

2018 Issue No. 26
10 July 2018

Tax Alert – Canada

Québec: Bill respecting QST and e-commerce receives Royal Assent

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.

On 12 June 2018, Québec Bill 150 of 17 May 2018 (“Bill 150”) received Royal Assent. In particular, it contains the legislative changes following the measures announced in the Québec budget tabled on 27 March 2018 (the “Budget”) relating to the application of the Québec Sales Tax (the “QST”) to supplies made by suppliers with no significant presence in Québec through the implementation of a new “specified registration system” (see [Tax Alert 2018 Issue No. 18, Tax Alert, Québec announces QST and e-commerce measures](#)).¹

The new legislative provisions amend the *Act respecting the Québec Sales Tax Act* (the “AQST”) to incorporate all the e-commerce measures set out in the budget.

New sections 477.2 to 477.19 of the AQST are introduced. They provide for the collection and remittance of QST for non-resident suppliers registered in Québec under the new specified registration system.

Section 1 of the AQST is also amended to include the definitions set out in new section 477.2 of the Act for the expressions “specified Québec consumer,” “specified supplier,” “Canadian specified supplier” and “specified digital platform.”

Section 23 of the AQST relating to supplies made in Québec by a non-resident is also amended, as announced, to reflect the new measures.

Aside from these additions, the new legislative provisions also provide the following clarifications.

¹ We do not address the other measures contained in the bill, particularly with regard to the accommodation tax and the duties on transfers of immovables.

Threshold for the purposes of the specified registration requirement

New section 477.2 of the AQST introduces the concept of a “specified threshold” to determine whether a non-Québec resident supplier is required to register in the specified registration system. Although this threshold is also set at \$30,000, this concept differs from the small supplier threshold provided for in section 294 of the AQST. For “specified threshold” purposes, suppliers that are not resident in Québec must determine, over a 12-month period, the amount of its sales made in Québec to individuals who can reasonably be considered consumers for AQST purposes.

QST collection

New section 477.6 of the AQST includes the provisions announced in the budget relating to the QST collection obligations of non-resident suppliers or operators of digital platforms that control the key elements of transactions, depending on the nature of the supplies made and the non-Québec resident suppliers’ place of residence.

The wording of the new section confirms the lack of solidarity between suppliers and digital platform operators when the latter are required to collect QST under the third paragraph.

This section also stipulates (in the fourth paragraph) the obligation for non-resident suppliers or digital platform operators to collect QST from any person unable to provide a QST registration number, who is thereby considered to be a “specified Québec consumer.”

Unlike the criterion used to determine the specified threshold mentioned above, the new provisions extend the obligation for non-resident suppliers or digital platform operators to collect QST from Québec residents not registered for QST, beyond cases involving Québec resident individuals only.

Rebate of tax paid under section 16 of the AQST

As confirmed in the budget, specified suppliers are not considered registrants for QST purposes, although they have certain billing obligations under new section 477.7 of the AQST, including clearly indicating the tax payable or confirmation that the amount payable includes the tax and the name of the tax. If the rate of tax is indicated, it must be indicated separately from the rate of any other applicable tax. Specified Québec consumers would therefore not be entitled to any input tax refund (“ITF”) in respect of supplies made by specified suppliers.

New section 477.17 of the AQST provides an exception mechanism for the rebate of the QST paid under section 16 of the AQST. However, the right to a rebate is limited to supplies of services or incorporeal movable property made remotely and invoiced with an amount of QST acquired by a person resident in Canada for consumption, use or supply in a participating province and for which tax under section 218.1 of the *Excise Tax Act* was paid. Conversely, section 477.17 of the QSTA therefore confirms that there is no right to a rebate of the tax paid under section 16 of the AQST in respect of supplies of goods delivered in Québec and services and incorporeal movable property consumed in Québec, as mentioned in the budget.

However, two exceptions apply with respect to the above QST rebate entitlement. The project excludes from any right to such rebate the specified financial institutions referred to in one of paragraphs 6 and 9 of the definition of “specified financial institution” set out in section 1 of the AQST (namely, an insurer’s segregated funds and investment plans) as well as selected specified financial institutions.

These are exceptions to section 477.17 only. They do not affect any rebates to which some of these financial institutions may be entitled under another provision of the AQST, such as the rebate provided for in section 402.14 of the AQST in favour of pension plans.

Learn more

And for more information, contact your EY advisor or EY Law advisor or one of the following professionals:

Montréal

Jean-Hugues Chabot

+1 514 874 4345 | jean-hugues.chabot@ca.ey.com

Manon Jubinville

+1 514 874 4391 | manon.jubinville@ca.ey.com

Louis Fournier

+1 514 879 6891 | louis.fournier@ca.ey.com

Jadys Bourdelais

+1 514 879 6380 | jadys.bourdelais@ca.ey.com

Jean-Baptiste Congy

+1 514 879 8079 | jb.congy@ca.ey.com

Catherine Dickner

+1 514 879 8100 | catherine.dickner@ca.ey.com

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization and may refer to one or more of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

About EY's Tax Services

EY's tax professionals across Canada provide you with deep technical knowledge, both global and local, combined with practical, commercial and industry experience. We offer a range of tax-saving services backed by in-depth industry knowledge. Our talented people, consistent methodologies and unwavering commitment to quality service help you build the strong compliance and reporting foundations and sustainable tax strategies that help your business achieve its potential. It's how we make a difference.

For more information, visit ey.com/ca/tax.

About EY Law LLP

EY Law LLP is a national law firm affiliated with EY in Canada, specializing in tax law services, business immigration services and business law services.

For more information, visit eylaw.ca.

About EY Law's Tax Law Services

EY Law has one of the largest practices dedicated to tax planning and tax controversy in the country. EY Law has experience in all areas of tax, including corporate tax, human capital, international tax, transaction tax, sales tax, customs and excise.

For more information, visit <http://www.eylaw.ca/taxlaw>

© 2018 Ernst & Young LLP. All Rights Reserved.

A member firm of Ernst & Young Global Limited.

This publication contains information in summary form, current as of the date of publication, and is intended for general guidance only. It should not be regarded as comprehensive or a substitute for professional advice. Before taking any particular course of action, contact EY or another professional advisor to discuss these matters in the context of your particular circumstances. We accept no responsibility for any loss or damage occasioned by your reliance on information contained in this publication.