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Quebec Sales Tax and Mandatory Registration for Non-Resident Businesses

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The Quebec Provincial Budget released March 27, 2018, proposed measures making the collection of the Quebec Sales Tax (“**QST**”) mandatory on the electronic sales of services and digital products (e.g., Netflix services and software), as well as on the sale of goods from outside Quebec.

Current Rules and Issues

Currently, suppliers that sell goods or services via the internet in Quebec are generally not required to register for QST, for the purpose of collecting and remitting it to Revenu Quebec, unless they have a physical (permanent establishment) or significant presence (carry on business) in Quebec.

The current rules require that Quebec consumers self-assess the QST payable on the value of the services and other digital products acquired from non-resident suppliers who are not registered for QST purposes, however very few consumers self-assess the tax.

In addition, no QST is collected on goods brought into Quebec from elsewhere in Canada, as there are no Customs to collect such tax when entering Quebec from other provinces. Quebec consumers are also currently required to self-assess the QST on the value of those goods, although very few do.

While the QST is, in theory, collected by the Canada Border Services Agency on goods imported from outside Canada into Quebec, there are a great number of parcels going through customs clearance centres where the QST is collected only on a fraction of the imported goods.

As a result of the practically non-existent consumer self-assessment compliance, the Quebec government claims to sustain substantial tax revenue loss and that suppliers outside Quebec have an unfair competitive advantage over Quebec businesses, given that the latter are generally required to collect the QST on their sales.

The Proposed Measures and What They Mean to You

To ensure the QST is collected in the context of the digital economy, the Quebec government announced the

implementation of a new and distinct registration system (**"Specified Registration System"**) under which:

- Suppliers with no physical or significant presence in Quebec (**"Non-Resident Suppliers"**) will be required to collect and remit the QST on taxable services and digital products sold in Quebec; and
- Non-Resident Suppliers located in Canada will be required to collect and remit the QST on taxable goods they sell in Quebec.

A Non-Resident Supplier will be required to register for QST purposes if the value of the taxable sales made by the supplier in Quebec to **specified Quebec consumers** exceed \$30,000 annually.

A "specified Quebec consumer", for the purposes of the calculation of the \$30,000 threshold will only include a person who is not registered for the QST and whose usual place of residence is located in Quebec. It is also important to

note that the calculations relating to the \$30,000 will also include the value of sales deemed to be made outside Quebec.

The requirement to register will also apply to an intermediary that operates digital platforms (**"Digital Platform"**) that allow Non-Resident suppliers to sell their digital products and services through their platforms (e.g., an application store or a website) to specified Quebec consumers. A Digital Platform would only be required to register for QST purposes if it controls the key elements of transactions with specified Quebec consumers, such as billing, transaction terms and conditions, and delivery terms and if they process more than \$30,000 of taxable sales annually to specified Quebec consumers. Sales made by a Non-Resident Supplier through a Digital Platform would not be included in the calculation of the Non-Resident's threshold of \$30,000 given that they will be included in the calculation of the Digital Platform's threshold of \$30,000.

As such, a Non-Resident Supplier that only makes sales through a Digital Platform (e.g., Amazon.ca) may not be required to register for QST purposes as the Digital Platform would generally be required to register (if not already registered) and charge and remit to the Quebec government the QST payable on the sale made by the Non-Resident Supplier through its platform.

Two Types of QST Registration with Different Implications

The **sole** purpose of the Specified Registration System is to ensure that a Non-Resident Supplier collects and remits the QST applicable to their sales made in Quebec to specified Quebec consumers. Many of the rights and obligations applicable to a QST registrant under the general rules may not apply to a Non-Resident supplier who registers for QST purposes under the Specified Registration System.

For example, a Non-Resident Supplier who registers for QST purposes under the Specified Registration System (as opposed to a registration for QST purposes under the general rules) will **not** be able to claim an input tax refund (“**ITR**”) with respect to property and services acquired in the course of their commercial activities.

Similarly, a customer who is registered for QST purposes under the general rules will not be able to claim ITRs to recover the QST payable to a Non-Resident Supplier who is registered under the Specified Registration System.

Due to the co-existence of the two systems (Specified and General), there will be situations where a person registered under the general registration system pays the QST in error to a Non-Resident Supplier registered under the Specified Registration System. A rebate system will be put in place to address those situations.

A Non-Resident Supplier, who sells to both consumers and businesses, may wish to register for QST purposes under the general registration system (if eligible to register under the normal rules) to minimize the above negative implications. However, the Non-Resident Supplier who does so will also then be required to register for GST/HST purposes and to comply with all the relevant rules.

Other Considerations

- QST registration for the Specified Registration System will be supported by a new Revenu Quebec online service intended to simplify and minimize the exchange of physical documents.
- The QST reporting period of Non-Resident Suppliers, registered under the Specified Registration System, will be established on the basis of calendar quarters with a due date following the end of each quarter.

Application Dates

The proposed measures will take effect as of:

- January 1, 2019, in the case of Non-Resident Suppliers outside Canada, and in the case of Digital Platforms for such suppliers;
- September 1, 2019, in the case of Non-Resident Suppliers located in Canada, and in the case of Digital Platforms for such suppliers.

This article has been prepared for the general information of our clients. Specific professional advice should be obtained prior to the implementation of any suggestion contained in this article. Please note that this publication should not be considered a substitute for personalized tax advice related to your particular situation.

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