

# Provincial Sales Tax and the Digital Economy

March 2021

## Online Tax Strategies: Changes regarding PST Registration in British Columbia and Saskatchewan

### BRITISH COLUMBIA

#### New registration requirements for Canadian and foreign sellers of software and telecommunication services

On February 18<sup>th</sup>, 2020, British Columbia's 2020 budget was delivered in which new registration requirements for Canadian and foreign sellers of software and telecommunication services as well as Canadian sellers of goods were announced. In essence, the new registration requirements are aimed at foreign businesses that operate in the digital economy or Canadian entities that sell goods in the province.

Currently, the *Provincial Sales Tax Act* of British Columbia does not require that foreign sellers operating in the digital economy, selling only through an online business (i.e. with no physical presence in B.C.), register for the purpose of collecting B.C.'s PST.

Also, for the sales of goods, currently, the *Provincial Sales Tax Act* of B.C. states that persons located in Canada but outside B.C. must be registered if they solicit sales in B.C. in their ordinary course of business, accept purchases orders (P.O.) originating from B.C., sell or provide goods to a person in B.C. and cause the goods to be delivered in B.C.

Sellers of goods located outside B.C. and either in or out of Canada must generally register, if they hold goods in inventory in B.C., accept purchases orders (P.O.) from customers located in B.C. and sell goods to a person in B.C.

Under the new registration requirements:

- Canadian sellers of goods will be required to register as B.C. PST tax collectors if the criteria outlined above, other than the solicitation requirement, are satisfied and if they meet the *minimum B.C. revenue threshold*.
- Both Canadian and foreign sellers of software and telecommunication services will be required to register as B.C. PST tax collectors if they sell to a person in B.C., accept purchase orders (P.O.) originating from B.C. and if they meet the *minimum B.C. revenue threshold*.

In essence, the solicitation criteria for sellers of goods and the physical presence criteria for sellers of software and telecommunication services will be removed.

**Such registration requirements** were set to be effective July 1<sup>st</sup>, 2020, but due to the COVID-19 pandemic, they **will not take effect until April 1<sup>st</sup>, 2021**.

#### *Minimum B.C. revenue threshold*

For both the Canadian and foreign sellers mentioned above, the *minimum B.C. revenue threshold* is met if:

- The seller's gross revenue in the previous 12 months resulting from sales to B.C. customers is more than \$10,000; or
- The seller's estimated gross revenue in the next 12 months resulting from sales to B.C. customers is more than \$10,000.

## SASKATCHEWAN

### New registration requirements for non-residents sellers operating in the digital economy

On May 30<sup>th</sup>, 2018, the proposed amendments to the *Provincial Sales Tax Act* of Saskatchewan were given Royal Assent. These legislative changes require that non-resident vendors who make sales of tangible property and other taxable services to consumers in S.K. register for PST purposes.

These changes, effective retroactively to April 1<sup>st</sup>, 2017, apply not only to vendors selling to unregistered persons (i.e. consumers) but rather to any end-user (i.e. business-to-business or business-to-consumer).

### Electronic Distribution Platforms, Online Accommodation Platforms and Marketplace Facilitators

On July 3<sup>rd</sup>, 2020, other proposed amendments to the *Provincial Sales Tax Act* of Saskatchewan were given Royal Assent. These legislative changes are effective retroactively to January 1<sup>st</sup>, 2020.

According to these new requirements, businesses that operate electronic distribution platforms or online accommodations platforms as well as marketplace facilitators are also required to register. Unlike B.C., these new rules in S.K. do not seem to be subject to a minimum threshold for sales in S.K.

An *electronic distribution platform* is defined in the *Act* as a website, internet portal, gateway, application or other means prescribed in the regulations that allow a consumer or user to purchase at a retail sale, whether singly, by subscription or in any other manner, including maintenance, updates and support, tangible personal property, services or contracts of insurance that are delivered through an electronic format. *Electronic distribution services* include services that are delivered, streamed or accessed through an electronic distribution platform, including:

- (A) the content delivered through the electronic distribution platform; and
- (B) any associated or incidental services, including all transaction services, processing services and administration services.

An *online accommodation platform* is defined in the *Act* as an electronic marketplace that enables or facilitates transactions in relation to accommodation services located in S.K. *Accommodation services* include services that are delivered or accessed through an *online accommodation platform* and any associated or incidental services, including all transaction services, processing services and administration services.

A *marketplace facilitator* is defined in the *Act* as a person that makes or facilitates a marketplace for retail sales by marketplace sellers and that, directly or indirectly, collects payment from a consumer or user and remits payment to a marketplace seller, whether or not that person receives consideration in exchange for its services. A *marketplace seller* is defined in the *Act* as a person that makes retail sales through any physical or electronic marketplace operated, owned or controlled by a marketplace facilitator.

## CONCLUSION

In conclusion, the new requirements in both B.C. and S.K. are broad enough to encompass almost all foreign sellers operating in the digital economy and to subject them to PST, thereby requiring them to register and collect PST.

Please do not hesitate to contact your Raymond Chabot Grant Thornton advisor should you require any assistance in determining which measures apply to your situation and assist you with taking the necessary steps to comply with these measures.

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