

New reporting rules for digital platform operators: Will they affect your business?

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In brief

On June 22, 2023, Bill C-47,¹ which includes the legislation to implement new reporting obligations for certain digital platform operators, received royal assent. These new rules, which were initially announced in the 2022 federal budget, will come into effect on January 1, 2024.

The new rules implement the due diligence procedures and reporting requirements of the Organisation for Economic Co-operation and Development (OECD) "Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy."² They require "reporting platform operators" providing support to "reportable sellers" for "relevant activities" to determine the jurisdiction of residence of their reportable sellers and collect, verify and report certain information about them.

Affected platform operators should start preparing for these rules as the January 1, 2024 coming into force date looms. Given the scope of the new information collection, verification and reporting obligations, operators will need time to update their processes and systems to comply with these obligations.

In detail

Reporting platform operator (RPO)

Subject to some exclusions, an RPO is a platform operator that is:

- resident in Canada
- resident, incorporated or managed in a partner jurisdiction and facilitates the provision of relevant activities:
 - by sellers resident in Canada, or
 - with respect to rental of immovable property located in Canadaand elects to be an RPO, or
- not resident in Canada or a partner jurisdiction and facilitates the provision of relevant activities:
 - by sellers resident in Canada, or
 - with respect to rental of immovable property located in Canada

¹ Bill C-47, *An Act to implement certain provisions of the budget tabled in Parliament on March 28, 2023* (royal assent: June 22, 2023, Statutes of Canada 2023, c. 26)

² OECD "Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy," available at www.oecd.org.

Platform operator

A platform operator is generally an entity that contracts with sellers to make software available to the sellers. Software includes a website or application (mobile or otherwise) that allows the sellers to be connected to other users for the provision of relevant services (i.e. a personal service, a prescribed service [no services are currently prescribed], the rental of immovable property, including short term accommodation, or a means of transport). This also includes such an entity involved in the collection and payment of the consideration in respect of relevant services or sales of goods.

For purposes of these rules, a “personal service” is defined to mean a service involving time or task-based work performed by one or more individuals at the request of a user, unless such work is purely ancillary to the overall transaction; it does not include a service provided by a seller pursuant to an employment relationship with the platform operator or a related entity of the platform operator.

Reportable seller

A reportable seller is generally a seller, other than an excluded seller, that is registered on a platform and that either:

- provides relevant services or sells goods during a period, or
- is paid or credited consideration in connection with relevant activities during the period

and is determined by the RPO to:

- be resident in a reportable jurisdiction
- have either sold goods or provided relevant services for the rental of immovable property located in a reportable jurisdiction, or
- have been paid or credited consideration in connection with relevant services for the rental of immovable property located in a reportable jurisdiction

Excluded seller

An excluded seller is generally:

- an entity for which the RPO facilitated more than 2,000 relevant services for the rental of immovable property in the calendar year
- a government entity
- an entity traded regularly on established security exchanges, or
- a low volume seller that has fewer than 30 facilitated sales and consideration paid or credited of less than \$2,800 in the year

Reportable jurisdiction

A reportable jurisdiction for an RPO that is resident in Canada means Canada and each jurisdiction that is identified as a partner jurisdiction by the Minister of Revenue. The list of partner jurisdictions will be published on the Canada Revenue Agency's (CRA's) website.

New information reporting obligations

An RPO will have significant information collection, verification and reporting obligations under the proposed new rules. For example, the RPO will generally have to collect for a seller that is:

- an individual, their first and last name, primary address, date of birth and taxpayer identification number (TIN), including jurisdiction of issuance
- an entity, its legal name, primary address, business registration number and TIN, including jurisdiction of issuance

An RPO will be required to report the above information to the CRA by January 31 of the year following the calendar year in which the seller is identified as a reportable seller.

The RPO will also be required to report additional information to the CRA that will include:

- financial indicators of the seller (whether in the name of the seller or otherwise)
- the residency of the seller
- the total consideration paid or credited during each quarter, along with any fees, commissions or taxes that the RPO withheld or charged

When the seller provides relevant services for the rental of immovable property, the RPO will be required to report additional information that will include:

- the address of each property listing
- the number of days the property was rented during the period and the type of property

RPOs will also be required to provide the information relating to each reportable seller to the seller by the same date it is required to report that information to the CRA. Further, the RPO will be obligated under the new rules to exercise due diligence and verify the information that it collects.

The takeaway

The new reporting rules for digital platform operators have introduced significant information collection, verification and reporting obligations for affected businesses. Affected digital platform operators should ensure that they are familiar with their new obligations, so that they can establish the necessary processes and systems.

The federal government has indicated that not all platform sellers are aware of the tax implications of their online activities, which is why it has introduced these new measures to ensure “tax fairness in the growing digital economy.” All affected sellers should take the opportunity to be informed of, and ensure that they are compliant with, their Canadian tax obligations.

Let's talk

For a deeper discussion of how these new reporting rules might affect your business, please contact:

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