KPMG

TaxNewsFlash

Canada

Platform Operators — New Reports due January 31, 2025

July 22, 2024
No. 2024-31

Certain digital platform operators should act now to collect information from specific sellers who use their platforms as part of new annual tax reporting obligations. Under these new compliance obligations, reporting platform operators (i.e., affected operators) are required to collect and verify data from certain sellers that use their platforms to sell goods or provide services or rental of real property, starting for the 2024 calendar year. These platform operators must ensure they have all the information needed to file their first reports with the CRA, which are due no later than January 31, 2025. In addition to filing with the CRA, these operators must also provide specific data to certain sellers by the same deadline.

Many types of digital platform operators, as well as other businesses that facilitate sales for third-party sellers, may be captured under these broad new reporting rules. For example, a retailer that facilitates the sales of goods of third-party sellers through its own digital platform may have to comply with these obligations. Operators subject to these rules should ensure their systems are collecting all the required data well in advance of the upcoming deadline to file information with the CRA. Note that the CRA has not yet published guidance on these new obligations and related filing processes.

Background
The federal government originally announced the new federal reporting rules for digital platform operators in the 2022 federal budget. Under these rules, many platform operators that are resident in Canada, as well as certain non-resident platform operators, must report specific details related to their sellers to both the CRA as well as to certain sellers.

The CRA may use information collected under these new obligations to ensure that revenues earned by sellers through various types of digital platforms are properly reported and taxed. In addition, certain sellers that receive reports will now be aware of the specific data that reporting platform operators have shared with the CRA related to their transactions on the platforms. These rules are effective January 1, 2024, and the first reports for the 2024 calendar year are due January 31, 2025.

Note that these reporting rules generally follow the Model Rules for Reporting by Platform Operators developed by the Organisation for Economic Co-operation and Development (OECD).

Who is subject to the reporting rules?

Under these new rules, Canadian-resident platform operators, as well as certain non-resident platform operators, must report data from certain sellers starting for the 2024 calendar year, if they meet the definition of a "reporting platform operator".

For purposes of these rules, a platform operator means an entity that:

- Makes all or part of a platform available to sellers under an agreement, and
- Connects sellers and other users through its platform for the provision of relevant services or the sales of goods.

In general, a platform operator that is resident in Canada is considered a "reporting platform operator" and subject to these rules. Non-resident platform operators that facilitate the provision of relevant services or the sale of goods for consideration by sellers resident in Canada, or with respect to rental of real property located in Canada may also qualify as a "reporting platform operator" if:

- The non-resident platform operator does not reside in a "partner jurisdiction" (note the list of partner jurisdictions is not yet available)
- The non-resident platform operator resides, was incorporated or is managed in a partner jurisdiction, and elects to be treated as a "reporting platform operator".

For purposes of these rules, "sellers" are generally platform users that are registered on the platform to provide relevant services or to sell goods. "Relevant services" include rental of real property, personal services, rental of a means of transport and any prescribed services, while "goods" means any tangible property, or corporeal property under civil law. The definition of "platform" includes user-accessed software (e.g., websites and web applications) that essentially allows sellers to connect with users in order for the sellers to provide "relevant services" or to sell goods, directly or indirectly, to such users, subject to certain exclusions.

Note that a platform operator may not be subject to the new reporting obligations (i.e., it qualifies as an "excluded platform operator") where it demonstrates to the CRA that its platform does not allow sellers to make profit, or that it does not have "reportable sellers", as explained below.

KPMG observations
The new reporting rules are broad and may apply unexpectedly to some businesses. For example, large retailers that sell goods through their own digital platforms, and also offer that same digital platform to others to sell their own goods, may be subject to the new reporting obligations. The new rules do not have a "principal type of business" test. These rules also do not include a revenue threshold test for platform operators, even though such a test is included in the Model Rules of the OECD.

Also, it is interesting to note that the definitions of a relevant service or goods do not appear to include digitally accessed intangible personal property, such as software.

At this time, the CRA has not yet released a list of partner jurisdictions. The Department of Finance has noted that these jurisdictions may be listed on the CRA's website or any other means, as determined by the CRA.

What data must be collected under the reporting rules?

Reporting platform operators (affected operators) must collect specific data from most sellers who use their platform under the new reporting rules, which varies based on the type of seller, and then must verify that information through specific due diligence procedures. In addition, affected operators will also have to gather specific information from their own systems that must be included in their filings.

In general, affected operators are required to collect specific data from all sellers that use their platform, unless they qualify as "excluded sellers". An excluded seller may include:

- An entity for which the affected operator facilitated more than 2000 relevant services for rental of certain real property during the calendar year
- An entity for which the affected operator facilitated less than 30 relevant activities related to the sale of goods and for which the total consideration paid or credited did not exceed $2,800 during the calendar year
- An entity whose shares are traded on an established securities market, or a related entity of such an entity
- A government entity.

Required data depends on type of seller

Once an affected operator has identified all its sellers and removed the excluded sellers from the list, they must determine whether the sellers are considered "individuals" or "other sellers" in order to collect the appropriate information. For each of its sellers that is an individual, an affected operator must collect all of the following specific data:

- The individual's first and last name
- The individual's primary address
- The individual's Tax Identification Number (TIN), including the jurisdiction of issuance (i.e., the number used by the CRA to identify the seller)
- The individuals' date of birth.

For other sellers, affected operators must collect all of the following details:

- The entity's legal name
- The entity's primary address
- The entity's TIN, including the jurisdiction of issuance
- The entity's business registration number.

KPMG observations
As noted, affected operators must collect a seller's TIN, which can include a social insurance number, a business number, and a trust's account number. Where a seller does not provide their TIN to an affected operator that requested such data, the seller may face a $500 penalty for each failure (unless an exception applies).

Additionally, affected operators that have sellers located outside Canada will have to collect the TIN issued by that jurisdiction (e.g., VAT/GST registration number issued by the jurisdiction of the primary address of the seller) or a functional equivalent if no TIN is issued.

This requirement for affected operators to collect sellers' TINs may raise some privacy concerns, especially where the sellers are individuals who share their social insurance numbers with platform operators. While the rules require affected operators to keep all TINs confidential unless they have the written consent of the sellers, these operators should carefully review their own risk processes to ensure this sensitive data is secure within their systems. In addition, some affected operators may want to update their onboarding processes for new sellers to obtain written consent that their TINs may be shared with third parties for specific compliance obligations related to these new rules, such as outsourcing to third-party managed service providers.

Due diligence procedures

Affected operators are also required to determine the reliability of the data collected from their sellers under new due diligence processes. In particular, affected operators must use "all records available" to them, including publicly available electronic interface to verify the sellers' TINs. For reports for the 2024 calendar year (i.e., the first reportable period), these procedures must be completed by December 31, 2024 (or by December 31, 2025 for sellers already registered on the platform as of January 1, 2024 under special transitional rules). The new reporting rules also include relief measures that generally allow an affected operator to rely on due diligence procedures from previous years where the seller's primary address has been collected and verified or confirmed in the last 36 months and the operator has no reason to know that the collected data is or has become unreliable or incorrect.

KPMG observations
The extent of these due diligence procedures, which require the use of "all records available" to the affected operator, is significant. In particular, affected operators may have to consult CRA's publicly available electronic database used to confirm the GST/HST registration numbers of businesses. A similar electronic database is also available for QST registration numbers. However, some platform operators may not be aware if such electronic interfaces exist in foreign tax jurisdictions or may have difficulty accessing such records in those regions.

Also, affected operators may decide to perform their due diligence procedures as they register sellers to their platforms. Where affected operators become aware that some of a sellers' data has changed during the calendar year, the operators will be required to repeat their due diligence procedure before they report, since they will not be able to rely on the 36-month rule.

Note that the transitional rule for the due diligence procedures for sellers already registered as of January 1, 2024, and the 36-month relief measure do not affect the reporting requirements of affected operators relating to these sellers. These operators must still report the required data for these sellers.

Additional information must be gathered for "reportable sellers"

Every year, affected operators will have to determine which of their sellers are considered "reportable sellers". Under the reporting rules, affected operators are also required to gather and annually report certain additional information from their own systems related to reportable sellers for the particular calendar year. A "reportable seller" generally means:

- A seller resident in a reportable jurisdiction, or

- A seller that provides certain services related to rental of real property located in Canada or in any partner jurisdiction, or that receives consideration for such services.

For affected operators resident in Canada, a "reportable jurisdiction" means Canada and any other partner jurisdiction. For non-resident affected operators, a reportable jurisdiction means Canada only.

As noted previously, for each reportable seller that provided relevant services, rented out a means of transportation or sold goods through their platforms, affected operators will also have to gather certain specific details from their systems to include in their reports. These operators will have to report for each reportable seller, among other details:

- Any other TIN, including the jurisdiction that issued the TIN, available to the affected operator
- Any other financial account identifiers available to the affected operator
- The name of the holder of the financial account to which the consideration is paid or credited (if different from the name collected)
- Each jurisdiction in which the reportable seller is resident
- The total consideration paid or credited during each quarter of the reportable period and the number of relevant activities related to these amounts
- The amount of fees, commissions or taxes withheld or charged by the operator during each quarter of the calendar year.

Affected operators must also gather and report additional details for reportable sellers that provide relevant services for rental of real property, including:

- The address of each property listing and the land registration number, if applicable
- The total consideration paid or credited during each quarter of the reportable period and the number of relevant services with respect to each property listing in respect of which it was paid or credited
- The number of days each property listing was rented during the calendar year and the type of each property listing.

KPMG observations
Affected operators must carefully gather this additional information. In particular, they will not be able to simply aggregate all consideration and fees, commissions and taxes for each particular reportable seller, but instead must calculate and report these amounts for each quarter. In addition, it appears that adjustments to sales, such as returns and cancelled sales, may create some additional compliance issues for reporting operators.

Based on guidance issued by the OECD, if sales are adjusted after reporting the data for the tax authority, affected operators are expected to adjust their reports and refile them. While the CRA has not yet issued guidance on these reporting rules, it will be interesting to see whether the CRA will adopt a similar policy.

As noted above, the CRA has not yet released a list of partner jurisdictions.

Reports due by January 31, 2025

To meet their obligations under the new reporting rules, affected operators must provide the data collected for reportable sellers as well as the additional gathered details from their systems in reports that must be filed with the CRA, and also provide individual reports to each of their reportable sellers.

KPMG observations
Affected operators must carefully review these new reporting rules which are independent from other information reporting rules under the provincial Québec sales tax (QST) and British Columbia's provincial sales tax (PST). Affected operators should review all these information reporting rules and ensure they provide the appropriate details to the proper tax authority, and other entities if applicable.

Reporting to the CRA

Under the new reporting rules, affected operators must report all the required data of "reportable sellers" to the CRA. In their reports to be filed to the CRA no later than January 31 after the particular calendar year, affected operators must include the information collected and gathered for each reportable seller, as well as the following information related to their own business:

- Its name
- Its registered office address
- Its TIN
- The business names of any other platforms for whom the operator is also reporting.

Reporting to reportable sellers

Affected operators must also provide each reportable seller with all the specific data related to that particular seller no later than January 31 after the particular calendar year.

KPMG observations

As a result of these new obligations, it appears that the CRA will be able to enhance scrutiny of revenues generated through digital platforms from a governance perspective. Note that operators cannot simply send the same report to their sellers that they provided for the CRA. The report must be segregated such that only the specific information related to a particular reportable seller is reported to the seller. The CRA is expected to use these reports to assist with their audit processes for online sellers.

We can help

Your KPMG adviser can help you assess the effect of these new reporting rules. For more details, contact your KPMG adviser.