



CBDT notifies threshold for Significant Economic Presence

CBDT today notified new Rule 11UD in the Income-tax Rules, 1962 vide the Income-tax (13th Amendment) Rules, 2021. The rule provides for threshold for for significant economic presence, that will come into effect from April 1, 2022.

While aggregate of payments arising from transaction(s) for goods, services or property carried out by a non-resident with any person in India, (including provision of download of data or software in India) is capped at 2 crores, number of users with whom systematic and continuous business activities are solicited or who are engaged in interaction is stated as 3 lacs in the gazette notification. While SEP was first introduced in India vide Finance Act, 2018, in her budget speech last year, the finance minister had deferred its enactment to Financial Year 2021-22 as G-20 OECD report on digital economy was being expected by that time. CBDT has gone ahead and notified Rule 11UD, which pertinent to note, applies from April 1, 2022.

Text of the new Rule is reproduced hereunder for ready reference:

11UD. Thresholds for the purposes of significant economic presence. —

(1) For the purposes of clause (a) of Explanation 2A to clause (i) of sub-section (1) of section 9, the amount of aggregate of payments arising from transaction or transactions in respect of any goods, services or property carried out by a nonresident with any person in India, including provision of download of data or software in India during the previous year, shall be two crore rupees;

(2) For the purposes of clause (b) of Explanation 2A to clause (i) of sub-section (1) of section 9, the number of users with whom systematic and continuous business activities are solicited or who are engaged in interaction shall be three lakhs.

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