



TaxNewsFlash Canada

Businesses Outside Quebec — New QST Rules in 2019

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Certain businesses located outside of Quebec must collect QST starting January 1, 2019. Quebec has implemented new QST rules that require many businesses located outside of Quebec, as well as operators of certain digital platforms, to register and collect QST from certain customers either on January 1, 2019 or September 1, 2019, depending of their circumstances. This new requirement will affect many businesses that do not have a physical or significant presence in Quebec, are not currently registered for QST purposes, and that sell intangibles (e.g., downloads of digital music, software, movies, TV shows and games), services or, in some cases goods, to specified Quebec consumers. Certain digital platforms are also affected by these new QST rules. However, certain businesses may not be required to register under the new QST rules if they earn \$30,000 or less in revenue in the last 12-month period from certain customers in Quebec, under a “small supplier” rule.

There are two effective dates for these new QST rules. Generally, foreign businesses (i.e., businesses that do not carry on business in Canada and have no permanent establishment in Canada) that are not registered for GST/HST purposes will have to register under the new mandatory QST registration system and start collecting QST effective January 1, 2019 on supplies of services and intangibles made to customers who reside in Quebec and are not registered for QST purposes (i.e., “specified Quebec consumers”). Canadian businesses located outside of Quebec and foreign businesses who are registered for GST/HST purposes will have to register and start collecting QST on supplies of services and intangibles, as well as goods made to specified Quebec consumers as of September 1, 2019.

These changes also affect businesses that operate certain digital platforms that help foreign and Canadian businesses make taxable supplies to specified Quebec consumers. In many cases, these businesses will also be required to register and collect QST under the new QST registration system, effective on January 1, 2019 and/or September 1, 2019

depending on their own facts and the suppliers making supplies through their digital platforms. In addition, these digital platforms may also be affected if they make taxable supplies themselves to specific Quebec consumers. The new QST rules apply to operators of digital platforms that control essential elements of transactions, regardless of whether the operators are registered under the usual QST registration system or under the new QST registration system.

Background

In its 2018 provincial budget, Quebec proposed new QST rules for certain suppliers outside Quebec (i.e., both Canadian businesses located outside of Quebec and non-resident businesses located outside of Canada) that make taxable supplies to specified Quebec consumers, a term defined under the new QST rules. This change applies to supplies of intangibles (i.e., “incorporeal movable property”) and services, and, in some cases, to goods (i.e., “corporeal movable property”). As a result, affected suppliers outside Quebec are required to register under a new QST registration system and to collect QST from consumers that qualify as “specified Quebec consumers”.

Under the current rules (i.e., prior to the new QST registration system), a supplier outside Quebec that does not carry on business in Quebec is generally deemed to make supplies outside Quebec and, as such, does not have to register and collect QST (subject to certain exceptions). However, consumers located in Quebec that acquire taxable goods and services from these suppliers are required to self-assess QST and remit these amounts to Revenu Quebec. These rules were amended to reflect the upcoming new QST rules in 2019.

Quebec’s new QST rules are based on principles developed by the Organization for Economic Co-operation and Development (OECD). Some European regions already apply similar principles. Note that the federal government has not enacted similar rules under the federal GST/HST system.

Affected suppliers

Under the new QST rules, suppliers outside Quebec that have no physical or significant presence in Quebec, and that earn more than \$30,000 in consideration in the last 12-month period for taxable supplies made in Quebec to certain consumers must register for QST. Special rules apply to calculate the \$30,000 threshold for suppliers who make supplies through certain digital platforms and for operators of these digital platforms.

Canadian businesses located outside of Quebec and foreign businesses registered for GST/HST purposes

Canadian businesses located outside of Quebec that are currently not registered under the usual QST rules, as well as foreign businesses registered for GST/HST purposes that sell taxable goods, intangibles or services to specified Quebec consumers in Quebec will have

to register under a new QST registration system and collect QST effective September 1, 2019.

Foreign businesses registered for GST/HST purposes subject to the new QST rules will have to carefully review the terms and conditions of their transactions with specified Quebec consumers. This is because they will have to collect QST on intangibles and services, as well as goods that will be imported into Canada.

Foreign businesses not registered for GST/HST purposes

Similar requirements apply to foreign businesses that are not registered under the usual QST rules and also not registered for GST/HST purposes that sell taxable intangibles or services to specified Quebec consumers. These businesses will have to register under the new QST registration system and collect QST, effective January 1, 2019.

Although foreign businesses located outside of Canada that are not registered for GST/HST purposes and only sell goods to specified Quebec consumers are not required to register under the new QST rules, Quebec has indicated that it intends to work with the federal government to improve the collection of QST on goods at the border.

Digital platforms

Operators of digital property and services distribution platforms (i.e., digital platforms) will also be affected by the new QST rules. The operators of these digital platforms will generally be required to register and collect QST if their digital platform controls key elements of transactions related to suppliers located outside Quebec, and these suppliers are not registered under the usual QST registration system and make supplies of intangibles or services to specified Quebec consumers. Operators of such digital platforms that are currently registered under the usual QST registration system will also have to start collecting QST for such transactions. In addition, the operators of digital platforms that themselves make taxable supplies to specific Quebec consumers may also be subject to the new QST rules based on their own facts and circumstances.

Each digital platform will have to determine whether they control key elements of the transactions based on their own facts and circumstances. The new QST rules clarify that invoicing, the terms and conditions of the transaction and the terms of delivery are considered key elements of these transactions. However, Quebec notes that certain digital platforms will not be subject to the new rules if they:

- Supply only a transport service
- Provide only access to a payment system
- Provide only advertising services for suppliers outside Quebec and link customers to the supplier's website.

While the \$30,000 threshold also applies for digital platforms who are not currently registered under the usual QST rules, its calculation is slightly different. For an operator of

a digital platform that controls the key elements of transactions with specified Quebec consumers, the threshold will include the consideration for taxable supplies of intangibles and services made in Quebec to consumers of certain suppliers outside Quebec facilitated by the digital platform. Quebec has also provided different rules to calculate the \$30,000 threshold for suppliers outside Quebec that make all or part of their taxable supplies through a digital platform.

In general, operators of qualifying digital platforms will have to collect and remit QST for qualifying transactions that involve a supplier located outside of Quebec that is not registered for QST purposes or that is registered under the new QST registration system. Suppliers registered under the usual QST registration system must remit the QST collected by these platforms (i.e., not the operators of such platforms).

The effective date of the application of the new QST rules for digital platforms may vary based on whether the suppliers that use the digital platforms are Canadian businesses located outside Quebec, foreign businesses registered for GST/HST purposes, or foreign businesses who are not registered for GST/HST. The effective date may also depend on whether the digital platforms make supplies themselves.

Affected businesses — Take action now

Register, collect and remit QST

Affected suppliers outside Quebec are required to enroll in Quebec's new QST registration system by using a new online registration website. These businesses will be assigned quarterly reporting periods, and will be required to file a return and remit the QST collected within one month after the calendar quarter ends. Businesses registered under the new QST registration system will not be eligible to claim input tax refunds (ITRs) for QST paid on their inputs.

Some suppliers outside Quebec will be able to choose to enroll in the usual QST registration system rather than the new QST registration system, subject to certain conditions. However, Quebec notes that, in this case, the supplier outside Quebec will be required to also register for GST/HST. Qualifying suppliers may opt to register under the usual QST registration system to be eligible to claim ITRs on their inputs.

Identify specified Quebec consumers

To determine whether QST must be collected under the new QST rules, suppliers outside Quebec will have to determine whether any of their customers in Quebec meet the definition of "specified Quebec consumers". To do so, suppliers will have to determine the customer's "usual place of residence" and whether the customer is registered for QST purposes. As part of this determination, suppliers outside Quebec will be required to maintain two non-contradictory pieces of information related to each consumer's usual place of residence, such as the person's billing or home address, a device's IP address or payment-related bank information.

Invoices and tax paid in error

The new QST registration system has various rules and restrictions. One of these restrictions provides that customers that are registered for QST and that pay QST in error to a supplier outside Quebec that is registered under the new QST registration system will not be entitled to claim an ITR for that QST, even if the customers acquire the supplies exclusively in the course of their commercial activities. Instead, these customers must request a refund of the tax paid in error directly from the suppliers. However, if a specified Quebec consumer (i.e., a person who has its usual place of residence in Quebec and who is not registered for QST purposes) pays QST in error to a supplier registered under the new QST registration system (e.g., QST paid on a zero-rated supply), the consumer may request a refund from the supplier or from Revenu Quebec.

Additional administrative requirements

Suppliers outside Quebec registered under the new QST registration system are assigned a QST registration number that is different from the number issued under the usual QST registration system. The QST registration number for suppliers registered under the new QST registration system will begin with the letters “NR”, followed by 8 digits. Also, the mandatory information required to appear on invoices will also be slightly different than the requirements under the general QST rules. Among other details, suppliers registered under the new QST registration system must clearly indicate on their invoices, receipts, or agreements with their consumers, the QST payable or that the amount paid or payable by the consumer includes the QST payable for the particular supply. The QST tax rate should appear distinct from any other tax. These suppliers will be able to remit QST collected with the help of a new online service. Similar to the usual QST rules, suppliers outside Quebec registered under the new QST registration system are required to retain their books and records, as well as any supporting documents, for six years after the year to which they relate.

KPMG observations

The new QST registration system may create some confusion for businesses that do not have processes in place to recognize QST paid in error on transactions with suppliers outside Quebec registered under the new QST rules.

Although the new rules will no longer require specified Quebec consumers to self-assess QST on supplies received from suppliers outside Quebec, these self-assessment rules will continue to apply to other customers in Quebec that purchase supplies from suppliers outside Quebec, including suppliers registered under the new QST registration system. For example, an entity that is registered for QST purposes will not qualify as a specified Quebec consumer and may still be required to self-assess QST on supplies purchased from non-resident suppliers if those supplies are not inputs into the entity’s commercial activities.

A supplier outside Quebec may decide to voluntarily register under the usual QST registration system if the supplier meets certain conditions.

We can help

KPMG can help you determine how these new QST rules affect your business and determine how to prepare for those upcoming changes. We can assist you with your indirect tax compliance obligations, including the QST and/or GST/HST returns. We can also help identify areas where you may be able to manage certain tax costs.

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