

B.C. introduces new marketplace facilitator rules for its provincial sales tax

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In its 2022 [Budget and Fiscal Plan](#) [PDF], British Columbia proposed new rules for “marketplace facilitators,” including making certain supplies by these entities, which are currently not subject to B.C. provincial sales tax (PST), taxable. B.C. also issued new [Bulletin PST-142](#) [PDF] (the Bulletin), setting out some of the details of how the new rules will apply. These changes follow B.C.’s [recent expansion](#) of PST registration requirements as well as similar changes applicable to online platforms made by [Québec](#) and [Saskatchewan](#), [Manitoba](#) and the Canadian [federal government](#).

Marketplace facilitators

Effective July 1, 2022, B.C. will require “marketplace facilitators” to charge and collect PST on taxable sales and leases facilitated through an “online marketplace.” The Bulletin explains that a “marketplace facilitator” for this purpose will be defined as a person who

- operates, owns or controls (solely or jointly) an online marketplace;
- through the online marketplace, facilitates a marketplace seller’s retail sales of goods, software or taxable services; and
- collects payment in respect of the retail sales of goods, software or taxable services.

Marketplace facilitators will be required to register for and collect PST if they facilitate retail sales of goods located in Canada and sell to a person in B.C.; software for use on or with an electronic device ordinarily situated in B.C.; accommodation in B.C.; or taxable services to a person in B.C.

There is a \$10,000 threshold for suppliers to have to register. B.C. has also stated that specific rules will apply where more than one marketplace facilitator owns, operates or controls an online marketplace (such that only one of the marketplace facilitators will have to register for, collect and remit the applicable PST).

The new rules relieve marketplace sellers of the requirement to register and to collect tax where the marketplace facilitator is required to register for and collect the tax. However, a marketplace seller may still have to register for, collect and remit PST if making supplies outside of the marketplace.

The Bulletin also states that marketplace sellers remain jointly and severally liable for any PST not collected and remitted by the marketplace facilitator. It is not clear whether the province will create some sort of due diligence defence or other defence for marketplace sellers in situations where a marketplace facilitator is registered for GST, tells the marketplace seller that it will collect and remit PST, but does not remit the PST it collects. If not, the new regime

would appear to create a situation where a marketplace seller could potentially be liable for PST, even where they have no ability to collect and remit the PST on their own behalf.

Online marketplace services

The Budget also proposes to apply PST to certain “online marketplace services” effective July 1, 2022. “Online marketplace services” are defined in the Bulletin to mean any of the following services provided by a marketplace facilitator, or by an agent, partner, joint venturer or associated corporation of the marketplace facilitator, to a marketplace seller:

- listing sales of goods, software or sales of taxable services
- advertising or promoting
- customer service
- storage
- fulfilling orders or bookings
- collecting or facilitating payments, either directly or indirectly, and transferring payments to the marketplace seller
- accepting or assisting with cancellations, changes, returns or exchanges of goods, software or taxable services
- other services to facilitate an online marketplace seller’s sale of goods, software or taxable services through the online marketplace

Based on the description in the Bulletin, and the statements in the Budget that “The changes introduced in Budget 2022 do not introduce new taxes on taxable goods, software or taxable services obtained by consumers through online platforms”, it appears that online marketplace services will only be taxable if provided to marketplace sellers, and not if provided to consumers. Even if the provision of online marketplace services is only taxable to marketplace sellers, it should be noted that the definition is very broad, and includes a number of services which are not currently taxable (including the collecting or facilitating of payments).

Takeaway

The new rules affect both marketplace facilitators and marketplace sellers, whether located in B.C. or not, and impose potentially significant new registration and remittance obligations on these parties. They also impose significant new taxes on business in respect of online marketplace services they receive. It is therefore important for taxpayers to be aware of the changes and the potential implications for their businesses.