
NAVIGATING TAXATION IN THE E-COMMERCE ERA: LEGAL CHALLENGES AND COMPLIANCE STRATEGIES

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ABSTRACT

E-commerce is expanding quickly, and with it come the difficulties of properly and fairly taxing e-commerce enterprises. The different international taxation systems for e-commerce, the opportunities and challenges for e-commerce businesses and tax authorities, and policy recommendations for enhancing e-commerce tax compliance and fairness are all covered in this research project that looks at the opportunities and challenges of e-commerce taxation. E-commerce is expanding quickly, and with it come the difficulties of properly and fairly taxing e-commerce enterprises. The different international taxation systems for e-commerce, the opportunities and challenges for e-commerce businesses and tax authorities, and policy recommendations for enhancing e-commerce tax compliance and fairness are all covered in this research project that looks at the opportunities and challenges of e-commerce taxation. Using a mixed-methods methodology, the study gathers and examines both quantitative and qualitative data. Tax income, e-commerce transactions, and other variables are the subjects of quantitative data collection. Interviews with tax officials and e-commerce companies are used to get qualitative data. This paper's conclusions demonstrate that the ways in which various nations tax online purchases varied significantly. This variance may result in additional tax costs and double taxation for e-commerce.

Keywords: E-commerce, E-commerce Taxation, VAT, GST

1. Introduction

The swift expansion of e-commerce has presented considerable obstacles for tax authorities globally. Due to e-commerce's worldwide reach, tax authorities have found it challenging to monitor and collect taxes from e-commerce companies, especially those that operate across various jurisdictions. Different nations handle taxation e-commerce enterprises in different ways. Certain nations have embraced a destination-based strategy, meaning that online retailers are subject to taxes in the jurisdiction in which their products are delivered to clients. As a result of the origin-based strategy used by other nations, e-commerce enterprises are subject to taxes in the nation where their products or services are obtained. The way we shop and conduct business has been entirely transformed by e-commerce, but it has also presented new difficulties for tax authorities worldwide. Since e-commerce transactions are transnational in nature, it can be challenging to pinpoint and tax the source of income. Additionally, because technology continues to develop quickly, new tax loopholes have been established that companies can take benefit out of. The paper looks at how e-commerce is taxed in India, highlighting potential reform opportunities as well as compliance issues. It starts with an outline of how e-commerce taxes are now applied in India and then talks about the many e-commerce taxation structures that other nations have chosen to use. The study then looks at how taxes affect consumer behavior and identifies the main obstacles that e-commerce companies have when trying to comply with Indian tax laws. The report culminates by providing some policy suggestions aimed at enhancing the taxation of electronic commerce in India. The suggestions encompass optimizing the tax compliance procedure for e-commerce enterprises, instituting novel tax policies to tackle the obstacles presented by emerging technology, and enhancing collaboration between Indian tax authorities and foreign counterparts. This study is significant because it provides a comprehensive and up-to-date assessment of the taxation of e-commerce in India. It identifies the key challenges that e-commerce businesses face in complying with Indian tax laws, and it examines the impact of taxation on consumer behavior. The study also offers a number of policy recommendations for improving the taxation of e-commerce in India.

2. Ecommerce – Nature, meaning and Scope

The exchange of goods and services through the internet is known as e-commerce (or electronic commerce). It is a broad term that covers a variety of activities, including online banking,

online gaming, and shopping.

The proposed Directive's scope of E-commerce, as anticipated in the Commission's April 1997 electronic commerce. The proposal lays out the general principle that the online provision of services is permitted and that national rules on advertising shall not prevent professions from operating websites. Communication covers all information society services, both business to business and business to consumer services, including services provided free of charge to the recipient - e.g. funded by advertising or sponsorship revenue and services allowing for on-line electronic transactions such as regulated professions (such as lawyers or accountants). These would have to adhere to certain professional ethical guidelines, though, and these should be represented in codes of conduct that professional bodies would create.

2.1. Impact of Taxation on E-commerce

“The tax issues raised by global electronic commerce are emerging abruptly and dramatically from the shadowy realm of theory and hypothesis. A subject that over the past three years has preoccupied international bodies such as the OECD and the EU, and governments, academics and industry and professional organizations around the world, has become a practical concern for every business engaged in or contemplating e-commerce transactions. Familiarity with the potential for tax exposure and the opportunities for tax planning that e-commerce brings with it is becoming rapidly indispensable for enterprises wishing to maintain their competitive edge. Alertness to the issues in the landscape of uncertainty that surrounds certain aspects of internet taxation will help businesses to position themselves more effectively as the future contours of internet taxation materialize.

This special supplement of the International Tax Review provides a summary and update on the tax rules and policy developments in major marketplaces around the world and the work of important international bodies such as the OECD and EU. A unique feature is the views of tax professionals from some of the best known names in the internet business: Amazon.com. on selling books and music over the web, Charles Schwab on online stock trading, GTE and Bell Canada on telecommunications and convergence, and Credit Lyonnais on online banking services. Brief experience has demonstrated that e-commerce tax issues differ significantly from industry to industry -- whether it be web-based retailing, online delivery of software or music, online services such as news and information, banking, brokerage, insurance or

auctions, or the provision of internet access, web hosting, and data transmission services. The comments and observations of these industry tax professionals provide valuable insights to the real world challenges and thinking of major players in e-commerce”¹ E-commerce taxation is a complicated topic. This is due to the possibility of cross-border e-commerce transactions, which make it challenging for governments to monitor and tax.

Example : Consider yourself making an online purchase from a foreign bookseller. The bookseller ships the book to you from a warehouse located in a different nation. You might pay taxes on this purchase twice under the present tax structure. First, the government of the nation where the book is being sent from may impose taxes on you. Second, when the book is given to you, the government of your own nation may impose taxes on you. This is so because the way taxes are now set up, physical products must be sold and delivered within the same nation. The international nature of e-commerce transactions poses challenges to the uniform application of tax laws.

To solve this issue, governments are developing new tax regulations. One option is to set up a system in which the bookshop takes sales tax from the customer and sends it to the customer's home country's government. This would contribute to the efficient and equitable taxation of e-commerce transactions.

*The Income Tax Act of 1961 established the framework for income tax collection and levies in India. It addresses e-commerce transaction taxation in particular. This section mandates that when crediting the amount of sales of goods, services, or both to an e-commerce participant's account or making payment to an e-Commerce participant by any other mode, e-commerce operators must deduct tax at source (TDS) at the rate of 1% on the gross amount of sales or services, or both.*²

3. Models adopted by various Countries for taxation of ecommerce

3.1.1. United States: The economic nexus concept is made to deal with the problems brought on by the sell their goods, many internet retailers are exempt from the requirement to collect sales tax from customers there. Due to their obligation to collect sales tax from their clients, local

¹ Maguire, Ned. "Taxation of E-Commerce: An Overview." *International Tax Review* (Sept. 1999): 3-12.
<https://www.proquest.com/openview/e0a9bdd7cd6a9f02b8b75b297c6e4b0f/1?pq-origsite=gscholar&cbl=30282>, (Last Visited on 25th October,2023)

² The Income Tax Act of 1961

shops may suffer from a competitive disadvantage as a result. If a company meets a certain threshold of sales or transactions in a state, the economic nexus model often mandates them to collect sales tax there. State-specific requirements differ, but often involve 200 transactions or \$100,000 in sales. *On June 21, 2018, the US Supreme Court decided South Dakota vs. Wayfair. It overruled its previous precedents to hold that US states can require remote sellers to collect sales tax when they ship items to in-state purchasers. This decision has some implications for the EU's current struggle with taxing the digital economy, as well as for the broader international effort to update the international tax rules for the 21st century. Specifically, the decision bolsters the argument for dispensing with the 19th century permanent establishment concept.*³

3.1.2. European Model (EU): As of July 1, 2021, the EU will have new regulations in place for VAT on online purchases. The EU VAT e-commerce package aims to make it easier for businesses engaged in cross-border online sales of goods and services to comply with their VAT duties. For businesses to register and pay VAT on online sales of products and services to customers in the EU, it includes the One-Stop Shop (OSS). This approach intends to make it easier for online retailers operating in different EU member states to comply with VAT regulations.

3.1.3. China: Chinese companies who are involved in online cross-border retail export products to foreign customers. Value-added tax (VAT) is levied on these exports by the Chinese government, but it also provides favorable tax regulations to encourage this kind of business. Depending on the exporting class of goods, different VAT rates apply to cross-border e-commerce retail exports. As an illustration, the VAT rate for clothing is 13%, whereas the rate for technological goods is 16%. The VAT may be exempted from or refunded to cross-border e-commerce retail export businesses in China. This entails that they are able to get a refund of the VAT they paid on their purchase of the items as well as the fact that they are not required to pay VAT on the goods they export.

3.1.4 Australia: Australia has implemented a GST model to ensure that foreign businesses selling products and services to consumers pay the Goods and Services Tax (GST) just like local

³ Avi-Yonah, Reuven S., Designing a 21st Century Taxing Threshold: Some International Implications of South Dakota vs. Wayfair (June 25, 2018). U of Michigan Public Law Research Paper No. 611 <https://ssrn.com/abstract=3201418> (Last visited on 27th October, 2023)

businesses do. The GST is a 10% consumption tax, to goods and services sold in Australia. While consumers bear the cost it is the responsibility of the business making the sale to collect it. Foreign businesses selling products and services in Australia must register for GST if their yearly sales, to consumers amount to A\$75,000 or more. Once registered they are obligated to collect and remit GST on their sales made to consumers. The GST also applies to low value goods imported by consumers into Australia. Low value goods are those valued at A\$1,000 or less. Foreign businesses selling goods may be required to pay GST under the Low Value Imported Goods (LVIG) regime. Under this regime foreign businesses have two options; either collect and remit GST on their sales made to consumers or pay the GST directly to the government on behalf of their customers. The Australian government has put in place these measures to guarantee that international companies selling to customers pay the Goods and Services Tax (GST) on their sales to how local Australian businesses do. This approach ensures fairness, for businesses while also generates revenue for the government of Australia.

3.1.5 India: If an e-commerce operator's annual earnings exceeds Rs. 40 lakh (Rs. 20 lakh in some states), they must register for GST. Once registered, they are required to collect and deposit GST on behalf of the platform's retailers. Both the products and services that are sold through online stores are subject to GST. Depending on the kind of goods or services being sold, different GST rates apply on goods and services. Operators of e-commerce sites must further collect Tax Collected at Source (TCS) on specific kinds of transactions. TCS is a tax that is not gathered from the ultimate customer but rather at the point of payment. On the net value of taxable supply, the TCS rate is currently set at 1%. The 101st Amendment to the Indian Constitution was the Goods and Services Tax (GST) Act, which was introduced in India. It integrated numerous indirect taxes imposed by both the federal and state governments and established a uniform national tax structure for goods and services. Article 246A, when read in conjunction with the 101st Amendment Act, is the relevant section of the Indian Constitution that permits the adoption of the GST. Article 246A states that “(1) *Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State. (2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services,*

*or both takes place in the course of inter-State trade or commerce.”*⁴

The Equalisation Levy Act, 2016: This Act provides for the levy of an equalisation levy on foreign e-commerce companies that do not have a permanent establishment in India. The levy is currently 2% of the gross amount of consideration received or receivable by the foreign e-commerce company for the supply of goods or services or both to a person in India.⁵

3.2. Implementation of GST Policies in India

The processes of "globalization" and "digitalization" have changed trade, commerce, and lifestyles worldwide in the modern era. The only constant in this age of rapidly advancing technology and constantly shifting consumption patterns is change! It is essential that outdated laws be repealed and new ones created with more relevance and adaptation to modern business practices in order to meet the demands of evolving societies and stay up to date with how individuals conduct their enterprises. As stated by P N Bhagawati, *"Law cannot stand still, it must change with the changing social concepts and values. If the law fails to respond to the needs of the changing society, then either it will stifle the growth of the society and choke its progress or if the society is vigorous enough, it will cast away the law which stands in the way of its growth. Law must, therefore, constantly be on the move adapting itself to the fast changing society and lag behind."*⁶ After 13 years of discussion, the GST was finally adopted in India in the Kelkar Task Force's 2003 report on indirect taxes. The Task Force on Direct Taxes was mandated to provide a consultation document outlining its recommendations for improving tax payer services to the government, justifying and simplifying direct taxes, and overhauling the processes for improving enforcement. The Task Force on Indirect Taxes was tasked with formulating recommendations for tax administration automation, simplification of statutory returns, records, and procedures for time-bound disposal of matters, as well as various aspects of legal provisions, in order to assist tax payers and improve tax compliance.

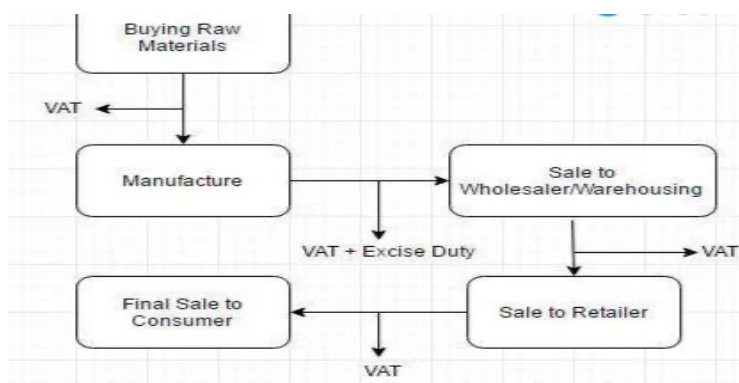
In India, the goods and services tax (GST) has largely taken the place of other indirect taxes such as the services tax, VAT, and excise duty. On March 29, 2017, the Parliament passed the Goods and Service Tax Act, and on July 1st of the same year, it went into effect.

⁴ India Const. art. 246A

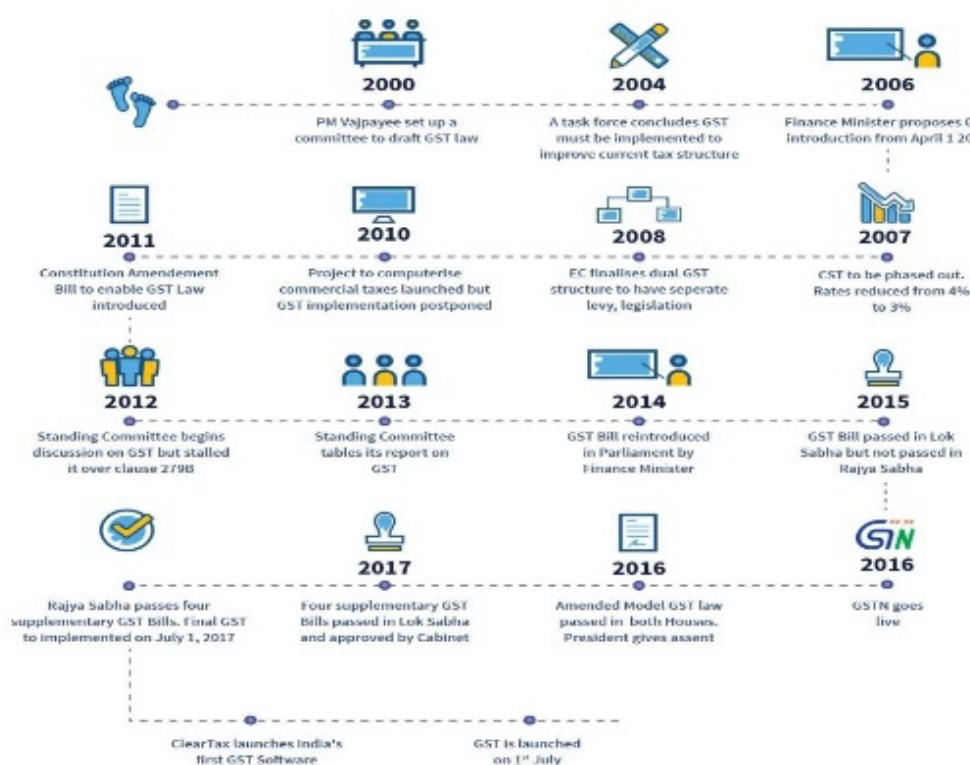
⁵ The Equalisation Levy Act, 2016

⁶ CA Arun Kumar Gupta, Guide To GST, Pg No. A3, Pooja Law Publishing and Co. 2017

The tax system was different prior to the implementation of the GST. The structure of India's indirect tax levy prior to the implementation of the Goods and Services Tax was:



The state and the center imposed a number of indirect taxes during the old indirect tax regime, which ended with the introduction of the GST. States employed Value Added Tax (VAT) as their main method of tax collection. Every state had its own set of laws and regulations. Commodities sold between states were subject to levies from the central. The Central State Tax, or CST, was imposed on products sold over state lines. The state and federal governments collected indirect taxes together, such as local taxes, entertainment taxes, and octroi. This resulted in a significant amount of combined state and federal taxes being charged. This flowchart depicts the development of GST in a sequential manner-



In the case of *All India Federation of Tax Practitioners v. Union of India* case⁷ which addressed the issue of whether the Central Government can impose a VAT on services was a landmark decision. The All India Federation of Tax Practitioners (AIFTP) filed a writ challenge in the Supreme Court of India disputing the legality of the Central VAT Act, 2003, which gave the Central Government the power to impose VAT on services. According to the AIFTP, the Indian Constitution does not grant the Central Government the authority to impose a VAT on services. The Central VAT Act of 2003, according to the AIFTP, was discriminatory because it only evaluated VAT on specific services and not on every service. In the case of *An important case that addressed the constitutional legality of the GST laws requiring e-commerce providers to collect TCS from their sellers* was *Flipkart Internet Private Limited v. Union of India* (2021).⁸ A writ challenge filed by Flipkart in the Delhi High Court challenging the legality of the GST regulations requiring e-commerce firms to collect TCS from their merchants gave rise to the current dispute. Flipkart claimed that these clauses were discriminatory and unconstitutional. Flipkart's appeal was denied by the Delhi High Court, which also affirmed the legality of the GST laws requiring e-commerce companies to collect TCS from their vendors. Flipkart filed an appeal with the Indian Supreme Court against the Delhi High Court's ruling. The Delhi High Court's ruling and the constitutional validity of the GST clauses requiring e-commerce providers to collect TCS from their sellers were affirmed by the Supreme Court of India. According to the Supreme Court, the provisions of the GST that force e-commerce firms to collect TCS from their sellers are neither unconstitutional nor discriminatory. Additionally, the Supreme Court ruled that these clauses are essential to avoid tax evasion and guarantee that GST laws are followed. In CGST Act 2017, it was held that *The Central Goods and Services Tax Act, 2017 (CGST Act) is the principal legislation that governs Goods and Services Tax (GST) in India. It was enacted on April 12, 2017, and replaced a number of existing indirect tax laws, including Central Excise, Service Tax, Value Added Tax (VAT), and Luxury Tax.*⁹

4. Challenges with compliance

4.1. Challenges for e commerce business with tax compliance

Keeping up with tax modifications of tax laws : In order to keep in compliance, e-commerce

⁷ *All India Federation of Tax Practitioners v. Union of India*, (2009) 7 SCC 527

⁸ *Flipkart Internet Pvt. Ltd. v. Union of India*, (2021) 16 SCC 471

⁹ The Central Goods and Services Tax Act, 2017

enterprises must stay updated with tax law adjustments. Particularly for small organizations, this can be challenging and time-consuming, that is, laws and rules governing taxes are constantly changing, particularly in the digital sphere. It can be demanding and time-consuming for e-commerce companies to comply with new legislation, which require rapid adaptation. The California Supreme Court ruled in *C.H. Robinson Worldwide, Inc. v. State of California*¹⁰ that online marketplaces must collect sales tax from third-party sellers that sell on their marketplaces, even if the vendors don't have a physical presence in California. Other states have now adopted this judgment, which has made it more challenging for online marketplaces to avoid collecting sales tax on all transactions performed on their sites.

Tax evasion in Ecommerce businesses: Starting an internet business is relatively simple, even if you don't have any prior experience or knowledge in the field. This makes it simple for scammers to set up fictitious companies and use them to avoid paying taxes or engage in fraud. Cross-border transactions are made possible by e-commerce platforms, which let companies market their goods and services to clients all over the world. The tracking and collection of taxes on all purchases may become challenging for tax authorities as a result. The Supreme Court of India maintained the constitutional legality of the GST laws requiring e-commerce providers to collect TCS from their sellers in *Flipkart Internet Private Limited v. Union of India*,¹¹ With this ruling, the legal foundation for the GST in India has been significantly strengthened, increasing its ability to discourage tax fraud and guarantee compliance.

Small and Medium-sized Enterprises (SMEs): SMEs that engage in cross-border e-commerce may not have the means and knowledge required to navigate the complex international tax laws, which puts them at a disadvantage in comparison to larger businesses.

Double Taxation : Double taxation is a problem for businesses since it occurs when the same income is taxed in two or more jurisdictions as a result of global e-commerce transactions. In *Maffry v. Commissioner*¹² The United States Supreme Court ruled that a citizen of the United States with a residence in France was subject to U.S. income tax on his income derived from French sources, despite the fact that he had already paid French income tax on that income. The Supreme Court ruled that while double taxation of income was an inevitable result of the

¹⁰ C.H. Robinson Worldwide, Inc. v. State of California, (2021)261 Cal. Rptr. 3d 217

¹¹ Flipkart Internet Pvt. Ltd. v. Union of India, [2021] 10 SCC

¹² Maffry v. Comm'r, 94 T.C. 74 (1990)

United States' sovereign power to tax the income of its citizens, it was not unconstitutional.

Consumers awareness: Online consumers may not be aware of their tax obligations, which could result in possible tax evasion problems.

Lack of knowledge: Many consumers are simply not aware of the tax laws that apply to online purchases. They may not be aware that they are responsible for paying sales tax on goods and services purchased from online retailers, even if the retailer is located in another state or country.

Digital products and services: It is frequently unclear how to tax digital goods and services including software, e-books, and streaming services. These things could be taxed differently in different jurisdictions.

Issues with Jurisdiction: Because e-commerce allows businesses to operate globally without having a physical presence in a specific region, choosing the right jurisdiction for taxation can be challenging. Tax laws vary from nation to nation, making it challenging to determine the location of a transaction's real accomplishment.

4.2. Taxation's impact on Consumer Behaviour

Adjust in Consumption Patterns: In response to taxation, consumers may change their consumption habits. For instance, if the government places greater tariffs on sugary drinks, people may drink fewer of them instead of choosing better options. A number of factors, including as the types of goods and services that are taxed, the magnitude of the tax rise, and the accessibility of alternatives, can affect how taxes affect consumer spending habits. But typically, when taxes are imposed on non-essential items and services for which there are workable substitutes, consumers are more likely to change their purchase habits in response.

Tax Planning: Analyzing your financial condition and finding strategies to lower your tax liability is the process of tax planning. High-income persons can employ a variety of tax preparation techniques, buying stocks that aren't subject to taxes. Securities that are exempt from federal income tax are known as tax-exempt securities. Municipal bonds, state and local government bonds, as well as specific Treasury instruments may fall under this category.

Reduced Spending: Consumers may cut back on their purchases when taxes are raised,

particularly on items and services that are regarded as non-essential. Lower personal finances brought on by higher taxes may result in less purchasing of non-essential items and services. Non-essential goods and services include things like entertainment, dining out, and travel that are not vital for survival. When they have less money to spend, consumers are more likely to cut back on these purchases. Consumers have less discretionary income to spend on products and services when taxes are raised. This means that they must decide how to divide up their scarce resources.

Consumer Confidence and Economic Stability: Stable and predictable tax policies increase consumer confidence and promote expenses by contributing to the perception of stability. Consumers may refrain from making large purchases while they wait to see how future tax changes may affect their own finances.

Modification of Consumption Patterns: Taxes on non-essential goods and services may cause customers to use less of them. If there are workable alternatives to taxed goods, consumers are more inclined to adjust their purchasing patterns. Higher taxes on unhealthy products (like sugary drinks) may persuade consumers to choose healthier substitutes.

Consumer Confidence and Economic Stability: Consumer confidence is boosted by stable and predictable tax policies, which promote spending. Consumers may refrain from making large purchases while they wait to see how future tax changes may affect their own finances.

Tax Rate Disparities: Cross-Border Shopping and Tourism Significant tax disparities between adjacent nations or regions might influence local firms by encouraging consumers to shop overseas. Tourism Trends Tourist spending patterns are influenced by tax policies; visitors may choose locations with lower taxes on products and services.

The Consumer Protection Act, 2019 held that the protection of consumer interests in India is made possible by this Act. It covers all products and services—including those available for online purchase or rental—that are offered for sale or hire. Numerous rights are granted to consumers by the Act, such as the right to information, the right to fair commercial practices, and the right to legal recourse. The Consumer Protection Act of 2019 forbids manufacturers and service providers from giving any false information about the cost of a good or service (Section 21(1)). One example of this would be to falsely imply that a good or service is cheaper

than it actually is, or that it is subject to a tax that doesn't really apply.¹³

In addition, taxes may cause issues with limited logic and incomplete knowledge. Voters, or political consumers, may choose the wrong political representatives (i.e., political sellers) in the political market because they lack accurate and pertinent information regarding their tax burden and received public benefits. Additionally, voters who lack complete reason may consistently evaluate candidates and their tax burdens incorrectly. According to the favored political "fiscal illusion" theory, voters consistently overestimate public benefits and underestimate tax obligations. Like in the product market, politicians can take advantage of the ignorance of the electorate to raise taxes (or reduce the supply of public goods) for their own gain and at the expense of individual citizens. However, there is still reason to dispute the fiscal illusion hypothesis's empirical validity. Imperfect tax information, however, can not just benefit political representatives but also be used by market participants. The constrained rationality of consumers and partial knowledge of consumption taxes (such value-added taxes and sales taxes) can boost suppliers' earnings at the expense of customers. When consumers are not fully informed about consumption taxes, they may continually undervalue the cost of products and services. In particular, when product and service pricing are listed as tax-exclusive, that is. Prices exclude sales tax-consumers may perceive prices to be lower than they actually are, and thus increase their requirement for these products and services. The effect of price partitioning is comparable to this hypothetical event. which divides the prices of goods and services produces a similar result, and in fact, companies are always against tax-inclusive price regulation. European nations are accustomed to imposing relatively high rates of consumption tax, or VAT, and as such, they are cognizant of potential consumer prejudices or confusion resulting from the presentation of prices that exclude taxes. Because of this, the majority of European nations control price presentation through their consumer protection legislation, and they specifically mandate price presentation that takes taxes into account. There is a growing political push in other OECD nations including Canada and Australia for the adoption of similar regulatory measures. Since the US tax system has historically placed a greater emphasis on the income tax base than the consumer base, no comparable objection has been raised . “However, anticipated adjustments to the tax base mix in the US may draw attention away from problems with price presentation. First, although still smaller than the European VAT, state sales taxes are on the rise. Second, and perhaps more significantly, during

¹³ The Consumer Protection Act, 2019

the past thirty years, there has been increasing demand from both academia and the government (especially the Treasury) to adopt a federal consumption tax base, either in addition to or in replacing of the federal income tax. "National retail taxes or national value-added taxes" are the forms such proposals take. In addition to imposing far greater tax rates and responsibilities than the current state sales taxes, a federal consumption tax system would probably result in a comparable public demand for tax-inclusive consumer protection laws akin to those in Europe."¹⁴

"Taxes and Consumer Behavior: A Behavioral Economics Perspective" by David Laibson and David Graetz, published in The Oxford Handbook of Behavioral Economics and Public Policy, reviews the behavioral economics literature on taxes and consumer behavior. It discusses how consumers' cognitive biases, such as mental accounting and hyperbolic discounting, can lead them to make suboptimal decisions about how to respond to taxes. The article also examines how governments can use behavioral insights to design tax policies that are more effective and efficient. The article's main thesis is that consumers don't always make logical decisions. They are prone to cognitive biases, which may cause errors in judgment. For instance, the propensity to handle various money pots differently is known as mental accounting. Customers might be more inclined to spend money from a vacation savings account than from a regular savings account, for instance. Because of this, customers may undervalue the actual cost of goods and services that they pay for with their taxed income. Hyperbolic discounting is another cognitive bias that might influence customer behavior. This is the propensity to place a higher value on rewards now than on rewards later. Customers might, for instance, be more inclined to purchase a new automobile now even though they are aware that the interest rates will be higher than if they wait a few months to accumulate more savings. Customers may consequently make snap judgments that they come to regret. The government can create more effective and efficient tax policy by utilizing behavioral insights. For instance, salience is a tool that governments can employ to increase consumer awareness of taxes. This can be achieved by increasing the transparency of taxes on receipts and increasing public awareness of changes to tax laws through public education initiatives. Governments can also affect consumers' perceptions of taxes by using framing. Governments may present taxes, for instance, as a means of funding public services or lowering economic disparity. The argument made in the article's conclusion

¹⁴ Nussim, and Jacob, Columbia Journal of Tax Law 1 Colum. J. Tax L. (2010)
<https://heinonline.org/HOL/P?h=hein.journals/colujoutl1&i=224> (Last visited on 27th October, 2023)

is that behavioral economics has the power to completely transform how tax laws are created. Through gaining insight into the decision-making process of customers, policymakers can create tax laws that are more successful in accomplishing their objectives.”¹⁵

5. Future outlook and policy recommendations

“The OECD has been a pioneer in addressing the challenges and opportunities of electronic commerce and the digital economy in the industrialized countries. It is natural then that the Development Centre should assess the scope for e-commerce in developing countries. But like the sailors in the strait of Messina, the research should avoid at once the scylla of technological pessimism — seeing an inevitably widening “digital divide” between industrialized and developing countries — and the charybdis of exaggerated claims about the Internet’s potential to resolve a host of development problems that have heretofore proved intractable. Even in the OECD countries, there is insufficient historical data to make predictions about future patterns due to the novelty of the Internet. As industry observers point out, in Internet time, a year is a very long period. E-commerce is changing quickly as a result of start-ups, acquisitions, and failures that are constantly changing the corporate landscape and the nearly daily introduction of new technology. A realistic assessment of the following factors must inform any analysis of its potential in developing nations: i) the likelihood and timeline for enhancing Internet access and affordability in low-income nations (no Internet, no e-commerce); and ii) the main drivers of the present and anticipated future demand for web-based services and e-commerce transactions in developing nations. “Entrepreneurs in developing countries face several challenges when trying to expand and diversify their sales in their home markets or break into global markets. These challenges include a lack of knowledge about available market opportunities, restricted access to financing, and a limited ability to meet the logistical, quality, and cost demands of international clients. How can these hurdles be reduced, if not eliminated, with the help of the Internet and e-commerce? The lack of confidence that prospective clients may have in online businesses from developing nations is one of the main obstacles that have been noted. The report also mentions a few public and private initiatives that are meant to build confidence. Above all, it highlights the necessity of conducting sector-specific research on how small business owners in developing nations might use this new pool of technologies for their

¹⁵ David Laibson & David Graetz, Taxes and Consumer Behavior: A Behavioral Economics Perspective, in The Oxford Handbook of Behavioral Economics and Public Policy 407 (Angela M. Brune & Josette J. Alpert eds., 2018).

own”¹⁶

“Assuming that the physical infrastructure obstacles to Internet growth are removed and connection costs decrease in developing nations, governments still need to address a number of other important policy issues in order to foster an atmosphere that is favorable to e-commerce. Legal standards and norms (pertaining to contract enforcement, consumer protection, liability assignment, privacy protection, and intellectual property rights, among other topics) as well as process and technical standards (pertaining to, for instance, how payments are made online and products are delivered to the end user, security, authentication, digital signatures, and connectivity protocols) are necessary for e-commerce. It appears almost likely that many of the rules and regulations defining the e-commerce environment will be developed in the more developed nations when it comes to Internet-related technologies. “*Standing on the shoulders of giants*” makes sense when maximizing the advantages of e-commerce requires network externalities and compatible standards (Mann, 2000b). Merchandize e-commerce requires supporting physical infrastructure in addition to an enabling policy environment. One such system is a logistics system that can distribute small batches of goods in a fast, secure, and reasonably priced manner to several locations. Even in the US, delays can have a significant financial impact. According to a recent BCG survey, 19% of online shoppers claimed their items were never delivered or took longer than anticipated. Many people stopped shopping online as a result, and some people decided not to continue doing business with the offending e-tailer.”¹⁷ Despite widespread agreement that global electronic commerce (e-commerce) transactions are growing virtually exponentially in both quantity and value, there is less agreement concerning the rate of growth and much less agreement regarding how such transactions should be taxed. It is generally agreed that any taxation of international e-commerce transactions must be applied in a fair, equitable, and neutral manner. The problem comes up when trying to create a taxation structure that satisfies these three requirements and is also acceptable to governments of different nations and international organizations. National or state taxes issues and global taxation concerns are two categories of internet tax worries. The characteristics of e-commerce that set it apart from conventional brick-and-mortar businesses make it challenging to apply current tax laws to transactions. Domestic and

¹⁶ Goldstein, A. and D. O'Connor (2000), "E-Commerce for Development: Prospects and Policy Issues", *OECD Development Centre Working Papers*, No. 164, OECD Publishing, Paris, <https://doi.org/10.1787/814454018016> Last Visited on 25th October, 2023

¹⁷ Ibid.

international tax laws currently in effect were drafted before the emergence of e-commerce and do not address the particular problems brought on by Internet trade. The rapid growth in business-to-business and business-to-consumer online transactions has raised questions about fairness and equity in the taxation of traditional commerce and exposed the burdensome and ineffective features of many existing taxation systems that, until recently, were thought to be sufficient by companies, customers, and tax authorities around the world.

“Is an e-commerce sale of a tangible good the same as a traditional brick-and-mortar sale? What about the purchase of digitized goods, such as books or music, or of services? The answers to these and other questions have profound implications affecting value-added taxes (VAT), state sales and use tax, and taxes collected on cross-border transactions by countries' tax authorities. Benjamin and Nathanson (1998) summarize the global e-commerce taxation issues arising from such questions as follows: The current framework for international taxation may not be appropriate for dealing with global e-commerce and transactions that occur in "cyberspace." It is not entirely clear how, if at all, international tax treaties and related concepts such as "permanent establishment" (PE) should be applied in the context of global e-commerce. It is not yet clear how certain transactions effected through global e-commerce should be characterized for tax purposes. Logistically, it may be difficult, impractical, or in certain situations, impossible to administer and enforce certain taxes on global e-commerce.”¹⁸

Conclusion

E-commerce taxes is a complicated and developing area of the law. It's critical to have fair, effective, and technologically flexible taxation structures as the e-commerce industry expands. The creation of universal international taxation regulations is one of the major issues. This would assist in easing the burden of compliance on multi-jurisdictional e-commerce companies. Additionally, it would help to guarantee that, regardless of where they are based, e-commerce enterprises are taxed fairly and consistently. The creation of new technologies like blockchain is another difficulty. The taxation of e-commerce may be significantly impacted by blockchain. It might be used, for instance, to monitor the flow of commodities and services across borders, making it easier for tax authorities to collect taxes on e-commerce. When creating taxation systems for e-commerce, there are a number of additional obstacles that must

¹⁸ Borkowski, Susan C., Global Activity on the Electronic Commerce Front: A Taxation Update, page 1

be taken into account. These consist of: E-commerce definition for tax purposes i.e. How to tax various e-commerce transactions, including sales of physical items, virtual commodities, and services, how to handle the international aspect of e-commerce, how to ease the cost of compliance on e-commerce companies, how to make sure e-commerce companies are taxed fairly and uniformly.