



Expanded mandatory disclosure reporting

September 2022



Proposed legislation on Mandatory Disclosure Reporting (MDR) in Canada will significantly expand the requirement to disclose certain transactions. KPMG can help you navigate the changes and make the appropriate disclosures.

Overview

On August 9, 2022, after consulting with stakeholders on previously released proposals, the Department of Finance released updated draft legislation with expanded MDR rules. The updated rules include:

- A lower threshold for reportable transactions involving one of contingent fee arrangements, confidential protections contractual protections, where it can reasonably be concluded that one of the main purposes of entering into the transaction is to obtain a tax benefit.
- A category of “notifiable transactions” that includes transactions the CRA finds to be abusive or identifies as transactions of interest, plus related reporting requirements.
- Reporting requirements on uncertain tax treatments in Canadian income tax filings of corporations having at least \$50 million in assets for taxation years that begin after 2022.

Examples of notifiable transactions

According to federal guidance, the following transactions would be reported:

- Transactions to manipulate CCPC status to avoid anti-deferral rules applicable to investment income
- Straddle-loss creation transactions using a partnership
- Transactions to avoid deemed disposal of trust property
- Transactions to manipulate bankrupt status to reduce a forgiven amount in respect of a commercial obligation
- Transactions that rely on the purpose tests in section 256.1 to avoid a deemed acquisition of control
- Back-to-back arrangements (thin capitalization and Part XIII tax)

Reporting timelines and requirements

- The expanded rules for reportable and notifiable transactions will apply to transactions entered into on or after January 1, 2023.
- Taxpayers are required to disclose reportable transactions and notifiable transactions (or “substantially similar” transactions) within 45 days of the earlier of the day the taxpayer (or advisor) entering into the transaction or becoming contractually obligated to enter into the transaction.
- The draft legislation specifies that persons who fail to disclose reportable or notifiable transactions as required face a penalty of \$500 per week for each failure, up to the greater of \$25,000 or 25% of the tax benefit. Corporations failing to disclose reportable or notifiable transactions with assets having a total carrying value of \$50 million or more face a higher penalty of \$2,000 per week, up to the greater of \$100,000 or 25% of the tax benefit.
- Taxpayers are required to disclose uncertain tax treatments at the same time that the reporting corporation’s income tax return is due.
- The expanded reporting rules extend to promoters or advisors (and non-arm’s length persons who are entitled to receive a fee with respect to the transaction) who offer such arrangements, except where solicitor-client privilege may apply.

KPMG can help

The expanded MDR rules are complex and require detailed preliminary analysis to ascertain whether transactions meet the new definitions and thresholds. Should reporting be required, a detailed informational package must be assembled for timely submission to tax authorities.

To help navigate the changes, KPMG has developed a comprehensive **MDR technology tool** that assists in analyzing the attributes of transaction(s) to determine whether reporting is required.

The **MDR technology tool** is designed to analyze MDR rules in Canada as well as over 75 other countries, if required, to ensure that transactions spanning multiple jurisdictions are properly analyzed and reported as necessary to all applicable tax authorities.

The **MDR technology tool** also helps streamline the assembly and submission of reporting packages.

MDR support service packages

KPMG has developed the following three fully customizable service options to assist entities with their MDR analysis and reporting obligations. Where necessary, the options can be tailored (e.g. for KPMG SEC Audit clients), to maintain independence as service providers.

i. KPMG guided service

- The entity uses a specially designed KPMG questionnaire to gather transaction data. The entity uploads data directly to the KPMG **MDR technology tool** for processing, to determine if MDR reporting is required.
- The entity has access to the **MDR technology tool** through a portal.

- A KPMG analyst coaches the entity on proper use of the tool and reviews the data with entity personnel to ensure information is complete.
- Data is stored on the KPMG cloud server for a specified period of time to allow the entity to access a soft copy report for electronic submission to tax authorities.

ii. KPMG compliance service

- The entity uses a specially designed KPMG questionnaire to gather transaction data. KPMG tax personnel uploads the required data to the **MDR technology tool** to ascertain the reporting requirements.
- To the extent the transaction is reportable or identifiable, KPMG uploads and processes entity data on the entity's behalf.
- KPMG tax consultants review the data with the entity to ensure completeness of information as part of compliance reporting.
- KPMG prepares a compliance report and performs any necessary analysis and provides a copy to the entity for electronic submission to tax authorities.

iii. KPMG tax advisory support service

- KPMG tax consultants provide advisory services to the entity to assist in determining whether transactions are reportable or identifiable to tax authorities.
- KPMG tax personnel provides advisory support to the entity on reporting requirements as required.
- Support services do not make use of the **MDR technology tool**.

To stay ahead of your MDR responsibilities from a tax perspective, contact a KPMG tax advisor to discuss our service offerings.

Contact us

For more information on expanded MDR rules, or on how KPMG's MDR support service packages can help your organization, please contact a KPMG advisor or one of the following tax professionals:



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