# Digital Services Tax

## Why in news?

United States Trade Representative (USTR) reported that India's DST is discriminatory & inconsistent with international tax principles.

## What is Digital service tax (DST)?

- Digital companies are not adequately taxed because they don't have a physical location in the markets where they operate.
- DST aims to ensure that non-resident, digital service providers pay their fair share of tax on revenues generated in the Indian digital market.

## How does India's DST evolved?

- In 2016, **Akhilesh Ranjan Committee** suggested to create a level-playing field between online businesses and brick-and-mortar businesses.
- Since digital businesses don't have physical presence but enjoy a sustainable economic presence they need to be taxed.
- In 2016, India became the first country to implement the equalisation levy, on advertising services at 6%.
- In 2018, India introduced the term significant economic presence in Income Tax Act.
- According to which, if a company had users in India, it sort of defined its economic connection with India and therefore gives India the right to tax.
- In 2020, the new equalisation levy expanded its scope even to e-commerce.

## How India's DST different from U.K.?

- India's equalisation levy was on company's revenue rather than on profits but U.K. allows companies not to pay any tax if their net operating margin is negative.
- If an Indian user located in the U.K., receiving services from a U.S. company, U.K. DST contemplates that only 50% of the revenues from such a transaction would be chargeable to U.K.
- In U.K., DST excludes companies that sell their own inventories but India's equalisation levy covers everything under the sun.
- This makes U.K. different from India on its implementation but U.S. also looks at the U.K. taxes in some way as discriminatory.

## Is India's DST discriminatory?

- USTR reports find India's DST is discriminatory because tax incident by design is on non-resident company's levy.
- But the market itself is dominated by U.S. firms hence it finds discriminatory but reality is not so.
- Moreover the threshold that India has laid down for the equalisation levy is actually much below what the EU envisages.
- Moreover the levy aims to create a level-playing field with ordinary businesses have a physical presence & pay regular taxes.
- Now international communities are moving towards a scenario where such transactions need to be taxed.
- Hence to say that levy violates international tax principles is not valid.

## What will happen now?

- Since Section 301 of the investigations are unilateral in nature, US might wish collaborate with India.
- It will find an amicable solution rather than imposing strict trade tariffs which happened between France and the U.S earlier.

## What is the way forward?

- One, India is committed to the OECD process and to influence it, there are ways to tweak the design as it will be put out only in June 2021.
- The design can be worked out by taking into consideration the interests of the developing countries.
- Secondly, United Nations is also taking some sort of leadership on this to design its own proposal which is an automated DST.
- It means that within the existing treaty framework a provision of withholding the payments that are made from markets to jurisdictions is proposed.
- Thirdly, DST will be first applied and then countries will be allowed to bilaterally negotiate with their respective partner countries for the process of crediting this tax.

**Source: The Hindu**



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