

# E-Audits & Equalisation Levy

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exceeding expectations  
SINCE 1985

# Introduction of E-Audit / Faceless Assessment

- 15 million return filed every year. In FY 2018-19, 0.26% of these returns were scrutinized/audited
- Physical interaction of a taxpayer with the Income Tax Department is done away with, for the purposes of audit
- Cases of taxpayers will now be allocated for audit through an automated process
- The audit will now take place via a centralized process through the National E-Assessment Centre

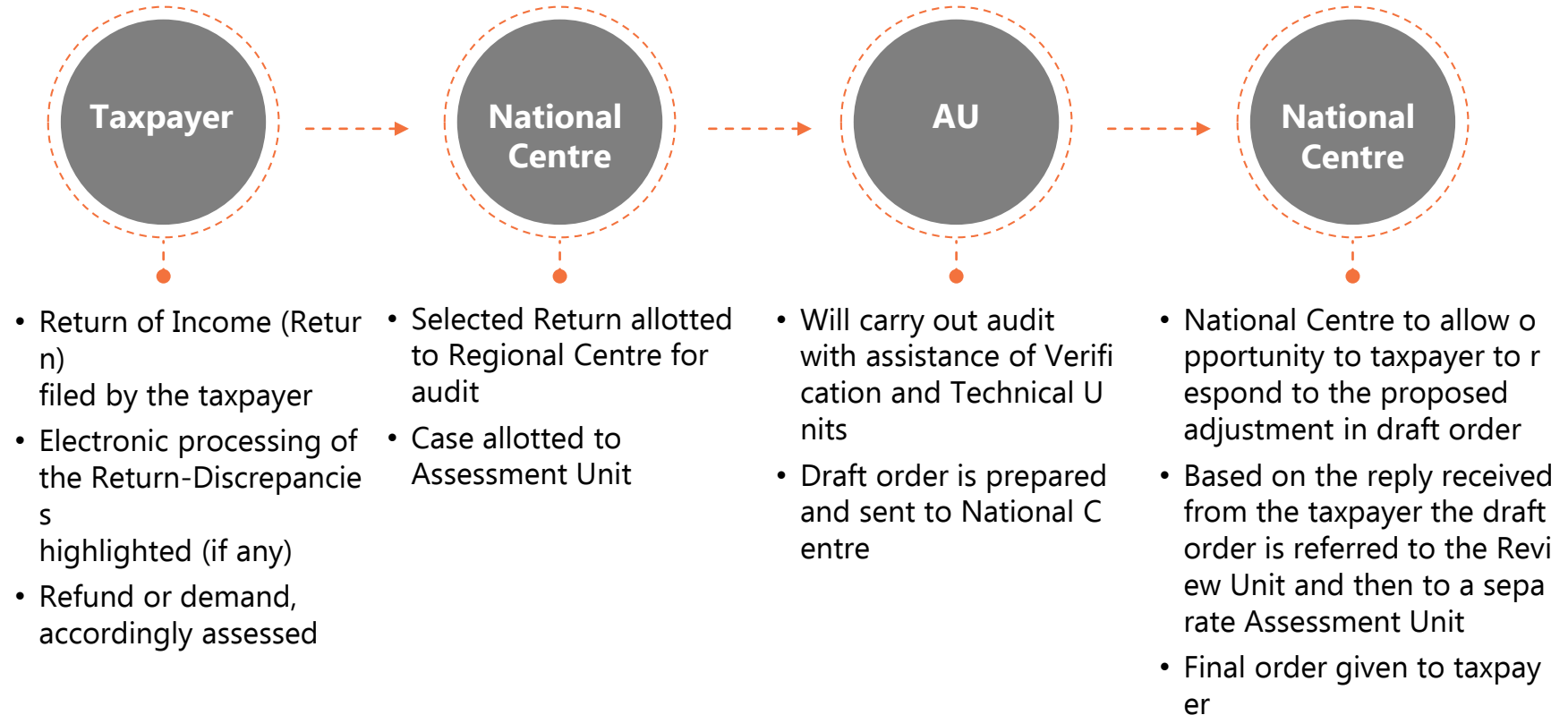


# Introduction of E-Audit / Faceless Assessment

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- Creation of specific units for audits / assessments under the Regional E-Assessment Centre (Regional Centre) and roles of such units will be:
  - Assessment unit : Will identify points for determination of liability and will complete the audit
  - Verification unit: Will carry out enquiry, examination of books of accounts, recording of statements etc.
  - Technical Unit: Will provide assistance on aspects relating to legal, accounting, valuation, transfer pricing etc.
  - Review Unit: Will review draft assessment order, prepared by the AU, before it is communicated to the taxpayer

# E-Audit: Process



# Equalisation Levy

# Overview of Equalization Levy (EL 2020)

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- Effective from April 1, 2020
- **The transaction** - e-commerce supply of goods or provision of services or both to a person
  - resident in India, or
  - who buys goods or services or both using IP address located in India
- **The Rate** - 2% of consideration
- **The Tax payer** - Non-resident e-commerce operator
- **The Penalty** - Equal to the amount of default
- **The Exceptions**
  - Gross receipts < INR 20 Mn (USD 0.27 Mn); or
  - PE of non-resident in India

# Digital Services Tax vs. Equalisation Levy

Particulars	France- Digital Services Tax GAFA Tax- Google Apple Facebook Amazon	Digital Services Tax (UK)	Equalisation Levy (India)
Applicability on	<ul style="list-style-type: none"> <li>Advertising services</li> <li>Services of online marketplace (whether included?)</li> </ul>	<ul style="list-style-type: none"> <li>A social media platform</li> <li>An internet search engine</li> <li>Online marketplace (incl. advertising)</li> </ul>	<ul style="list-style-type: none"> <li>online sale of goods</li> <li>online provision of services</li> </ul>
Levy	3% of French digital revenues	2% of UK digital revenues	2% of consideration
Threshold	Global Digital Revenue $\geq$ € 750Mn French Digital Revenue $\geq$ € 25Mn	Global Digital Revenue $\geq$ £ 500 Mn UK Digital Revenue $\geq$ £ 25 Mn	Gross receipts < INR 20 Mn (\$ 270,000)
Exclusions	<ul style="list-style-type: none"> <li>E-commerce sales/provision</li> <li>Messaging and payment services</li> <li>Sale of data not gathered online</li> <li>Regulated financial services</li> <li>Targeted advertisement services</li> </ul>	Financial service providers	PE in India



# Interplay with Treaty Obligations

- It is not a tax on income but is a tax on the transaction
- Imposed when there is no Permanent Establishment in India
- No credit mechanism for tax already paid in source country
- The concept of EL is outside the purview of 'taxes' as defined in tax treaties
- Equalisation levy is imposed under a different statute and not the Income Tax Act.
- Whether benefit of double tax treaty available?





# Question for the audience

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How can double tax treaty issues with Digital Service Taxes be addressed?