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Tax Alert – Canada

Entry-into-force date set for Canada's *Digital Services Tax Act*

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 3 July 2024, an Order in Council (the OIC) was posted on the Canadian government's website fixing the day Canada's *Digital Services Tax Act* (DSTA) comes into force as 28 June 2024. The OIC was issued by the Governor General in Council, based on the recommendation of the Minister of Finance.

In a surprise to many in the industry, the coming-into-force (CIF) date came just over one week after Bill C-59, *Fall Economic Statement Implementation Act, 2023*, which implemented certain measures from the 2023 fall economic statement and the 2023 federal budget, including the DSTA, received Royal Assent on 20 June 2024.[1]

Notwithstanding that the DSTA became law on 20 June 2024, given the CIF date was not set by Bill C-59, many in the industry speculated on whether the CIF date would be set, if at all, at a much later date (i.e., subsequent to the US election in the fall) given the political uncertainty surrounding the digital services tax. Furthermore, taxpayers that may have been subject to the legislation were wondering whether they should move forward with quantifying the potential liability and developing the necessary processes needed to comply with the DSTA given the uncertainty with respect to the CIF date.

However, the Governor in Council indicated that the OIC was issued after considering the intent of the 8 October 2021 *Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy*, Canada's preference for a multilateral approach to addressing the challenges stemming from the digitalization of the economy, and the status of international negotiations and implementation in respect of such an approach.

[1] For more information on the tax measures contained in Bill C-59, see EY Tax Alert 2024 Issue No. 35.

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Accordingly, given that the DSTA is now law and entered into force as of 28 June 2024, consideration must be given to the potential implications of the new tax, including considering the "in-scope" revenue, developing the necessary processes to comply with the DSTA, and reviewing whether existing systems capture the information needed to calculate and report the new tax. Furthermore, consideration should be given with respect to the quantum and the timing of the required accrual for financial reporting purposes.

Background and implications

The DSTA impacts large domestic and foreign businesses whose corporate group has global consolidated revenues of at least €750 million and who earn Canadian digital services revenue from providing online marketplace services, online advertising, social media services and the monetizing of user data in excess of $20 million CAD. If a taxpayer or its consolidated group meets the required conditions, the taxpayer(s) will be required to pay a tax equal to 3% on their taxable Canadian digital services revenue in excess of $20 million CAD in a calendar year. For an overview of the draft DSTA, as released by the Department of Finance 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*.

A revised draft of the DSTA was released on 30 November 2023. One of the most notable changes to the DSTA since its iteration on 4 August 2023 was that 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 be passed in Parliament. For more information on the revised draft of the DSTA, see EY Tax Alert 2023 Issue No. 48, *Digital Services Tax Act has been tabled in the House of Commons*.

Businesses and consolidated groups that are above the threshold for the digital services tax are advised to closely review the DSTA and keep the following key features 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. Furthermore, any payments that are $10,000 or more must be paid electronically unless the taxpayer cannot reasonably pay that amount electronically.

Learn more

For more information on the DSTA and the potential accounting implications, contact your EY or EY Law tax advisor, or one of the following professionals:

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