48. <https://www.supremecourt.uk/cases/uksc-2019-0029>
49. <https://www.reuters.com/world/india/uber-adopts-smaller-rivals-model-india-autorickshaw-rides-weather-competition-2025-02-18/>
50. <https://www.ijnrd.org/papers/IJNRD2301042.pdf>