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TaxNewsFlash

Canada

Large Businesses — Register for DST by January 31

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Large businesses subject to Canada's new 3% digital services tax (DST) rules can now register for a DST program account. Under these rules, affected businesses that earn specific kinds of online revenues that meet certain thresholds must register by January 31, 2025, and may also have to file their first DST returns and pay the DST owing by June 30, 2025. Note that, when affected businesses file their first DST return, they must include DST owing on certain online revenues earned since January 1, 2022. Affected businesses that do not meet their new registration, filing and other compliance obligations as required could face significant penalties and interest.

In addition to registering for a DST program account on the CRA portal by January 31, 2025, taxpayers who are preparing to meet their DST obligations will have to consider many compliance issues related to these complex new rules, some of which were identified after the rules were first released. In particular, these taxpayers will have to address concerns including properly determining whether certain kinds of income are considered in-scope revenues under broad categories and definitions, and whether their in-scope revenues meet registration and filing thresholds. In addition, businesses that are members of consolidated groups may be subject to specific DST rules that can affect their compliance obligations. Affected businesses may also want to consider calculating and accruing quarterly and year-end reserves related to a DST liability for financial reporting purposes.

Background
Canada proposed the DST in its 2020 Fall Economic Statement and finalized these rules in July 2024. The new 3% DST applies retroactively to in-scope revenue from specific digital services earned effective January 1, 2022. The new DST is expected to apply

until an international multilateral treaty to implement other tax measures comes into force (i.e., the convention to implement the OECD's Pillar One solution for international tax reform which is intended to ensure that certain multinational businesses pay tax in countries where they have consumer facing activities but do not have a physical presence).

For details, see *TaxNewsFlash-Canada* 2024-28, "Large Businesses — Digital Services Tax Now in Effect".

Who is affected by upcoming DST obligations?

Businesses may have to register for the new DST, and may also have to file their first DST returns and pay the DST owing, depending on whether they meet certain revenue thresholds. In some cases, affected businesses may be required to register even if they do not have any filing requirements. Note that the DST return is not yet available.

Who must register under the DST rules?

In general, a business is required to register under the new DST rules if it meets the following three conditions:

- The business has any in-scope revenues
- The business has, or is a member of a consolidated group that has, total revenue of €750 million or more in its fiscal year ending in the previous calendar year
- The business, or the consolidated group, has more than $10 million of in-scope revenue.

KPMG observations
The revenue threshold for registration is lower than the revenue threshold that apply to the filing requirements. For example, a business may have to register by January 31, 2025 even if it may not have to file a DST return by June 30, 2025, in a situation where the business meets the DST registration threshold but not the DST filing threshold.

Businesses face a $20,000 penalty if they do not register as and when required under the DST rules. The penalty applies per constituent entity required to be registered (e.g., each member of a consolidated group).

Note that before they can register under the new DST rules, affected businesses are required to have a business number.

Who must file DST returns and pay DST?

Businesses must generally file an annual DST return if they have any amount of in-scope revenue and they also meet the following two-tier test:

- The business has, or is a member of a consolidated group that has, total revenue of €750 million or more in its fiscal year ending in the previous calendar year, and
- The business has, or is a member of a consolidated group that has, more than $20 million of "in-scope" revenue related to Canadian users for the particular calendar year.

Under the DST rules, affected businesses pay DST on in-scope revenue that exceeds a $20 million threshold (also known as the "deduction amount"). Note that where a business is a member of a consolidated group, the deduction amount is shared amongst the group members, as determined by the DST rules.

Affected businesses are required to file annual DST returns and remit any DST payable by June 30 of the calendar year following the calendar year for which a return is filed. As a result, affected taxpayers with in-scope revenue for 2022, 2023 and/or 2024 that exceeds $20 million in any of those years must file a DST return and pay the related tax on those years by June 30, 2025.

Note that a consolidated group can elect to have one entity file the DST returns for each member of the group.

KPMG observations
While the consolidated group election may offer some compliance relief for large businesses, it's important to note that each member of the group remains responsible for its DST compliance obligations, as well as for the DST liability of any members of its consolidated group. Currently, it is unclear whether the nominated entity will have to file each DST return individually, or if it will be able to file one consolidated return for the entire consolidated group.

The CRA is expected to provide further details on the required data to be included on the DST return and how to file the return soon.

Affected businesses may be subject to penalties and interest if they do not file or remit any DST owing as required under the DST rules.

How is revenue calculated?

The in-scope revenue calculations help determine if a business is required to register for the DST, as well as if they are required to file a DST return and pay any DST owing on those revenues.

To determine their in-scope revenue, taxpayers must determine if their revenue falls under one of the following revenue categories associated with users in Canada, each of which has distinct sourcing rules:

- Online marketplace services revenue — Generally earned from providing an online marketplace that facilitate supplies between users who interact over a digital interface.
- Online advertising services revenue — Generally earned from services aimed at the placing of online targeted advertisements, including facilitating the delivery of an online targeted advertisement and providing digital space for an online targeted advertisement
- Social media services revenue — Generally earned from providing a social media platform, the main purpose of which is to facilitate interactions between users, or between users and certain digital content
- User data revenue — Generally earned from the sale or licensing of data gathered from users of an online marketplace, a social media platform, or an online search engine.

KPMG observations
These in-scope revenue categories are very broad, and have their own definitions, exclusions and calculations. Some definitions are quite broad and can include a wide range of revenues. For example, online marketplace services revenue includes fees for services ancillary to the online supply. Also, some revenue categories are subject to specific threshold tests. In particular, a platform may qualify as a social media platform if the “main purpose” of the digital interface is to allow users to find and interact with other users. In such a case, the platform must be analyzed in light of the DST definitions, rules and its “main purpose” from a business and user perspective.

Affected businesses must also determine if any of the exclusions may apply to their specific cases as this analysis may affect their total in-scope revenues.

Affected taxpayers must review their revenue and document their analysis carefully to help minimize errors and compliance challenges. These taxpayers will also have to review these in-scope revenue analysis regularly as their activities, technology and businesses evolve.

Simplified revenue calculation election for 2022 and 2023

Affected businesses can elect to simplify the calculation of their Canadian digital services revenue for their 2022 and 2023 calendar years. Specifically, these businesses can use a formula intended to approximate the in-scope revenue based on their Canadian digital services revenue from 2024, subject to certain conditions.

KPMG observations
The CRA has not yet provided specific guidance on how affected businesses may make this election. This information could be included on the DST return once it is available.

We can help

Your KPMG adviser can help you determine how you may be affected by the DST. We can also help you manage your related compliance obligations. For details, contact your KPMG adviser.