

Taxation of E-commerce

Summary

This article is discussing comparative approaches to the definitions of the e-commerce and e-payment. The international taxation systems, direct and indirect taxation, entity isolation and "arm's length principle" applied to entity isolation problem, resident-based and source-based taxation, destination and origin principles are the general tax concepts and issues covered in the content of article. Recognition of server as a permanent establishment and "nexus" issues with regard to taxation of e-commerce is researched in context of different tax jurisdictions. Article points out the essence of electronic signature in e-commerce taxation as a solution to identification of taxpayer, jurisdiction to tax, and goods subject to taxation. In addition, the possible framework for establishing e-signature system is supported by both legal and technological suggestions provided in the article.

Annotasiya

Məqalədə müasir ticarətin sürətlə inkişaf edən sahələrindən olan elektron ticarətin, elektron ödəniş sistemlərinin anlayışlarının müqayisəli təhlili yer almışdır. Beynəlxalq vergi sistemləri, birbaşa və dolaylı vergi tutma, müəssisələrin izolyasiyası və ona qarşı tətbiq edilən "qol uzunluğu" prinsipi, rezident və gəlir mənbəyi üzrə vergiyə cəlb etmə, təyin yeri və mənbə prinsiplərinin tətbiqi məsələləri məqalənin məlumatlandırıcı hissəsini təşkil edir. Kompüter serverinin elektron ticarətdən vergi tutma obyektini olaraq "daimi təsisat" və "əlaqə" konsepsiyası rolunu oynaması və müxtəlif yurisdiksiyalarda yaranan fərqli yanaşmalar öz əksini tapmışdır. Elektron ticarətdən vergi tutmada elektron imza sisteminin tətbiqinin imtiyazları və müvafiq olaraq hüquqi və texniki nəzarət mexanizminin yaradılmasına dair təkliflər məqalənin özəyini təşkil edir.

Introduction

The growth of e-commerce is demonstrated by the statistics of the biggest online retailers of the world: Amazon (\$67.9 billion), Apple Inc. (\$18.3 billion), Staples (\$10.4 billion), Walmart (\$10 billion), Alibaba (\$7.26 billion), Sears (\$4.9 billion), Liberty Interactive (\$4.8 billion), Netflix (\$4.4 billion), Macys Inc. (\$4.2 billion), Office Depot (\$4.1 billion), Dell (\$3.6 billion).¹ E-commerce is multifaceted kind of commerce that covers both tangible and intangible goods, has multi-jurisdictional nature and difficult to define tax jurisdiction due to the location of the server, citizenship, or residence of the person registered domain name. As a result, this creates new challenges for tax authorities. Tax authorities should identify taxpayers, verify transactions, and establish a link between a taxpayer and the transactions. The tax jurisdiction of internet sales is complicated because of the location of the transaction, real value and timing of sales, source of income, determination of the property, which can be taxed, and taxpayers. This controversial issue requires both legal and

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¹ <http://www.statista.com/chart/2214/10-largest-online-retailers/> (last visited: 24.02.2015 12:57).

technological solutions. Establishing a link between a taxpayer and transaction necessitate using a reliable method of confirming the identity of vendor and buyer, the validity of a transaction, *situs* (or residence) of a taxpayer. One of the contemporary means is using the electronic signature system for overcoming abovementioned obstacles. The basic question is how e-commerce interacts with traditional principles of taxation. While some authors debate that e-commerce has not transformed the fundamentals of taxation, others argue that a need for dramatic change.² The scholars who are against the taxation of electronic commerce assumes that e-commerce tax would harm the development of e-commerce, however, the opposite group argues that the increase in online sales would end with revenue loss and decrease of public good provision and issues regarding equity.³ It is even categorized tax commentators trading in this broader discourse as 'Doubting Thomases', 'Purists', and 'Pragmatists'.⁴

I. Definition of E-commerce and E-payment

Electronic commerce could be said to comprise commercial transactions, whether between private individuals or commercial entities, which take place in or over electronic networks. The matters dealt with in the transactions could be intangibles, data products, or tangible goods. The significant aspect is the communication transactions take place over an electronic medium.⁵ These definitions cover:

- a. Business-to-Business (B2B): An e-commerce transaction between a retailer (manufacturer) and a wholesaler, such as Amazon.
- b. Business-to-Consumer (B2C): Business organization directly sells its products to the customer, such as Apple.
- c. Consumer-to-Consumer (C2C): Consumer sells his assets to another customer via an intermediate website, such as eBay.
- d. Consumer - to - Business (C2B): Consumer provides value and business consume it. For example, a consumer gives new development ideas for a software company and sells his idea to this entity.
- e. Government - to - Business (G2B): Government provides tenders, auctions for certain projects.
- f. Government - to - Citizen (G2C): Government provides a platform for its citizens (consumers) to pay taxes, register their immovable and movable property, registering birth certificate.
- g. Business-to-Government (B2G): A business organization accredited by the government provides a platform of bidding for tenders of public sector organizations and suppliers bid on the tenders.

The broader term covers e-commerce business activity and the narrower definition includes e-commerce transactions only.⁶ Based on the extent to which the Internet is utilized in the course of a transaction, e-commerce can be '*indirect e-commerce*' and '*direct e-commerce*.' Indirect e-commerce involves transaction

² Westberg, *Cross-border Taxation of E-Commerce*, (IBFD), p. 53. (2002).

³ Subhajit Basu, *Global Perspectives on E-Commerce Taxation Law*, (Ashgate), p. 15 (2007).

⁴ Cockfield 'Formulary Taxation Versus the Arm's Length Principle: The Battle Among Doubting Thomases, Purists, and Pragmatists' *Canadian Tax Journal* Vol. 52, p. 114-123 (2002).

⁵ Davies, *Computer Program Claims*, (EIPR), p. 429 (2002).

⁶ Basu, *supra* at p. 16.

where the customers use the selection, ordering and payment process (electronic cash) of the retail stores or the mail order firms who use this medium for selling, marketing, and advertising, but the delivery of product or service takes place by traditional processes. The goods and services, in digitized form, acquired directly from the internet, is referred to as 'direct e-commerce'.⁷ For example, tangible goods are considered as indirect e-commerce, in contrast, intangible goods, and data information is the type of direct e-commerce.

Electronic payments are the primary form of payment and divided into six different categories: electronic cash, smart card, electronic check and credit cards⁸, debit card, electronic fund transfer. 'Electronic money' means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions⁹, and which is accepted by a natural or legal person other than the electronic money issuer;¹⁰

II. International taxation

Direct Taxation

This taxation system is applied to the person who bears the burden and levied from him. For example, income tax from a salary of physical persons, corporate tax from income or profits of legal entities is a type of direct taxation. Regardless the different tax policies of countries, there are basic concepts used for taxation of international transactions:

- (a) Appointing tax principles of residence-based or source-based taxation that is applied to local source income accumulated by non-residents and foreign-source income of residents;
- (b) Defining the concept of permanent establishment in creating an economic nexus for maintaining jurisdiction to tax business profits;
- (c) Using substitute means as exemptions or tax credits for performing reduction in double-taxation;
- (d) Designing inter-corporation transfer pricing regulations for multinational enterprises.

Source-based (territorial) taxation principle

This approach authorizes the 'source' country to tax income/profit of non-residents which is received in its area. The origin principle is implemented in corporate income tax, payroll tax, and withholding tax. The source country should provide the definition of a source that determines its share of the tax base and tax rate to be applied to that share.

Residence-based taxation principle

The benefit principle is must in this type of taxation regime. In this case,

⁷ *Ibid.* 3, p. 18.

⁸ Doernberg and Hinnekens, *Electronic Commerce and International Taxation*, (Kluwer Law International), p. 92 (1999).

⁹ See. 'payment transaction' means an act, initiated by the payer, or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee; (*Point 5 of Article 4 of Directive 2007/64/EC of the European Parliament and of the Council*), Official Journal of the European Union, (2007), L 319|11.

¹⁰ *Point 2 of Article 2 of Directive 2009/110/EC of the European Parliament and of the Council*, Official Journal of the European Union, (2009), L 267|11.

country proclaims jurisdiction to tax the international income of residents, in spite of source, and it includes the interest, capital gains, royalty, and dividends which are not directly connected to property in another jurisdiction. The place of registration, incorporation or place of central management and control of a corporation has been usually the jurisdiction of residency. The main problem of this principle is the tax evasion by channeling international investment through tax havens.

Double taxation

One resident of the country makes its profit in other countries can be subject to both resident-based and source-based taxation and this constitute the double taxation. Three basic forms of double taxation: 1) residence-residence; 2) residence-source; and 3) source-source double taxation. Country of residence may avoid double taxation in income from source country by granting a tax credit to its residents for paying taxes to such jurisdiction or exempting the extraterritorial source income from the taxable income base of its residents.

Transfer Pricing

The multinational enterprises (MNEs) allocating the costs between its units for goods or services supplied. MNEs deliberately transfer the profits to its subsidiaries to avoid paying taxes or duties in one particular country. Allocating costs mean that MNEs do commercial transactions between themselves and control the prices depending on which jurisdiction they wanted the money remain in.¹¹ The arm's length principle is applied for regulating transfer pricing issues. In determining the true taxable income of a controlled taxpayer, the standard to be applied in every case is that of a taxpayer dealing at arm's length with an uncontrolled taxpayer. A controlled transaction meets the arm's length standard if the results of the transaction are consistent with the results that would have been realized if uncontrolled taxpayers had engaged in the same transaction under the same circumstances (arm's length result).¹²

Indirect Taxation

European model of value-added tax (VAT) or the US model of sales tax is an indirect and multi-stage consumption tax. U.S. lawmakers are finding appeal in an ambitious concept for overhauling the nation's income-tax system: a tax based on consumption, which is renowned in world tax practice. Lawmakers believe that moving away from taxation of income and toward taxation of consumption is economically beneficial and easy to control as European-style value-added taxes, a type of sales tax that is collected at each stage of the production process; traditional sales taxes; and taxes on carbon-based pollution.¹³ The actual taxpayer that is the person who bears the financial burden of the tax does not pay the tax directly to the public treasury. The distinction between direct and indirect taxes relates to whether the person who actually pays the money over to the tax collecting authority suffers a corresponding reduction in his income.¹⁴

Destination or Origin principle

¹¹ Basu, *supra* at p. 53.

¹² See. CFR, § 1.482-1.

¹³ John D. McKinnon, *Tax Proposals Would Move U.S. Closer to Global Norm*, (March 29, 2015 4:01 p.m. ET), <http://www.wsj.com/articles/tax-proposals-would-move-u-s-closer-to-global-norm-1427659773>.

¹⁴ *Ibid.* 11, p. 56.

Destination principle leads to the exemption of exports from consumption tax, for example, VAT or a sales tax and the tax imposed by the rate established by importing country, where is the place of consumption. However, in origin principle, the tax imposed in the place of production. These two principles are analogous to the source and resident principles of direct taxation. Origin principle is widely used by firms to produce in low-tax countries. The destination principle is supported by the European Union (EU), World Trade Organization (WTO), and the OECD. Origin principle is rarely applied in trade practice, except for trade among the members of the former Soviet Union.¹⁵

VAT and EU practice

The European Union requires all non-EU corporations selling services and digital goods online to consumers within Union to register in an EU tax authority for collecting, remitting the value-added tax according to E-commerce VAT Directive which is VAT applicable to radio and television broadcasting services and electronically supplied services. Non-resident companies can register with an interim arrangement that will function as a clearinghouse for distribution of VAT for each EU member state. Member state will distribute the value-added tax to relevant member countries where the digital goods and services were sold. This directive is mainly proposed for solving problems of taxation in business-to-consumer (B2C) sales. As will be discussed in the next part of this article, the status of a server as a permanent establishment is controversial in different jurisdictions. The European Court of Justice has held that machinery (server) alone cannot constitute a permanent establishment for VAT purposes in EU jurisdiction.¹⁶

III. Legal basis of cyber taxation

The OECD is a Paris-based international organization that establishes legal initiatives for uniform international tax principles among its thirty-four members.¹⁷ According to the Ottawa Taxation Framework Conditions of OECD for electronic commerce, the parties have agreed on the following taxation principles:

- Neutrality - taxation should seek to be neutral and equitable between forms of electronic commerce and between conventional and electronic forms of commerce. Business decisions should be motivated by economic rather than tax considerations. Taxpayers in similar situations carrying out similar transactions should be subject to similar levels of taxation.
- Efficiency - compliance costs for taxpayers and administrative costs for the tax authorities should be minimized as far as possible.
- Certainty and simplicity - the tax rules should be clear and simple to understand so that taxpayers can anticipate the tax consequences in

¹⁵ Lighthart, J.E., *Consumption Taxation in a Digital World: A Primer*, *Canadian Tax Journal*, vol. 52, No. 4 p. 1079. (2002).

¹⁶ See Marcellin N. Mbwa-Mboma, *France, OECD Take Different Views of Unstaffed Servers as Permanent Establishments*, *TAX NOTES INT'L*, p. 1107. (2002).

¹⁷ See Organization for Economic Co-operation and Development, *Model Tax Convention on Income and on Capital* (Paris, OECD, 2000) (hereinafter OECD Model Tax Treaty).

advance of a transaction, including knowing when, where, and how the tax is to be accounted.

- *Effectiveness and Fairness* - taxation should produce the right amount of tax at the right time. The potential for tax evasion and avoidance should be minimized while keeping counteracting measures proportionate to the risks involved.
- *Flexibility* - the systems for the taxation should be flexible and dynamic to ensure that they keep pace with technological and commercial developments.

[Permanent Establishment] - The Commentary of OECD Model Tax Treaty was amended to comply with contemporary e-commerce transactions involving software, digital content.¹⁸ Taxation of e-commerce is dependent on the permanent establishment (PE). The model tax convention provides the definition of permanent establishment “fixed place of business through which the business of an enterprise is wholly or partly carried on” and it includes: a place of management; a branch; an office; a factory; a workshop.¹⁹ If we apply this rule to electronic commerce, a server will constitute a permanent establishment in following conditions: [1] server processes a cross-border transaction;²⁰ [2] the server is owned or leased by the non-resident entity;²¹ and [3] the server is established in a location for a sufficient period of time.²² The internet website is a combination of software and electronic data and does not constitute a permanent establishment, however the server which hosts the internet website is considered as permanent establishment and the place of this establishment is a “fixed place of business”.²³ Aside to the list of places counted as permanent establishment, there are following activities are omitted from this definition:

- The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- The maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- The maintenance of a fixed place of business solely for any combination of activities in place of management, branch, office,

¹⁸ *Id.*, C (12) – C (17).

¹⁹ *Ibid.* 11, Article 5.

²⁰ *Id.*, C (5) 42.8, at C (5).

²¹ *Id.*, C (5) 42.8, at C (5) - If e-commerce entity leases a hosting space on a foreign server it will not constitute a permanent jurisdiction in foreign jurisdiction.

²² *Id.*, C (5) 42.4.

²³ *Id.*, C (5) 42.2

factory, workshop, provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.²⁴

A Server is not considered as a permanent establishment but constitutes a fixed place of business, because the server performs auxiliary or preparatory activities according to the directive issued by the Karlsruhe Regional Tax Office in Germany. However, according to the case in first German tax court to deal with the question that the status of the server as a permanent establishment which is based in Switzerland and in possession of German corporation would form PE in the area of Switzerland corresponding to the Tax Treaty concluded between Germany and Switzerland. The digital content transmitted to the Swiss-based server by a German corporation that gained access to the Swiss customers. The court referred to its earlier precedent in decision held that underground pipeline constitute a PE without the presence of personnel.²⁵ Beside the permanent establishment, there is a place of performing work or rendering services according to the legislation of some countries.²⁶

[Nexus] – is a legal term which means “connection” and it is used in the United States for collecting sales tax. Sales tax consists of two different parts: (a) *sales tax* – is paid for in-state transactions; (b) *use tax* – is paid for out-of-state (remote seller) transactions.²⁷ The nexus is a barrier for tax authorities of local states because *stare decisis* establishes certain requirements for a reasonable connection between a taxpayer and tax authority. The US Supreme Court case *Quill Corp. v. North Dakota* defines the borders of use tax nexus for remote sellers by demanding the physical presence of a remote vendor in the buyer's state.²⁸ This requirement was illustrated as a bright line rule that promotes fairness, efficiency and predictability in the imposition of use tax collection. Some authors try to include many elements to enlarge this definition.²⁹ Nexus is established if an entity upholds a temporary or permanent presence of people (independent sales/service, service people or agents, employees) or property (warehouses, offices, inventory). The temporary presence is constructed by way of traveling people pay a visit to states to call on customers or prospects, trade show attendance, or entrusted inventory in warehouses. The list of elements which may create a nexus between a taxpayer and tax authority is varied from state to state. In *National Bellas Hess v. Department of Revenue* case Court stated that tax authority cannot apply the use tax collection against the remote seller by referring to only connection established via mail and common carrier services that the delivery process is not managed by an entity itself.³⁰ The court

²⁴ *Ibid.* 11, Article 5.

²⁵ Arthur J. Cockfield, *The rise of the OECD as informal 'World Tax Organization' through national response to e-commerce tax challenges*, Yale Journal of Law and Technology, vol. 8, p. 151 (2006)

²⁶ location of registration place of the entity buying works or services via computer, Internet and other electronic networks, e-mail and other similar means or granting of rights to use such networks or services. – *Article 168.1.5 of Tax Code of the Republic of Azerbaijan.*

²⁷ *Quill Corp.*, 504 U.S. at 310–11 (1992).

²⁸ *See id.*

²⁹ See. Karl Frieden, *Cybertaxation: The taxation of e-commerce*, p. 300–16 (2000)- For example, he includes the physical presence of an Internet service provider (“ISP”) with which an electronic retailer has a contractual relationship or the presence of a website on an in-state server

³⁰ See 386 U.S. 753, 758(1967).

precedents define four conditions to be followed (1) that the taxpayer has substantial nexus with the taxing state; (2) that the tax being imposed has a substantial relationship to the services provided; (3) that the tax be fairly apportioned; and (4) that the tax not discriminate against interstate commerce.³¹

Giant brick and mortar retailers have utilized the policy known as entity isolation to evade state sales and use tax levied from e-commerce sales. Entity isolation encompasses a parent company with a physical presence in other states, creating a subsidiary with a physical presence in a just single state for the purpose of operating an e-commerce performance. The subsidiary entity is a separate corporation and therefore, is not legally considered an agent of the parent company. The subsidiary can then run business over the internet in all states yet not pay sales or use tax anywhere except the one state in which it is located, which may have no such tax. The affiliate nexus doctrine means that nexus can be established through in-state affiliates, and some states may use to establish nexus with remote sellers. However, this theory is widely regarded as a counter to the established doctrines of corporate and tax law. The traditional argument opposing the adoption of an affiliate nexus doctrine is that respect for the independence of corporate entities is essential to the proper functioning of corporations in a competitive marketplace. Examples of cases where states' efforts to establish affiliate nexus unsuccessful include *Bloomington's by Mail Ltd. v. Commonwealth Department of Revenue*³² in Pennsylvania, *SFA Folio Collections, Inc. v. Tracy*³³ in Ohio, and *SFA Folio Collections, Inc. v. Bannon*³⁴ in Connecticut. However, if multi-corporate enterprise accomplishes uniform business should be considered as solitary enterprise.³⁵

IV. E-signature and E-commerce taxation

Tax evasion and tax avoidance

There are two primary issues to identify the tax base and then to enforce the tax in a taxation of e-commerce. 'The anonymity and mobility of e-commerce makes taxation more difficult.' Even if they can identify and measure the tax base, how can they enforce taxation without third party intervention which is the practical basis of tax withholding?³⁶ In an e-commerce environment, the possibilities of hiding transactions are vast and the possibilities of identifying the parties to a transaction are in many cases virtually non-existent and this creates tax avoidance and tax evasion. Tax evasion is unlawful in any jurisdiction. Many corporations choose to locate their corporate place of management to conduct their commercial activities from states that offer low or no taxation. Such characteristics include places that are not suitable for the particular business, high employment costs, low education levels, poor infrastructure, political instability or a small consumer base. However, e-commerce is not subject to the physical restraints as a traditional business that is physically established. For

³¹ Complete Auto, 430 U.S. 274 (1977)

³² 4567 A.2d 773 (Pa. Commonwealth Ct. 1989), 591 A.2d 1047 (Pa. 1991).

³³ 3652 N.E.2d 693 (Ohio 1995).

³⁴ 2585 A.2d 666 (Conn. 1991), cert. denied, 501 U.S. 1223 (1991).

³⁵ John A. Swain, *Cybertaxation and the Commerce Clause: Entity Isolation or Affiliate Nexus?*, 75 S. Cal. L. Rev. 419, 464-67 (2002).

³⁶ Cockfield, A.J. 'Transforming the Internet into a Taxable Forum: A Case Study in E-Commerce Taxation.' *Minnesota Law Review* Vol. 85, p. 1171-1266, (2001).

example, an entity in the high taxing state can easily create a website with a server which operates from a tax haven jurisdiction. That company will easily sell its products to customers while having its financial information veiled by the privacy protection that usually tax haven country provides. States cannot rely on physical controls to prevent or deter tax avoidance and evasion on a category of digital goods and services can be transacted entirely over the internet.³⁷

E-signature and taxation

“Electronic signature” means data in electronic form in, affixed to or logically associated with, a data message, which may be used to identify the signatory in relation to the data message and to indicate the signatory approval of the information contained in the data message.³⁸ E-signature can be easily used in commercial transactions which are not limited to, supply or exchange of goods and services, investment, financing, banking, insurance, concession, joint venture, leasing, licensing, carriage of goods, and other transactions in this matter. An electronic signature is reliable solution to the following legal problems: 1) legal capacity of signatory determined by *lex domicilii*, *lex patriae*, or *lex incorporotionis*; 2) *situs* (or residence) of signatory;³⁹ 3) falsification of signatures. Legal capacity is one of the main requirements for the validity of a transaction, thus, there is an age of legal capacity for concluding an agreement in each state. Promptly, China is expanding control over the loosely regulated world of Chinese e-commerce, a prosperous sector that has created behemoths such as Alibaba Group Holding Ltd. but has also drawn opprobrium for not adequately policing fake and counterfeit goods and dubious business practices.⁴⁰ As it is seen from real business practice, faking transactions is another problem in e-commerce, the validation of e-transactions by e-signature is a good solution. The place of a signatory is essential for taxation purpose because it defines the residency and source income for jurisdiction to tax. It is sometimes easy to falsify the written signature. These problems can be solved by setting e-signature requirement in electronic commerce. The base of a tax is the thing, transaction or amount on which the tax is erected. There are income, consumption, and wealth as types of a tax base for direct taxation. Identification of tax base in e-commerce is quite a complex issue because online retailers can easily change the price of goods, burden additional hidden costs which hide the real price of goods or services. E-signature should be used for taxation of e-commerce in following procedures:

1. States should impose a requirement for registration of natural and legal persons to take part in e-commerce transactions by bilateral or unilateral treaty for both compulsions of registration and avoiding double taxation. Contracting states may prohibit e-commerce relations with non-contracting states which probably is offshore zones (or

³⁷ Basu, *supra* at p. 104-105.

³⁸ Article 2 (b) of UNCITRAL Model Law on Electronic Signatures

³⁹ *See. Ibid.* 38, Article 2 (d). - means a person that holds signature creation data and acts either on its own behalf or on behalf of the person it represents.

⁴⁰ Kathy Chu and Gillian Wong, *China Tries to Clean Up E-Commerce*, (April 1, 2015 2:48 p.m. ET), <http://www.wsj.com/articles/china-tries-to-clean-up-e-commerce-1427894413>, - The Ministry of Commerce said it wants to curb the practice of falsely boosting the credibility of merchants—known as “brushing” in China—by faking transactions and customer reviews.

tax heavens) and is not intended to disclose the financial information of servers operating in its area or company registered there.

2. A tax authority of the taxing state will be able to identify the place and identity of seller for direct taxation or consumer for indirect taxation as a taxpayer.
3. Any entity which is going to engage in electronic commerce should get registered in tax authority and get certificate of e-signature for the legal entity, if it is not so, non-registered entity should bear administrative or criminal liability for tax evasion.
4. The establishment of online selling by website should be designed in the following way: the person (entity) which is online retailer should locate its e-signature on the server for concluding a transaction automatically in case of bulk offers by several buyers, and consumer should use its own authentic code given for personal e-signature for verification of order and payment. After validation of commercial transaction, the payment transaction is registered in the system of the bank which consumer has an account. The tax authority can impose a tax on the profit gained via automatically registered payment transactions in the bank account and transfer the levied tax to the account of the tax authority. Beside direct taxation, this can be even VAT or sales tax as an indirect method.
5. Nowadays, technology is highly developed and is able to filter the websites which deal with e-commerce without registration and any state is able to block such online retailers that is not registered in place of location and evading from residence or source-based taxation.
6. E-signature is suitable for tangible, intangible or data products. Main difficulty laid on the digital content such as applications, software, music, video, templates for web development and etc. In contrast, an electronic signature is a pure solution for taxation of sales of these products. In case of tangible goods, the customs authorities or post offices should check the validity of transaction by checking affixed barcode on the delivery box which can be decrypted only by the system of these authorities while exporting the goods out of the state where vendor located or shipping from warehouse owned by this entity.

The above-mentioned methods are the possible technique of enforcement of taxation in e-commerce.

Conclusion

As technological progress is going to grow, the outcome of this process becomes more complex and creates additional obstacles for tax authorities, but make more opportunities for tax evaders. The volume of e-commerce raised by billions of dollars in a previous decade and it competes with other big physical traders even more than car manufacturers, oil companies, medical corporations. This growth draws the attention of state authorities and its taxation is potential revenue for a state budget. The legal uniformity is the main requirement for

taxation of electronic commerce, and it is possible only by drafting a multilateral treaty for avoiding double taxation and putting the burden on states, natural and legal persons for registration of e-signature. Both legal and technological solutions are needed for overcoming the problem of taxation. Whether it is direct or indirect taxation, this method is a successful way of achievement in e-commerce taxation. It also solves the validity of an electronic contract which approves the age of a person acquires legal capacity to perform his civil rights. There needs an interaction of legal regulation and technical development. The unified system of banking, e-signature database, customs and post delivery services would give better results in taxation. Server as a permanent establishment is controversial in many jurisdictions, because there is no uniform interpretation and a single approach to the definition, so binding treaty between states is the only legal course that would be constructive. The main issues such as identification of taxpayers, their location, defining tax base and enforcing taxation of these elements are the main focus area of tax policy of each state, and combination of legal and digital instruments would be beneficial for elucidating tax avoidance and tax evasion in electronic commerce.