



## Canadian Tax & Legal Alert

# ITA Part XX: new tax reporting obligations for digital platform operators to be introduced on January 1, 2024

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On November 3, 2022, the Department of Finance Canada released draft legislation to amend the *Income Tax Act* (ITA), by adding Part XX, to implement new reporting obligations for digital platform operators. A consultation period concluded on January 6, 2023, and these new reporting rules are proposed to be in force on January 1, 2024.

### Background

The taxation of the digital economy has been under increasingly widespread scrutiny. There is a concern amongst tax authorities that sellers and service providers deriving income through digital platforms, especially individuals and small businesses, may be miscalculating their tax obligations. Tax authorities are seeking enhanced transparency of information on income derived by sellers on digital platforms and digital marketplaces. To address these concerns, the Organisation for Economic Co-operation and Development (OECD) developed the *Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and GIG Economy*. A number of jurisdictions have agreed to participate and introduced reporting measures requiring platform operators to communicate the revenues received by platform sellers to the tax authorities. Late adopters of this regime, including Canada with its Part XX proposed amendments to the ITA, are planning to introduce similar measures in the near future. This alert provides a summary of the key points organizations should consider when preparing for the upcoming reporting obligations.

## ITA, Part XX

### Reportable sellers

The reporting rules for digital platform operators would apply in respect of platforms that allow sellers to be connected with customers to provide, for remuneration, **relevant activities or services** in the following four categories:

- Provision of a personal service (time- or task-based work carried out either online, or physically offline, after having been facilitated via a platform)
- Rental of immovable property (e.g., accommodation)
- Sale of goods
- Rental of a means of transport

### Reporting digital platform operators

The Part XX regime would essentially impose new reporting obligations in Canada for both **Canadian and non-Canadian digital platform operators**. In principle, a digital platform operator is required to comply with the new reporting obligations when it contracts with sellers to make the platform available to such sellers and one of the following conditions is met:

- a) The digital platform operator **is resident in Canada**;
- b) The digital platform operator **is resident or incorporated or managed in a partner jurisdiction**<sup>1</sup> and facilitates the provision of relevant activities by sellers resident in Canada or with respect to rental of immovable property located in Canada and elects to be a reporting platform operator; or
- c) The digital platform operator **is not a resident in Canada or a partner jurisdiction**, and it facilitates the provision of relevant activities by sellers resident in Canada or with respect to rental of immovable property located in Canada.

### Sellers and seller information

The new regime requires platform operators to collect information on wide range of sellers, both individuals and companies and also provides for the definition of **excluded sellers**, which represent a limited compliance risk. Examples of excluded sellers include:

- Companies of which the stock is regularly traded on an established securities market
- Government agencies
- Large providers of hotel accommodations
- Sellers with less than 30 relevant activities for the sale of goods and less than 2,000 EUR paid or credited during the reportable period

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<sup>1</sup> “partner jurisdiction” means each jurisdiction identified as a partner jurisdiction by the Minister on the Internet website of the Canada Revenue Agency or by any other means that the Minister considers appropriate.

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The following information on sellers (individuals and entities, as applicable) would be **collected, verified and reported** to both the Canada Revenue Agency (CRA) and each seller:

- Name
- Address
- Date of birth
- Tax identification number(s) (TIN)
- Business registration number
- Financial account identifier
- Address of the property rented and number of days it was rented during the year
- Total consideration paid to the seller each quarter
- Any fees, commissions or taxes withheld or charges by the platform operator during each quarter

### Due diligence procedures and reporting deadlines

Procedures of collection and verification of seller information would need to be completed at the least by the end of the first reportable period (i.e., December 31, 2024, for calendar year 2024). A **grace period** would be granted for sellers that were already registered on the platform before the entry into force of Part XX. The **first reporting deadline** would be January 31, 2025, for sellers signed up in 2024; January 31, 2026, would be the reporting deadline for the entire population of active sellers on a platform.

### Automatic exchange of information

The other key element of this regime is that it would provide the tax authorities with the tools to automatically exchange information. Platform operators would collect the required data on their separate sellers and report that data to their local tax authorities. Tax authorities would then automatically exchange this information with other participating tax authorities where an agreement is in place.

### Penalties

There would be penalties for non-compliance imposed to both platform operators and sellers:

- A **seller** who fails to provide upon request its TIN to a reporting platform operator would be liable to a penalty of \$500 for each such failure;
- A **reporting platform operator** who fails to file one or more information returns would be liable to penalties described in subsection 162(7.01) of the ITA.

### Impact

The compliance burden for Canadian digital platform operators is likely to increase significantly as a result of these legislative developments. Affected businesses need to be proactive to ensure that they are adequately prepared for the new administrative requirements since they are likely to have implications related to terms of agreements with service providers and existing information technology processes. Careful consideration should also be given to the potential interaction with other areas of law, such as personal data protection, when the information collected concerns individuals. Digital platform operators should assess the best approach to communicate this regime to their sellers and to provide the information subject to reporting to each seller on an annual basis.

### How can Deloitte help you?

Deloitte's professionals can help you understand how these measures may impact your business. If you have questions on any of the above, please reach out to your Deloitte advisor or any of the individuals noted on this alert.



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