

Technology & Tax Series

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In the digitized world, businesses operate on a global scale without any significant physical presence while placing huge reliance on intellectual property (“IP”) and thrive on basis of user data, user participation and their synergies with IP. A market study on E-commerce in India by the Competition Commission of India revealed that India is the fastest growing market for e-commerce sector. Revenue from the e-commerce sector is expected to increase from USD 39 billion in 2017 to USD 120 billion in 2020, growing at an annual rate of 51 percent, being the highest in the world.

While the Organisation for Economic Co-operation and Development (“OECD”) is trying to reach to a consensus based solution, governments (including Indian government) across the world are not shying away from unilaterally addressing the challenges posed by digital economy. At the same time, the office of United States Trade Representative has begun its own investigation into unilateral Digital Services Tax imposed by various countries including India. Such investigation is not expected to deter the Indian Government’s stand on taxation of the digital economy.

On the flip side, the pandemic also brings into serious consideration a Pillar Three, which seeks to impose tax on super profits of companies benefitting from the pandemic.

Keeping in view the complexities arising on account of movement of taxation of income arising from use of technology in different directions, Nishith Desai Associates, keeping abreast with its research focussed approach, is pleased to start a special monthly ‘Technology & Tax Series’.

In the first issue of this series we examine the business model followed by ‘Platform Aggregators’.

In this issue, we deep dive into the operational business model and legal structure of platform aggregators (based on publicly available information) to determine the potential issues that may arise from a tax perspective. We specifically deal with the operational differences between ride-for-hire aggregators and accommodation aggregators to analyse how different tax outcomes, particularly on attribution under Pillar I principles, may arise due to operational differences. Further, we lay down the structural relationships as part of the case study to reflect several market realities noticed in platform aggregator groups. We then analyse the impact of income-tax provisions *inter-alia* including provisions related to significant economic presence, attribution rules, transfer pricing, equalization levy, GST and provisions under tax treaties in relation to permanent establishment among other issues. We also assess the potential impact of the work of OECD in relation to taxation of digital economy in case of platform aggregators. We end the discussion in this case study by highlighting some upcoming tax issues that may be of relevance for platform aggregators.

With increasing focus on the cross border digital services and supplies, we are certain that this report would be of interest to you.

Please note that this report is only for private circulation and is available only on a request basis. Please send an email on [digitaltaxseries\(at\)nishithdesai.com](mailto:digitaltaxseries(at)nishithdesai.com) to request for a copy of the case study.

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