

Amendments to the *Income Tax Act*

Preface

These explanatory notes describe proposed amendments to the *Income Tax Act*. These explanatory notes describe these proposed amendments, clause by clause, for the assistance of Members of Parliament, taxpayers and their professional advisors.

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Deputy Prime Minister and Minister of Finance

These notes are intended for information purposes only and should not be construed as an official interpretation of the provisions they describe.

Reporting Rules for Digital Platform Operators

Clause 1

The following new Part implements the reporting and due diligence standards of the Model Rules for Reporting by Platform Operators developed by the Organisation for Economic Co-operation and Development. Implementation of the Model Rules entails the introduction of rules that require platform operators to report certain information to the Canada Revenue Agency and to follow due diligence procedures as set out in this Part.

New Part XX of the Act comes into force on January 1, 2024.

Definitions

ITA
282(1)

Subsection 282(1) defines certain terms for purposes of Part XX of the Act, and sets out certain rules relating to the interpretation and application of the provisions in this Part.

“active seller”

An “active seller” is a seller that 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 (see definitions of “seller”, “relevant services”, “goods”, “consideration”, “relevant activities” and “reportable period” in this section).

Pursuant to section 289, a reporting platform operator may elect to complete due diligence procedures in respect of active sellers only.

Active sellers may be reportable (see definition of “reportable seller” in this section).

“consideration”

“Consideration” is compensation in any form paid or credited to a seller in connection with relevant activities (see definitions of “seller” and “relevant activities” in this section). The amount of consideration must be known or be reasonably knowable by the reporting platform operator, however, to be treated as consideration for the purposes of this definition. Consequently, amounts that cannot be reasonably knowable to the reporting platform operator, in light of its business model or the type of consideration, would not be treated as consideration.

Consideration can take any form including money, cryptocurrencies or payments in kind. It includes tips, gratuities and incentives paid or credited to a seller.

Compensation is considered to be paid or credited to a seller if it is paid or credited to an account specified by the seller, even if such account is not in the name of the seller. As consideration is defined as the compensation paid or credited to the seller, the amount of the consideration is the amount net of any fees, commissions or taxes withheld or charged by the reporting platform operator.

Pursuant to subsection 291(5), where consideration in exchange for a relevant activity is paid or credited to a seller in any form other than fiat currency, it should be reported in the local currency of Canada, converted or valued in a manner that is consistently determined by the reporting platform operator.

Depending on the business model of the reporting platform operator in question, consideration may flow directly between consumers and sellers or may be subject to intermediation by the reporting platform operator. This includes cases where the reporting platform operator acts as a collecting agent on behalf of the seller (i.e., collects consideration in respect of relevant services on behalf of the seller.)

Circumstances where amounts paid or credited to a seller in connection with relevant activities are reasonably knowable by a reporting platform operator include those where the reporting platform operator withholds or receives a fee, commission or taxes set in reference to the amounts paid by users in respect of relevant activities.

“entity”

An “entity” is defined consistent with the definition at subsection 270(1) to be a person (other than a natural person) or a legal arrangement, including a corporation, a partnership, a trust or a foundation.

“EUR”

In Part XX, various thresholds and limits are described in EUR, which is defined to mean the currency of the European Monetary Union.

“excluded platform operator”

An “excluded platform operator” is a platform operator that meets certain criteria to be not subject to due diligence and reporting requirements that would otherwise apply under this Part, in respect of a particular reporting period.

The exclusion in paragraph (a) applies in respect of a platform operator if the platform's entire underlying business model is such that sellers cannot derive a profit from compensation in connection with relevant activities through the platform. For example, this would include platforms that facilitate cost-sharing services, such as ride-sharing, involving arrangements to ensure that sellers cannot derive a profit from relevant activities.

The exclusion in paragraph (b) applies to platform operators that facilitate relevant activities through the platform only for sellers that are not reportable sellers. For instance, this would be the case when a platform operator only allows excluded sellers, such as large-scale hotels or governmental entities, to access the platform, thereby ensuring that there are no reportable sellers under these rules.

Excluded platform operators must demonstrate to the satisfaction of the Minister that they satisfy the exclusion criteria in paragraph (a) or (b).

“excluded seller”

The definition “excluded sellers” includes four categories of sellers that represent a limited compliance risk and are therefore carved out from the scope of the reporting requirements.

The exclusion in paragraph (a) is intended to exclude large providers of hotel accommodation that provide accommodation at a high frequency (i.e. at least 2,000 relevant services per year in respect of a property listing). (See definition of “property listing” in this section.)

The exclusion in paragraph (b) applies to governmental entities as defined in subsection 270(1) (i.e. the government of a jurisdiction, a political subdivision or a local authority of a jurisdiction and, subject to conditions, a wholly owned agency, controlled entity or instrumentality of a jurisdiction).

The exclusion in paragraph (c) applies to a seller that is an entity, or a related entity of the entity, the stock of which is regularly traded on an established securities market. (See definitions of “related entity” and “established securities market” in subsection 270(1).)

The exclusion in paragraph (d) applies to sellers for which the platform operator 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.

“financial account identifier”

A “financial account identifier” is the unique identifying number or reference, available to the reporting platform operator, of the bank account or other type of payment account to which the consideration is paid or credited. This term is relevant for the reporting requirements under section 292 and includes the IBAN number, sort code and account number, and payment account identifier that the reporting platform operator uses for transferring the consideration in respect to a reportable seller.

A financial account identifier is considered to be available to a reporting platform operator when it is available to another platform operator of the same platform, as well as any third-party service provider.

“goods”

“Goods” means any tangible property or, for civil law, any corporeal property. Sale of goods is a “relevant activity” which may be reportable.

The sale of intangible assets, such as energy rights or vouchers, are not captured by the term “goods” for purposes of Part XX.

“government verification service”

Some jurisdictions may provide government verification services to assist platform operators in ascertaining the identity and tax residence of platform sellers. In cases where it relies on a government verification service to ascertain the identity and tax residence of a seller, a reporting platform operator is not required to collect this information.

“immovable property”

“Immovable property” means any real or immovable property.

The rental of immovable property is a “relevant service” and a “relevant activity” which may be reportable. Immovable property includes both residential and commercial property, as well as other immovable property and parking spaces.

“partner jurisdiction”

The term “partner jurisdiction” is used in respect of jurisdictions where there is an agreement in place to share the information that is collected pursuant to the Model Rules for Reporting by Platform Operators. The definition “partner jurisdiction” means each jurisdiction that will be identified by the Minister of National Revenue on the Internet website of the Canada Revenue Agency or by any other means that the Minister considers appropriate.

“personal service”

A “personal service” is a service involving time- or task-based work performed by one or more individuals at the request of a consumer using a platform, unless the work is purely ancillary to the overall transaction. A personal service is a “relevant service” and a “relevant activity”, which may be subject to reporting obligations under Part XX.

Personal service includes a wide scope of services, such as transportation and delivery services, manual labour, tutoring, copywriting, data manipulation as well as clerical, legal or accounting tasks, provided they are carried out following a specific request of a particular user or set of users. Publicly-accessible transportation services operated in accordance with a pre-determined timetable, such as coach, train and airplane services, are not carried out following a specific user request and do not constitute a personal service.

Personal service does not include a service provided by a seller pursuant to a legally-recognized employment relationship with the platform operator or a related entity (within the meaning of related entity at subsection 270(1)) of the platform operator.

“platform”

Platform operators may be subject to reporting obligations under Part XX.

“Platform” means any software, including all or part of a website , 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 (see definitions of “sellers”, “relevant services” and “goods” in this subsection).

The definition of “platform” requires that the allocation of opportunities for sellers to engage in relevant activities with users is supported by an application or other platform technology, irrespective of whether such relevant activities are performed directly by third-party sellers for such users or whether, for example, the platform first purchases services or goods and then offers them in its own name to users. For example, a food delivery platform that “buys-in” the services of third-party sellers to deliver food to its users in its own name, would be considered a platform.

The definition of “platform” also encompasses operations to collect consideration from users, with a view to then paying out such consideration to the seller, either partly or wholly prior to, or after the provision of the relevant service.

The term “platform” does not, however, include software that exclusively facilitates the processing of payments in relation to relevant activities, the mere listing or advertising of relevant activities or the transfer of users to another platform, provided in each case that there is no further intervention in the provision of relevant activities. This is to clarify that pure payment processors, classified ads boards and online aggregators do not meet the definition of “platform”, given that they do not immediately intermediate the linking-up between sellers and other users for the provision of relevant activities and the collection of consideration for the relevant activities.

“platform operator”

The definition “platform operator” means an entity that contracts with sellers to make available a platform to sellers.

Platform operators are reporting platform operators, subject to reporting obligations under this Part, unless they are excluded platform operators. (See definitions of “entity”, “seller”, “platform”, “reporting platform operator” and “excluded platform operator” in this section.)

“primary address”

The definition “primary address” is the address that is an individual’s primary residence, as well as the address that is an entity’s registered office.

Pursuant to section 286, a seller is generally considered resident in the jurisdiction of the seller's primary address.

Where in the course of on-boarding individual sellers a reporting platform operator collects "home", "billing" or "residential" address information with the intention of treating such information as the primary address, the reporting platform operator should ensure that the seller is made aware that the address sought is that at which the seller lives and considers its primary residence.

While, in many cases, the seller's home address is likely to correspond to the seller's billing address, where these two information items differ, the home address should be treated as the seller's primary address. However, in cases where the reporting platform operator only collects billing address information, such address can be treated as the seller's primary address.

"property listing"

The definition "property listing" includes all immovable property units located at the same street address and offered for rent on a platform by the same seller.

Reporting platform operators must collect and report information in respect of each property listing that is rented on the platform, pursuant to section 287 and paragraph 292(c). Large providers of hotel accommodation that provide accommodation at a high frequency (i.e. at least 2,000 relevant services per year in respect of a property listing) are excluded from reporting (see definition of "excluded seller").

For the purposes of the definition of property listing, an "immovable property unit" can include a hotel room, apartment, house, parking space or other form of immovable property rented via a platform. Multiple hotel rooms rented by a seller as part of a hotel with the same street address are treated as a single property listing. Similarly, separate apartment units rented in a building with a single street address by the same seller are also treated as a property listing.

"relevant activity"

The term "relevant activity" means a relevant service or the sale of goods for consideration (see definitions of "relevant service" and "goods").

Relevant activities may be subject to reporting requirements under Part XX.

"relevant service"

The term "relevant service" means the rental of either immovable property or a means of transport, as well as a personal service, when these services are provided for consideration. (See definitions of "immovable property", "personal service" and "goods".)

Rental of immovable property includes both short and long-term rentals of immovable property, irrespective of the nature of the rights (freehold, leasehold, rental, usufruct or other) held by the seller over the rented immovable property.

A “relevant service” is included in “relevant activity”, which may be subject to reporting requirements under Part XX.

“reportable jurisdiction”

In the case of a platform operator that is resident in Canada, “reportable jurisdiction” means Canada and each partner jurisdiction of Canada.

Alternatively, “reportable jurisdiction” means Canada in the case of a platform operator that is resident, incorporated or managed in a partner jurisdiction, or in the case of a platform operator that is not resident in Canada or a partner jurisdiction but that facilitates the provision of relevant activities by sellers resident in Canada or with respect to rental of immovable property located in Canada. (See definition of “partner jurisdiction”.)

“reportable period”

The definition “reportable period” means any calendar year with respect to which a platform operator is a reporting platform operator. As such, any year in which a platform operator is a reporting platform operator, at any time in the year, will be a reportable period for that reporting platform operator.

“reportable seller”

A “reportable seller” is any active seller during a reportable period, other than an excluded seller, that is determined by the platform operator to:

- be resident in a reportable jurisdiction;
- have provided relevant services for the rental of immovable property located in a reportable jurisdiction; or
- have been paid or credited consideration in connection with relevant services for the rental of immovable property located in a reportable jurisdiction.

(See definitions of “active seller”, “excluded seller”, “reportable jurisdiction”, “relevant service”, “immovable property” and “consideration”.)

Whether an active seller is a reportable seller is determined on the basis of the due diligence procedures set out in sections 283 to 287.

“reporting platform operator”

A "reporting platform operator" is subject to information reporting obligations under this Part. Reporting platform operators are platform operators that are:

- resident in Canada;
- resident, incorporated or managed in a partner jurisdiction and that facilitate the provision of relevant activities by sellers resident in Canada or with respect to rental of immovable property located in Canada and that elect to be reporting platform operators; or

- not resident in Canada or a partner jurisdiction, but that facilitate the provision of relevant activities by sellers resident in Canada or with respect to rental of immovable property located in Canada.

A platform operator is exempted from the reporting obligations if it satisfies the requirements of the definition “excluded platform operator”.

“seller”

The term “seller” means a platform user that is registered at any time during the reportable period on the platform for the provision of relevant services or the sale of goods.

For this purpose, registered includes instances where a user has created a profile or account on the platform as well as entered into a contractual relationship with the platform operator of the platform.

See also definitions of “active seller”, “reportable seller” and “excluded seller”.

“TIN”

A “TIN” is a unique combination of letters or numbers that is generally assigned by a jurisdiction to an individual or an entity and used to identify the individual or entity for purposes of administering the tax laws of that jurisdiction.

In respect of Canada, a TIN is the number used by the Minister of National Revenue to identify an individual or entity, including a social insurance number, a business number, and an account number issued to a trust.

In respect of a jurisdiction other than Canada, a TIN is a taxpayer identification number used in that other jurisdiction to identify an individual or entity (or a functional equivalent in the absence of a taxpayer identification number).

Interpretation

ITA
282(2)

New subsection 282(2) provides an interpretive rule that applies for the purposes of Part XX. This Part is drafted in a manner that is intended to be generally consistent with the Model Rules for Reporting by Platform Operators. This forms the context in which the text of the provisions is to be interpreted.

This rule clarifies that taxpayers should interpret the provisions of Part XX, unless the context otherwise requires, consistently with the Model Rules and associated commentary that was published by the Organisation for Economic Co-Operation and Development (and as amended from time to time), available at <https://www.oecd.org/tax/exchange-of-tax-information/model-rules-for-reporting-by-platform-operators-with-respect-to-sellers-in-the-sharing-and-gig-economy.pdf>.

These are relevant in addition to the guidance to be published by the Canada Revenue Agency.

Excluded seller

ITA
283(1)

Subsection 283(1) provides that a reporting platform operator may rely on its available records in order to determine whether a seller is an “excluded seller” by virtue of being a large-scale hotel business or a small-scale seller of goods pursuant to paragraphs (a) or (d), respectively, in the definition excluded seller in subsection 282(1). An excluded seller is not subject to reporting under Part XX.

Excluded entity seller

ITA
283(2)

Subsection 283(2) provides that reporting platform operators may rely on publicly available information or a confirmation from a seller that is an entity in order to identify the seller as a governmental entity or a publicly-traded entity contemplated under paragraph (b) or (c) of the definition excluded seller in subsection 282(1). An excluded seller is not subject to reporting under Part XX.

Individual seller information

ITA
284(1)

Subject to subsections 284(3) and (4), subsection 284(1) requires that reporting platform operators must report the following information to the Minister with respect to each seller, other than an excluded seller, that is a natural person:

- (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.

See related definitions in 282(1) of “primary address” and “TIN”.

Entity seller information

ITA
284(2)

Subject to subsections 284(3) and (4), subsection 284(2) requires that reporting platform operators must report the following information to the Minister with respect to each seller, other than an excluded seller or a seller described in subsection (1):

- (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.

See definitions of “entity”, “primary address” and “TIN” in subsection 282(1).

Government verification services

ITA
284(3)

Subsection 284(3) provides that where the reporting platform operator relies on a government verification service to ascertain the identity and tax residence of a seller, the platform operator is not required to collect this information in respect of the seller.

See definition of “government verification service” in subsection 282(1).

TIN collection

ITA
284(4)

Subsection 284(4) provides an exception to the obligations to collect information in subsections (1) and (2).

If a particular reportable jurisdiction does not issue a TIN or business registration number to a seller, or the domestic law of the particular reportable jurisdiction does not require the collection of the TIN or business registration number issued to a seller, the reporting platform operator is not required to collect the TIN or business registration number in respect of the seller.

See definitions of “TIN” and “reportable jurisdiction” in 282(1).

Verification of seller information

ITA
285(1)

Subsection 285(1) provides that the reporting platform operator must determine whether the information collected pursuant to subsection 283(2) and sections 284 and 287 is reliable. In addition to using all records available to the reporting platform operator, the platform must use any publicly available electronic interface to ascertain the validity of the TIN.

Such information includes information the Reporting Platform Operator maintains or collects for AML/KYC procedures, as part of its on-boarding or re-documentation procedures, for payment purposes or other commercial or regulatory ends.

Due diligence

ITA
285(2)

Notwithstanding subsection 285(1), subsection (2) provides special rules with respect to sellers that were already active on the platform prior to the entry into effect of these rules (or at the time when the platform operator became a reporting platform operator).

Unless the reporting platform operator has reason to know that the information collected in respect of a seller under subsection 283(2) or sections 284 and 287 is or has become incorrect or unreliable, the reporting platform operator may determine whether the information collected pursuant to subsection 283(2) and sections 284 and 287 is reliable using only electronically searchable records already available to the reporting platform operator.

Verifying accuracy

ITA
285(3)

Subsection 285(3) requires a special verification procedure in the case where a reporting platform operator is informed by the Canada Revenue Agency that certain or all information items that the reporting platform operator previously collected and verified may be inaccurate.

This would, for instance, be the case when a jurisdiction that has received information pursuant to an exchange of information agreement has informed the Canada Revenue Agency that it was not able to match a record to a taxpayer or that it otherwise has reason to consider that the information is inaccurate.

Residence

ITA
286(1)

Subsection 286(1) provides that a reporting platform operator must consider a seller resident in the jurisdiction of the seller's primary address (except, pursuant to subsection (2), in situations where a government verification service is applied to ascertain the residency of a seller).

Government verification service

ITA
286(2)

Where a government verification service is used to ascertain the residency of a seller, subsection 286(2) provides that the reporting platform operator must consider a seller resident in each jurisdiction confirmed by a government verification service notwithstanding the default rule under subsection (1).

Rented immovable property

ITA
287

Section 287 applies where a seller provides relevant services for the rental of immovable property. In this case, the reporting platform operator must collect the address of each property listing, including the jurisdiction of each property listing.

See definition of “property listing” in subsection 282(1).

Due diligence

ITA
288(1)

Subsection 288(1) provides that a reporting platform operator must complete the due diligence procedures set out in sections 283 to 287 by December 31 of each reportable period (except, pursuant to subsection (2), where transitional relief is provided to new reporting platform operators).

Previously registered accounts

ITA
288(2)

Subsection (2) provides transitional relief to new reporting platform operators. It provides that the due diligence procedures set out in sections 283 to 287 are only required to be completed by December 31 of the second reportable period in which the entity becomes a reporting platform operator. This relief applies in respect of sellers that were already registered on the platform as of January 1, 2024 or the date that an entity becomes a reporting platform operator.

Previous due diligence

ITA
288(3)

Subsection 288(3) provides that reporting platform operators may continue to rely on the due diligence procedures conducted in respect of previous reportable periods provided that the primary address of each seller has been either collected and verified or confirmed within the last 36 months and that the reporting platform operator does not have reason to know that the information collected is or has become incorrect or unreliable.

Active sellers

ITA
289

Section 289 provides that a reporting platform operator may elect to complete the due diligence procedures set out in sections 283 to 288 in respect of active sellers only.

An active seller is a 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. See definitions of “active seller” and “seller” in subsection 282(1).

Due diligence by third parties

ITA
290(1)

Subsection 290(1) provides that while a reporting platform operator may use service providers (including other platform operators) to fulfil the reporting and due diligence obligations imposed in sections 291 and 292, these obligations shall remain the responsibility of the reporting platform operator.

Partner jurisdiction

ITA
290(2)

Subsection 290(2) provides that where a platform operator resident in a particular partner jurisdiction fulfils the due diligence obligations pursuant to subsection 290(1) for a reporting platform operator with respect to the same platform, that platform operator may carry out the due diligence procedures pursuant to substantially similar rules in the partner jurisdiction.

This is to ensure that a platform operator can rely on the rules in its own jurisdiction when it applies the due diligence procedures for a reporting platform operator with respect to the same platform, provided that these rules are substantially similar.

Reporting to Minister

ITA
291(1)

Subsection 291(1) provides that 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.

In the context of the transitional relief granted in respect of the due diligence procedures pursuant to subsection 288(2), this means that a seller that is identified as a reportable seller only in the second reportable period for the reporting platform operator would only be reportable in respect of the second reportable period, with information being due to be reported by January 31 of the year following that second reportable period.

Reporting to seller

ITA
291(2)

Subsection 291(2) requires that reporting platform operators provide the information set out in section 292 to the applicable reportable seller by the same deadlines that apply to information provided to the Minister under subsection (1).

This provision seeks to ensure that reportable sellers are aware of the information provided on their behalf to the Canada Revenue Agency and that it may be used by the reportable sellers when filing their annual tax returns.

Reporting not required

ITA
291(3)

Subsection 291(3) seeks to avoid duplicative reporting in case there is more than one reporting platform operator in respect of the same relevant activities performed by the same reportable seller.

Notwithstanding subsections (1) and (2), no reporting is required where the reporting platform operator has obtained adequate assurances that 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

ITA
291(4)

Subsection 291(4) provides that information must be reported in prescribed form and prescribed manner. It is expected that the information is to be reported in the standardised extensible mark-up schema developed by the Organisation for Economic Co-Operation and Development.

Currency

ITA
291(5)

Subsection 291(5) provides that 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 Canadian dollars, converted or valued in a manner that is determined consistently by the reporting platform operator.

Reporting in respect of quarter

ITA
291(6)

Subsection 291(6) provides that 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

ITA

292

Pursuant to section 292, each reporting platform operator must report certain information items.

Under paragraph (a), the reporting platform operator must report its name, registered office address, TIN, as well as the business names of platforms in respect of which the reporting platform operator is reporting.

Under paragraphs (b) and (c), the reporting platform operator must report specified information items needed to identify each reportable seller and the jurisdictions to which that reportable seller is linked for reporting purposes. It also requires the reporting platform operator to report specified information items in respect of the consideration paid to the reportable seller in connection with relevant activities.

For the purposes of the reporting on the identity of reportable sellers under subparagraphs (b)(i) and (c)(i), reporting platform operators should rely on information items they were required to collect pursuant to section 284.

In addition, under subparagraphs (b)(ii) and (c)(ii), reporting platform operators should also report any other TIN issued by the jurisdiction of residence of the seller, including the jurisdiction of issuance, that they were not required to collect under this Part, if they have such TINs available to them, for instance because the information items were collected for other regulatory or commercial purposes. Where, for instance, a reporting platform operator has collected both a VAT/GST number and a direct tax identification number, both numbers should be reported.

Subparagraphs (b)(iii) and (c)(iii) provide that the financial account identifiers to which the consideration is paid or credited should be reported, if available and if the jurisdiction of the reportable seller's residence (or for relevant services for the rental of immovable property, the jurisdiction in which the immovable property is located) is specified by the Minister. Not all jurisdictions' tax administrations will be in a position to use financial account identifiers for purposes of matching of a reportable seller to the taxpayer database of the tax administration. For that reason, the financial account identifier should only be reported when the jurisdiction is specified.

Subparagraphs (b)(iv) and (c)(iv) provide that, where the reportable seller's name is different from the name of the holder of the financial account to which the consideration is paid or credited, the reporting platform operator must report the name of the person or entity holding that financial account, if 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. This provision seeks to ensure that the relevant tax administration can identify the actual recipient of the consideration in connection with relevant activities.

Subparagraphs (b)(v) and (c)(v) require that the jurisdiction in which the reportable seller is resident on the basis of the procedures set out in section 286 is identified.

Subparagraphs (b)(vi) and (c)(vii) require that reporting platform operators report the total consideration received by quarter.

Subparagraph (c)(vi) requires that the address of each property listing, as determined on the basis of the procedures set out in section 287, and, if available, the land registration number of the property listing are to be reported. For these purposes, the land registration number includes functional equivalents, such as a cadastral number.

Subparagraphs (b)(vii) and (c)(viii) require that the reporting platform operator reports any fees, commissions or taxes withheld or charged by the reporting platform operator by quarter. For rental of immovable property, these amounts are to be reported per property listing.

Subparagraph (c)(ix) requires, in the context of rental of immovable property services, that the number of days each property listing was rented during the reportable period and the type of each property listing (e.g. hotel, apartment, parking space) are reported, provided such information is available to the reporting platform operator. This is to ensure that tax administrations can determine whether the rentals are occasional or regular, as well as to allow the determinations of national or local levies and accommodation-related taxes, provided this use is permitted under the relevant international exchange agreement or arrangement and applicable domestic law.

Production of TIN

ITA
293(1)

Subsection 293(1) provides that a reportable seller's TIN (the number used by the Minister to identify an individual or entity) must be provided at the request of a reporting platform operator required to make an information return requiring the TIN.

Confidentiality of TIN

ITA
293(2)

Subsection 293(2) provides that a reporting platform operator that is required to make an information return requiring a reportable seller's TIN shall not knowingly use, communicate or allow to be communicated, otherwise than as required or authorized under the Act or regulations, the TIN, without written consent of the reportable seller.

Penalty for failure to provide TIN

ITA
293(3)

Subsection 293(3) provides a \$500 penalty for a failure by a reportable seller to provide on request their TIN to any reporting platform operator that is required to make an information return in respect of the reportable seller.

This new penalty will not apply where

- an application is made for the TIN within 90 days of the request and the TIN is subsequently provided to the reporting platform operator within 15 days of receipt by the reportable seller, or
- the reportable seller is not eligible to obtain a TIN from the relevant reportable jurisdiction (for instance because the relevant reportable jurisdiction does not issue TINs).

Assessment

ITA
293(4)

Subsection 293(4) empowers the Minister of National Revenue to assess the penalty provided for under subsection 293(3) and provides that the administrative provisions of Division I and J will apply. However, by excluding subsections 164(1.1) to (1.3), reportable sellers will not be entitled to any repayment of a penalty in dispute by filing an objection.

Record Keeping

ITA
294(1)

Subsection 294(1) requires every reporting platform operator to maintain adequate records, including records of documentary evidence, to enable the Minister of National Revenue to determine whether the reporting platform operator has complied with its obligations under Part XX.

Form of Records

ITA
294(2)

Subsection 294(2) requires every reporting platform operator that keeps records in an electronic format to retain the records in an electronically readable format for the retention period referred to in subsection 294(3).

Retention of Records

ITA
294(3)

Subsection 294(3) requires every reporting platform operator that keeps, obtains or creates records for the purpose of complying with Part XX to retain those records for six years from the end of the last calendar year in respect of which the record is relevant.

Anti-avoidance

ITA
295

Section 295 provides an anti-avoidance rule. This rule provides that where a person enters into an arrangement or engages in a practice, the primary purpose of which is to avoid an obligation under Part XX, the person is subject to the obligation as if the person had not entered into the arrangement or engaged in the practice.

Clause 2

Income Tax Regulations

205(3)

The Act and the Regulations impose various reporting obligations, including the requirement for certain taxpayers to file information returns with the Canada Revenue Agency by a specific date. The Act provides, with some exceptions, that when a person fails to file an information return on time, a penalty equal to \$25 per day may apply, subject to a \$100 minimum and a \$2,500 maximum. The penalty is applicable to each information return that is filed late.

Recognizing that this penalty could be excessive in cases where a large number of returns of the same type are required to be filed, subsection 162(7.01) of the Act provides for a separate, lower, graduated penalty that would be applicable where information returns prescribed in subsection 205(3), were filed late.

Subsection 205(3) is amended to add the Digital Platform Operators information return to the list of prescribed returns for purposes of subsection 162(7.01).