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Tax Alert – Canada

Digital Services Tax Act has been tabled in the House of Commons

EY Tax Alerts cover significant tax news, developments and changes in legislation that affect Canadian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor or EY Law advisor.

Canada is one step closer to enacting the *Digital Services Tax Act* (DSTA), which was included in Bill C-59, *Fall Economic Statement Implementation Act, 2023*, tabled in the House of Commons on 30 November 2023.¹

This latest draft of the DSTA is a follow-up to the Department of Finance's revised draft legislative proposals released for public consultation on 4 August 2023. The DSTA continues to impact large Canadian domestic and foreign businesses whose corporate group has global consolidated revenues of at least €750 million and who earn in excess of \$10 million CAD in Canadian digital services revenue from providing online marketplace services, online advertising, social media services and the monetizing of user data. For an overview of the proposed legislation released on 4 August 2023, see EY Tax Alert 2023 Issue No. 36, [Canada moving ahead with its own digital services tax: revised draft legislation released](#).

¹ For more information on the measures included in Bill C-59, see EY Tax Alert 2023 Issue No. 44, [Bill C-59 to implement certain Budget 2023 and other previously announced measures receives first reading](#).

The most notable changes to the DSTA since its iteration in August are:

- ▶ The thresholds for global revenue (i.e., €750 million or more), in-scope revenue (i.e., \$20 million CAD), and registration (i.e., \$10 million CAD) have now been moved from the DSTA itself and relocated to the *Digital Services Tax Regulations* under “Prescribed Thresholds”. By doing so, the federal government will have the flexibility to lower the thresholds for taxation or registration without requiring any amendments to the legislation to be passed in Parliament, thereby giving the cabinet the ability to increase tax revenues from the digital services tax without needing to seek parliamentary approval.
- ▶ Removal of the provision dealing with security (previously section 44 of the DSTA); as such, a taxpayer will not be required to maintain security for the purposes of payment.
- ▶ Addition of section 96, which allows for a due diligence defence for offences under section 91 (failure to file or comply) or section 95 (general offence).

The earliest that the DSTA may come into force is 1 January 2024. However, the date of enactment will now be based on a date fixed by order of the Governor in Council. While Canada’s Deputy Prime Minister and Minister of Finance, Chrystia Freeland, continues to give every indication that the legislation will be declared in force on 1 January 2024, by having the legislation come into effect on a date set by the federal cabinet, the government retains the flexibility to change or delay the implementation depending upon measures that other governments may take (most notably the United States) in reaction to Canada’s passage of the DSTA.

Implications

With the tabling of Bill C-59, businesses and consolidated groups (both Canadian and foreign) that satisfy the €750 million threshold are well advised to closely review the draft legislation and determine whether each revenue stream earned by the group is within the scope of the digital services tax. Certain provisions are broadly worded, and even businesses whose primary focus is not digital or online services may find themselves within scope.

Key points to keep in mind:

- ▶ **Registration:** A taxpayer or an affected member of a consolidated group is required to register under the DSTA if it earns Canadian digital services revenue, it meets the €750 million threshold, and it earns more than \$10 million CAD of Canadian digital services revenue. Notably, the threshold required to register (\$10 million CAD) is lower than the threshold required for taxation (\$20 million CAD). If a taxpayer or an affected member of a consolidated group is required to be registered, the taxpayer must apply to register by 31 January of the following calendar year.

- ▶ **Returns:** Returns are due annually on or before 30 June of the following calendar year.
- ▶ **Payments:** Payments must be paid on or before 30 June of the following calendar year. Any payments that are \$10,000 or more must be paid electronically unless the taxpayer cannot reasonably pay that amount electronically.

Learn more

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