

## **BDO Canada**

### **Budget 2021: Sales and excise tax measures**

April 20, 2021

#### **Application of the GST/HST to e-commerce**

The Budget proposes amendments to how the Goods and Services Tax (GST)/Harmonized Sales Tax (HST) will be applied to cross-border digital services and property and to the associated draft legislation that the federal government announced in late November 2020 as part of its Fall Economic Statement. These amendments are intended to increase the effectiveness of the draft legislation and to clarify the application of certain provisions.

The proposed changes are set to come into force on July 1, 2021. The proposals will require certain non-resident vendors and operators of online platforms to register for, collect, and remit GST/HST on the following:

- Sales of digital products and services provided to Canadian customers,
- Goods supplied through fulfillment warehouses located in Canada and made by non-resident vendors directly through websites, and
- Supplies made via short-term accommodation platforms.

#### **Supplies of digital property and services**

The initially proposed rules require non-resident vendors supplying digital property and services to consumers in Canada to register for and collect GST/HST on these taxable supplies to Canadian consumers.

These new requirements will apply to non-resident vendors and distribution platform operators whose revenue from taxable supplies of property and/or services exceed, or are expected to exceed, CA\$30,000 over a 12-month period. A new simplified framework will be used for registration and input tax credits will not be available to registrants using the simplified framework.

#### **Goods supplied through fulfillment warehouses and through websites**

Distribution platform operators will be required to register to collect and remit GST/HST on sales of goods located in warehouses in Canada if the sales are made through that platform by non-registered vendors. Non-resident vendors using Canadian fulfillment warehouses to sell in Canada without the use of a distribution platform will also be required to register for and collect GST/HST under the normal rules.

These new requirements will apply to non-resident vendors and distribution platform operators whose revenue from taxable supplies of property and/or services exceed, or are expected to exceed, CA\$30,000 over a 12-month period. A new simplified framework will be used for registration and input tax credits will not be available to registrants using the simplified framework.

#### **Short-term accommodation platforms**

GST/HST will apply to all supplies of short-term accommodation, generally a residential complex or unit supplied for periods of less than 30 days and for more than CA\$20/day, supplied in Canada through an accommodation platform.

The federal government proposed the following changes to the original digital sales tax provisions announced in November:

- Joint and several, or solidary, liability will be imposed on platform operators and third-party suppliers where false information is provided that impacts the collection and remittance of GST/HST by the platform operator.
- Liability on the platform operator for errors resulting from information provided by third-party suppliers will be limited, instead making the third-party supplier liable for any GST/HST in question.
- Those using the simplified framework will be eligible to deduct amounts for bad debts and certain HST point of sale rebates from the tax that the registrants must remit.
- Public libraries and similar institutions are eligible for a rebate of GST on audio books purchased from suppliers using the simplified framework.
- The CA\$30,000 registration threshold used to determine the requirement of a non-resident or distribution platform operator to become registered is not required to include zero-rated supplies made by the person.
- Short-term accommodation platform operators and non-resident vendors with goods situated in fulfillment warehouses are only required to provide an Annual Information Return if registered, or required to be registered, for GST/HST.
- The CRA will have the authority to register persons that are required to be registered under the simplified framework, a rule that already exists under the traditional registration framework.
- The CRA will take a “practical approach to compliance and exercise discretion in administering these measures” for the 12-month transition period following July 1, 2021 for businesses and platform operators impacted by these changes that can demonstrate that they have taken reasonable measures to comply but for operational reasons cannot meet the new requirements.

Please see our article [“Digital Sales Tax in Canada”](#) for more details about the proposed changes.

### **Input tax credit information requirements**

The Budget proposes to increase the current Input Tax Credit (ITC) information thresholds to \$100 (from \$30) and \$500 (from \$150), and to allow billing agents to be treated as intermediaries for purposes of the ITC information rules. Under the GST/HST, businesses can claim input tax credits to recover the GST/HST that they pay for goods and services used as inputs in their commercial activities. These measures would come into force on April 20, 2021.

### **GST New Housing Rebate conditions**

The Budget proposes to broaden the eligibility for the GST New Housing Rebate.

It proposes to remove the condition under the GST New Housing Rebate that where two or more individuals buy a new home together, each of them must be acquiring the home for use as their primary place of residence or the primary place of residence of a relation. The Budget proposes the GST New Housing Rebate would be available as long as the new home is acquired for use as the primary place of residence of any one of the purchasers or a relation of any one of the purchasers.

The GST New Housing Rebate entitles homebuyers to recover 36% of the GST (or the federal component of the HST) paid on the purchase of a new home priced up to \$350,000. The maximum rebate

is \$6,300. The GST New Housing Rebate is phased out for new homes priced between \$350,000 and \$450,000. There is no GST New Housing Rebate for new homes priced at \$450,000 or more.

This measure would apply to a supply made under an agreement of purchase and sale entered into after April 19, 2021. However, in the case of a rebate for owner-built homes, the measure would apply where construction or substantial renovation of the residential complex is substantially completed after April 19, 2021.

### **Rebate of Excise Tax for goods purchased by provinces**

The Budget proposes to clarify which party is eligible to claim the provincial-use rebate for Excise Tax for goods purchased by provinces.

The Budget proposes to create a joint election mechanism to specify that the vendor alone would be eligible to apply for the rebate only if it jointly elects with the province to be the eligible party. If a joint election was not made, only the province would be eligible to apply for the rebate. This measure would apply in relation to these goods purchased or imported by a province on or after January 1, 2022.

### **Excise duty on tobacco**

The Budget proposes to increase the tobacco excise duty rate by \$4 per carton of 200 cigarettes, along with corresponding increases to the excise duty rates for other tobacco products.

### **Excise duty on vaping products**

The Budget proposes to implement a tax on vaping products in 2022 through the introduction of a new excise duty framework.

The proposed framework would impose a single flat rate duty on every 10 ml of vaping liquid or fraction thereof, within an immediate container (i.e., the container holding the liquid itself). The rate could be in the order of \$1 per 10 ml or fraction thereof, and the excise duty would be calculated and imposed based on the volume of the smallest immediate container holding the liquid.

The CRA would be responsible for administering and enforcing the new excise duty framework for vaping products, including ensuring compliance with the general application and administrative rules contained in the Excise Tax Act. The Canada Border Services Agency would be responsible for administering and enforcing the framework at the border. The government invites input from industry and stakeholders on these proposals to help ensure the effective imposition and collection of excise duties on vaping products.

For more information, please contact:

[Dave Walsh](#), Managing Partner, Tax Service Line

[Brian Morcombe](#), Partner, Indirect Tax Practice Leader

The information in this publication is current as of April 19, 2021.

This publication has been carefully prepared, but it has been written in general terms and should be seen as broad guidance only. The publication cannot be relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained therein without obtaining specific professional advice. Please contact BDO Canada LLP to discuss these matters in the context of your particular circumstances. BDO Canada LLP, its partners, employees and agents do not accept or assume

any liability or duty of care for any loss arising from any action taken or not taken by anyone in reliance on the information in this publication or for any decision based on it.

BDO Canada LLP, a Canadian limited liability partnership, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.

Reproduced by permission.