

## CBDT notifies Centralised Processing of Equalisation Levy Statement Scheme, 2023

The Finance Act, 2016 introduced Equalisation Levy (EL) at the rate of 6 per cent on the amount of consideration for online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement with effect from 1 April 2016. This EL is applicable on the consideration received by a non-resident, from a person resident in India and carrying on business or profession or a non-resident having a Permanent Establishment (PE) in India.

The Finance Act, 2020 expanded the scope of the EL and introduced a 2 per cent levy on the amount of consideration received or receivable by an e-commerce operator from e-commerce supply or services. An 'e-commerce operator' is defined to mean a non-resident who owns, operates or manages a digital or electronic facility or platform for the online sale of goods or online provision of services or both.

Section 167 of the Finance Act, 2016 provides that the assessee or e-commerce operator should furnish a statement with the Assessing Officer (AO). Further, Section 168 provides for a processing of such statement. However, the Scheme for processing of such statement was awaited.

Recently, the Central Board of Direct Taxes (CBDT) has notified<sup>1</sup> the Centralised Processing of Equalisation Levy Statement Scheme, 2023 (the Scheme). The Scheme shall come into force on the date of its publication in the Official Gazette i.e. 7 February 2023.

### The Scheme

#### Scope and furnishing of EL statement

- The Scheme is applicable in respect of the processing of the EL Statements.

- Every assessee or e-commerce operator should furnish the EL Statement by 30 June immediately following the Financial Year (FY)<sup>2</sup>.
- If the statement has not been furnished within the time prescribed or the statement has any omission or wrong particular, the statement or a revised statement can be furnished at any time before the expiry of two years from the end of the FY in which the specified services were provided or e-commerce supply or services was made or provided or facilitated.
- An assessee or e-commerce operator may furnish the statement in response to a notice sent by the AO within thirty days from the date of service of the notice<sup>3</sup>.

#### Invalid EL Statement

The Commissioner may declare an EL statement invalid for non-compliance of the procedure for using any software not validated and approved<sup>4</sup> or on account of incomplete information in the statement.

#### Processing of Equalisation Levy Statement

The Centralised Processing Centre (CPC) will process a valid Statement in the following manner:

- The EL will be computed after making the adjustment for any arithmetical error in the statement. The interest will be computed on the basis of the sum deductible or payable.
- The sum payable or the amount of refund will be determined after adjustment of the above amount computed against any EL amount paid and any amount paid otherwise by way of tax or interest.

<sup>1</sup> Notification No. 03/2023/F.No.370142/1/2023-TPL, dated 7 February 2023

<sup>2</sup> As stipulated under Rule 5(2) of Equalisation Levy Rules, 2016

<sup>3</sup> In accordance with Rule 6 of Equalisation Levy Rules, 2016

<sup>4</sup> By the Director General

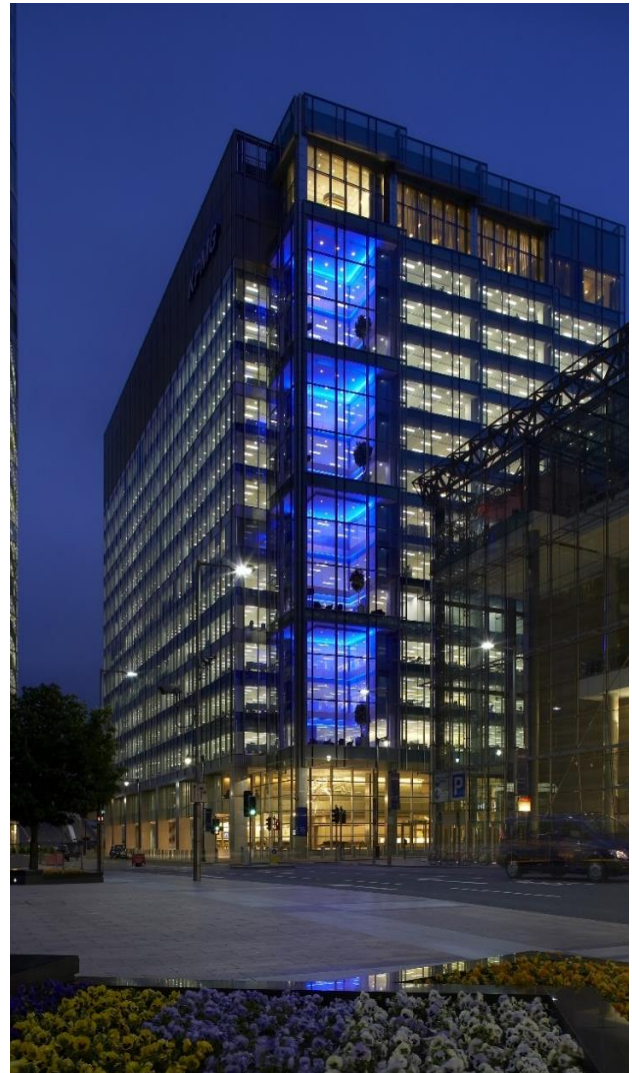
- No intimation will be prepared or generated and sent after the expiry of one year from the end of the FY in which the EL Statement or revised Statement is furnished specifying the sum payable or refund.
- Where a revised Statement is furnished, the CPC will process only the revised statement.
- An application can be made to the AO for amending any intimation within one year from the end of the FY in which such intimation was issued.
- Wherever an EL Statement cannot be processed in the CPC for any reason, the Commissioner will arrange to transmit such return to the jurisdictional AO of the assessee or e-commerce operator.
- In a case where there is any sum payable by the assessee or e-commerce operator under the EL Chapter, the refund arising from the processing of the EL Statement will be set off against such sum payable.

### **Other**

- The assessee or e-commerce operator is not required to appear personally or through an authorised representative before the CPC in connection with any proceedings. Written or electronic communication in the specified format will be sufficient compliance of the query or clarification received from the CPC. Evidence or document called for by the CPC for the purpose of facilitating or processing is to be furnished electronically.
- Every intimation, notice or any other communication under this Scheme is to be made electronically by the CPC's email or by placing a copy in the registered electronic account of the person on the designated portal or any other mode<sup>5</sup>.
- The Director General has the power to specify procedures and processes from time to time for the effective implementation and functioning of this Scheme. This includes (i) processing of EL Statement; (ii) validating any software used for e-filing the statement; (iii) call centers to answer queries and provide taxpayer services; and (iv) managing EL administration functions such as receipt, scanning, data entry, processing, issue of refunds, storage and retrieval of statements and documents in a centralised manner.

### **Our comments**

The notified Scheme will provide much needed clarity with respect to the processing of EL statements for example, the statement can be treated as invalid for non-compliance of procedure for using any unapproved software, filing an application to the AO for amending any intimation, etc. However, the Scheme does not provide for a personal/video hearing. In certain complex matters, the Scheme should provide a personal/video hearing option to the assessee.



<sup>5</sup> Any of the modes mentioned in sub-section (1) of section 282 of the Income-tax Act, 1961

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