

# Legislative Proposals Relating to Income Tax

**1 (1) The *Income Tax Act* is amended by adding the following after Part XIX:**

## Part XX — Reporting Rules for Digital Platform Operators

### Definitions

**282 (1)** The following definitions apply in this Part.

**active seller** means any seller that either provides relevant services or sells goods during the reportable period or is paid or credited consideration in connection with relevant activities during the reportable period. (*vendeur actif*)

**consideration** means compensation in any form that is paid or credited to a seller in connection with relevant activities, the amount of which is known or reasonably knowable by the platform operator. (*rémunération*)

**entity** has the meaning assigned by subsection 270(1). (*entité*)

**EUR** means the currency of the European Monetary Union. (*EUR*)

**excluded platform operator**, in respect of a reporting period, means a platform operator that demonstrates to the satisfaction of the Minister that the platform's entire business model is such that it does not

(a) allow sellers to derive a profit from the consideration; or

(b) have reportable sellers. (*opérateur de plateforme exclu*)

**excluded seller** means any seller

(a) that is an entity for which the platform operator facilitated more than 2,000 relevant services for the rental of immovable property in respect of a property listing during the reportable period;

(b) that is a governmental entity (as defined in subsection 270(1));

(c) that is an entity the stock of which is regularly traded on an established securities market (as defined in subsection 270(1)) or a related entity (as defined in subsection 270(1)) of an entity the stock of which is regularly traded on an established securities market; or

(d) for which the platform operator solely facilitated less than 30 relevant activities for the sale of goods and for which the total amount of consideration paid or credited did not exceed 2,000 EUR during the reportable period. (*vendeur exclu*)

**financial account identifier** means the unique identifying number or reference, available to the platform operator, of the bank account or other payment account to which the consideration is paid or credited. (*identifiant de compte financier*)

**goods** means any tangible property or, for civil law, any corporeal property. (*bien*)

**government verification service** means an electronic process made available by a reportable jurisdiction to a platform operator for the purposes of ascertaining the identity and tax residence of a seller. (*service public de vérification*)

**immovable property** means real or immovable property. (*biens immobiliers*)

**partner jurisdiction** means each jurisdiction identified as a partner jurisdiction by the Minister on the Internet website of the Canada Revenue Agency or by any other means that the Minister considers appropriate. (*jurisdiction partenaire*)

**personal service** means a service involving time- or task-based work performed by one or more individuals at the request of a user, unless such work is purely ancillary to the overall transaction, but does not include a service provided by a seller pursuant to an employment relationship with the platform operator or a related entity (as defined in subsection 270(1)) of the platform operator. (*service personnel*)

**platform** means any software, including a website or a part thereof and applications, including mobile applications, accessible by users and allowing sellers to be connected to other users for the provision of relevant services or the sale of goods, directly or indirectly, to such users (including the collection and payment of consideration in respect of relevant activities), but does not include, in the provision of relevant services or the sale of goods, software exclusively allowing without any further intervention

(a) the processing of payments in relation to relevant activities;

(b) listing or advertising in relation to relevant activities; or

(c) redirecting or transferring of users to a platform. (*plateforme*)

**platform operator** means an entity that contracts with sellers to make available all or part of a platform to such sellers. (*opérateur de plateforme*)

**primary address** means

(a) in respect of a seller that is an individual (other than a trust), the address of the seller's primary residence; or

(b) in respect of a seller that is an entity, the address of the seller's registered office. (*adresse principale*)

**property listing** includes all immovable property units located at the same street address and offered for rent on a platform by the same seller. (*lot*)

**relevant activity** means

(a) a relevant service; or

(b) the sale of goods for consideration. (*activité visée*)

**relevant service** means, if provided for consideration, the following services:

(a) the rental of immovable property;

(b) a personal service;

(c) the rental of a means of transport; or

(d) other prescribed services. (*service visé*)

**reportable jurisdiction** means

(a) Canada and any partner jurisdiction in respect of a reporting platform operator described in paragraph (a) of the definition reporting platform operator; and

(b) for a reporting platform operator described in paragraph (b) or (c) of the definition reporting platform operator, Canada. (*jurisdiction soumise à déclaration*)

**reportable period** means a calendar year during which a platform operator is a reporting platform operator. (*période de déclaration*)

**reportable seller** means any active seller, other than an excluded seller, that is determined by the platform operator, based on the due diligence procedures set out in sections 283 to 287, to:

- (a) be resident in a reportable jurisdiction;
- (b) have provided relevant services for the rental of immovable property located in a reportable jurisdiction; or
- (c) have been paid or credited consideration in connection with relevant services for the rental of immovable property located in a reportable jurisdiction. (*vendeur soumis à déclaration*)

**reporting platform operator** means a platform operator, other than an excluded platform operator, if

- (a) it is resident in Canada;
- (b) it is resident or incorporated or managed in a partner jurisdiction and facilitates the provision of relevant activities by sellers resident in Canada or with respect to rental of immovable property located in Canada and elects to be a reporting platform operator;
- (c) it is not resident in Canada or a partner jurisdiction, and it facilitates the provision of relevant activities by sellers resident in Canada or with respect to rental of immovable property located in Canada. (*opérateur de plateforme soumis à déclaration*)

**seller** means a platform user that is registered at any time during the reportable period on the platform for the provision of a relevant service or the sale of goods. (*vendeur*)

**TIN** means

- (a) the number used by the Minister to identify an individual or entity, including
  - (i) a social insurance number,
  - (ii) a business number, and
  - (iii) an account number issued to a trust; and
- (b) in respect of a jurisdiction other than Canada, a taxpayer identification number, including a VAT/GST registration number issued by the jurisdiction of the primary address of the seller, or a functional equivalent in the absence of a taxpayer identification number. (*NIF*)

### **Interpretation**

**(2)** This Part relates to the implementation of the Model Rules set out in the *Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy approved by the Council of the Organisation for Economic Co-operation and Development* and, unless the context otherwise requires, the provisions in this Part are to be interpreted consistently with the Model Rules, as amended from time to time.

### **Excluded seller**

**283 (1)** For the purpose of determining whether a seller is an excluded seller within the meaning of paragraph (a) or (d) of that definition, a reporting platform operator may rely on its available records.

### **Excluded seller – entity**

**(2)** For the purpose of determining whether a seller that is an entity is an excluded seller within the meaning of paragraph (b) or (c) of that definition, a reporting platform operator may rely on publicly available information or a confirmation from the seller.

### **Seller information – individual**

**284 (1)** The reporting platform operator must collect the following information for each seller that is an individual (other than a trust) and that is not an excluded seller:

- (a) the first and last name of the individual;

- | (b) the primary address of the individual;
- | (c) the TIN issued to the individual, including the jurisdiction of issuance; and
- | (d) the date of birth of the individual.

#### **Seller information – entity**

(2) The reporting platform operator must collect the following information for each seller (other than a seller described in subsection (1)) that is not an excluded seller:

- | (a) the legal name of the entity;
- | (b) the primary address of the entity;
- | (c) the TIN issued to the entity, including the jurisdiction of issuance; and
- | (d) the business registration number of the entity.

#### **Government verification services**

(3) Notwithstanding subsections (1) and (2), the reporting platform operator is not required to collect information pursuant to paragraphs (1)(b) to (d) or (2)(b) to (d) in respect of a seller where the reporting platform operator relies on a government verification service to ascertain the identity and tax residence of the seller.

#### **TIN collection**

(4) Notwithstanding paragraphs (1)(c) and (2)(c) and (d), the TIN or the business registration number, respectively, are not required to be collected if:

- | (a) the jurisdiction of residence of the seller does not issue a TIN or business registration number to the seller; or
- | (b) the jurisdiction of residence of the seller does not require the collection of the TIN issued to such seller.

#### **Verification of seller information**

**285 (1)** The reporting platform operator must determine whether the information collected pursuant to subsection 283(2) and sections 284 and 287 is reliable, using all records available to the reporting platform operator, as well as any publicly available electronic interface to ascertain the validity of the TIN.

#### **Due diligence**

(2) Notwithstanding subsection (1), for the completion of the due diligence procedures pursuant to subsection 288(2), the reporting platform operator may determine whether the information collected pursuant to subsection 283(2) and sections 284 and 287 is reliable using electronically searchable records available to the reporting platform operator.

#### **Verifying accuracy**

(3) For the purpose of paragraph 288(3)(b), notwithstanding subsections (1) and (2), in instances where the reporting platform operator has reason to know that any of the information items described in sections 284 or 287 may be inaccurate by virtue of information provided by the Minister, it must verify such information item using reliable, independent-source documents, data or information.

#### **Residence**

**286 (1)** A reporting platform operator must consider a seller resident in the jurisdiction of the seller's primary address.

#### **Government verification service**

(2) Notwithstanding subsection (1), a reporting platform operator must consider a seller resident in each jurisdiction confirmed by a government verification service pursuant to subsection 284(3).

### **Rented immovable property**

**287** Where a seller provides relevant services for the rental of immovable property, the reporting platform operator must collect the address of each property listing.

### **Due diligence**

**288 (1)** A reporting platform operator must complete the due diligence procedures set out in sections 283 to 287 by December 31 of the reportable period.

### **Previously registered accounts**

**(2)** Notwithstanding subsection (1), the due diligence procedures set out in sections 283 to 287 are required to be completed by December 31 of the second reportable period of the reporting platform operator, for sellers that were already registered on the platform:

**(a)** as of January 1, 2024; or

**(b)** as of the date on which an entity becomes a reporting platform operator.

### **Previous due diligence**

**(3)** Notwithstanding subsection (1), a reporting platform operator may rely on the due diligence procedures conducted in respect of previous reportable periods, provided:

**(a)** the primary address of the seller has been either collected and verified or confirmed within the last 36 months; and

**(b)** the reporting platform operator does not have reason to know that the information collected pursuant to sections 283, 284 and 287 is or has become unreliable or incorrect.

### **Active sellers**

**289** A reporting platform operator may elect to complete the due diligence procedures pursuant to sections 283 to 288 in respect of active sellers only.

### **Due diligence by third parties**

**290 (1)** A reporting platform operator may rely on a third-party service provider to fulfil the due diligence obligations set out in sections 291 and 292, but such obligations remain the responsibility of the reporting platform operator.

### **Partner jurisdiction**

**(2)** When a platform operator fulfils the due diligence obligations for a reporting platform operator with respect to the same platform pursuant to subsection (1), such platform operator may carry out the due diligence procedures pursuant to substantially similar rules in its partner jurisdiction.

### **Reporting to Minister**

**291 (1)** A reporting platform operator must report to the Minister the information set out in section 292 with respect to the reportable period, no later than January 31 of the year following the calendar year in which the seller is identified as a reportable seller.

### **Reporting to seller**

**(2)** A reporting platform operator must provide the information set out under section 292 to the reportable seller to which it relates, no later than January 31 of the year following the calendar year in which the seller is identified as a reportable seller.

### **Reporting not required**

**(3)** Notwithstanding subsections (1) and (2), the information in relation to a reportable seller is neither required to be reported to the Minister, nor to be made available to the reportable seller, in circumstances where the reporting platform

operator has obtained adequate assurances that it or another platform operator has or will fulfil the reporting obligations of sections 291 and 292:

- (a) with respect to the reportable seller pursuant to the rules in Canada; or
- (b) with respect to the reportable seller, other than a reportable seller resident in Canada, under substantially similar rules in a partner jurisdiction.

### **Reporting**

(4) The information pursuant to section 292 shall be reported in prescribed form and prescribed manner.

### **Currency**

(5) The information with respect to the consideration paid or credited in a fiat currency must be reported in the currency in which it was paid or credited. In case the consideration was paid or credited in a form other than fiat currency, it should be reported in the local currency of Canada, converted or valued in a manner that is determined consistently by the reporting platform operator.

### **Reporting in respect of quarter**

(6) The information with respect to the consideration and other amounts must be reported in respect of the quarter in which the consideration was paid or credited.

### **Information to be reported**

**292** Each reporting platform operator must report the following information:

- (a) the name, registered office address and TIN of the reporting platform operator, as well as any business names of any platforms in respect of which the reporting platform operator is reporting;
- (b) with respect to each reportable seller that provided relevant services (other than immovable property rental), rented out a means of transportation or sold goods:
  - (i) the items required to be collected pursuant to section 284,
  - (ii) any other TIN, including the jurisdiction of issuance, available to the reporting platform operator,
  - (iii) any financial account identifiers, insofar as they are available to the reporting platform operator and the jurisdiction of the reportable seller's residence is specified by the Minister,
  - (iv) where different from the name of the reportable seller, the name of the holder of the financial account to which the consideration is paid or credited, to the extent available to the reporting platform operator, as well as any other identifying information available to the reporting platform operator with respect to that account holder,
  - (v) each jurisdiction in which the reportable seller is resident on the basis of the procedures set out in section 286,
  - (vi) the total consideration paid or credited during each quarter of the reportable period and the number of such relevant activities in respect of which it was paid or credited, and
  - (vii) any fees, commissions or taxes withheld or charged by the reporting platform operator during each quarter of the reportable period; and
- (c) with respect to each reportable seller that provided relevant services for the rental of immovable property:
  - (i) the items required to be collected pursuant to section 284,
  - (ii) any other TIN, including the jurisdiction of issuance, available to the reporting platform operator,

(iii) any financial account identifiers, insofar as they are available to the reporting platform operator and either the jurisdiction of residence of the reportable seller or the jurisdiction in which the immovable property is located is specified by the Minister,

(iv) where different from the name of the reportable seller, the name of the holder of the financial account to which the consideration is paid or credited, to the extent available to the reporting platform operator, as well as any other identifying information available to the reporting platform operator with respect to the account holder,

(v) each jurisdiction in which the reportable seller is resident on the basis of the procedures set out in section 286,

(vi) the address of each property listing, determined on the basis of the procedures set out in section 287, and, if available, the land registration number,

(vii) the total consideration paid or credited during each quarter of the reportable period and the number of such relevant services provided with respect to each property listing in respect of which it was paid or credited,

(viii) any fees, commissions or taxes withheld or charged by the reporting platform operator during each quarter of the reportable period, and

(ix) where available, the number of days each property listing was rented during the reportable period and the type of each property listing.

#### **Production of TIN**

**293 (1)** Every reportable seller shall provide their TIN at the request of a reporting platform operator that is required under this Part to make an information return requiring the TIN.

#### **Confidentiality of TIN**

**(2)** A reporting platform operator required to make an information return referred to in subsection (1) shall not knowingly use, communicate or allow to be communicated, otherwise than as required or authorized under this Act or a regulation, the TIN without the written consent of the reportable seller.

#### **Penalty for failure to provide TIN**

**(3)** Every reportable seller who fails to provide on request their TIN to a reporting platform operator that is required under this Part to make an information return requiring the TIN is liable to a penalty of \$500 for each such failure, unless

(a) an application for the assignment of the TIN is made to the relevant reportable jurisdiction not later than 90 days after the request was made and the TIN is provided to the reporting platform operator that requested it within 15 days after the reportable seller received it; or

(b) the reportable seller is not eligible to obtain a TIN from the relevant reportable jurisdiction (including because the relevant reportable jurisdiction does not issue TINs).

#### **Assessment**

**(4)** The Minister may at any time assess any amount payable under subsection (3) by any reportable seller and, if the Minister sends a notice of assessment to the reportable seller, sections 150 to 163, subsections 164(1) and (1.4) to (7), sections 165 to 167 and Division J of Part I apply with such modifications as the circumstances require.

#### **Record keeping**

**294 (1)** Every reporting platform operator shall keep, at the institution's place of business or at such other place as may be designated by the Minister, records that the institution obtains or creates for the purpose of complying with this Part, including records of documentary evidence.

**Form of records**

**(2)** Every reporting platform operator required by this Part to keep records that does so electronically shall retain them in an electronically readable format for the retention period referred to in subsection (3).

**Retention of records**

**(3)** Every reporting platform operator that is required to keep, obtain, or create records under this Part shall retain those records for a period of at least six years following the end of the last calendar year in respect of which the record is relevant.

**Anti-avoidance**

**295** If a person enters into an arrangement or engages in a practice, the primary purpose of which can reasonably be considered to be to avoid an obligation under this Part, the person is subject to the obligation as if the person had not entered into the arrangement or engaged in the practice.

**(2) Subsection 1 comes into force on January 1, 2024.**

**2 (1) Subsection 205(3) of the *Income Tax Regulations* is amended by adding the following in alphabetical order:**

| Part XX Information Return — Digital Platform Operators

**(2) Subsection 1 comes into force on January 1, 2024.**

