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Amazon, Online Companies Struggle with New India Tax Rules

By Benjamin Parkin

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- *Deadline to comply with new e-commerce tax rules passes, but practitioners say unresolved issues remain*
- *E-commerce businesses like Amazon haven't been able to register in some states, as provision requires*

Amazon.com Inc. and other e-commerce companies could face penalties in India after missing a deadline to comply with complex new rules requiring them to collect tax at the point of sale.

Online marketplaces like Amazon and Walmart Inc.'s Flipkart Group had until Nov. 10 to deposit Indian taxes they collected under a new provision designed to help weed out evasion, which went into effect in October. But Amazon said that technical problems prevented it from doing so, and tax practitioners said other companies also faced issues registering to pay taxes under the new system.

The provision, known as tax collected at source (TCS), requires e-commerce companies to book taxes from transactions taking place on their websites and pass them on to the central and state governments where the sales took place.

But the companies haven't been able to register in a number of states, meaning they are unable to pay local authorities the taxes they owe. Though the government issued guidelines

in September designed to streamline the registration process, practitioners said some state authorities hadn't followed suit.

This exposes the companies to interest of 18 percent on the unpaid duties, along with a penalty of 10,000 Indian rupees (\$138) or the amount of tax owed, whichever is greater.

"Amazon will be compliant with applicable laws and towards this end we have submitted our application for registration in all the states," an Amazon India spokesperson told Bloomberg Tax Nov. 13. "Registrations in some of the states are still pending due to technical challenges and we are working closely with the government to resolve them."

Flipkart didn't respond to a request for comment.

"A speedier resolution is required, because the deadline has already expired. Every day the interest is accruing to them," said Anita Rastogi, an indirect tax partner at PwC. Government "should do something about it."

Tax Overhaul

TCS was first introduced as part of the government's monumental goods and services tax in July 2017. But its introduction was delayed for more than a year as businesses struggled to adapt to the new system, which went into effect on Oct. 1. The measure is designed in part to help tax officials better monitor online transactions, helping to catch vendors who aren't paying taxes and boost revenues.

A spokesperson for the Central Board of Indirect Taxes and Customs, which oversees GST, didn't respond to a request for comment. The spokesperson told Bloomberg Tax before the new rules went into effect that e-commerce companies "would not find it difficult to comply," however.

The Internet and Mobile Association of India (IAMAI), which represents Amazon, Flipkart and others, told Bloomberg Tax Nov. 13 that TCS distorts the playing field for online service providers.

In September, before the rules went into effect, IAMAI said "forceful implementation of TCS without proper clarity will create chaos for the seller community and will be a major roadblock for e-commerce transactions."

Statewide issues

Much of the challenge stems from the fact that, under TCS, the government requires e-commerce companies to register in any state in which vendors are selling through their platform, even if the businesses don't have a physical presence there. For many, this could amount to dozens of new registrations—in addition to filing new tax returns.

The central government said that e-commerce companies wouldn't need a physical presence in states to register to pay TCS. But local tax officials in some states haven't allowed some businesses to register regardless, denying or holding up their applications on the grounds that they need to have office addresses there. One practitioner said that authorities in Kerala, a

southern Indian state, rejected a client's registration application, and petitions in 12 other states were pending.

"Taking registration in all these states becomes a problem," said Tanushree Roy, a director at Nangia Advisors LLP. "It's a huge, huge compliance burden."

Saloni Roy, a senior director at Deloitte India, said the industry expects the government to clarify the issue in the coming weeks.

"Government is cognizant of the challenges," she said in an email.

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