



TaxNewsFlash

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Vendors — Prepare Now to Meet Luxury Tax Requirements

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Businesses that sell vehicles, boats and aircraft should determine how they are affected by the federal luxury tax set to apply as of September 1, 2022. Finance has now released draft legislation for this new tax regime that outlines obligations for vendors, importers and purchasers of certain vehicles, boats and aircraft as well as administrative and transition rules. Finance has also clarified that the new tax will generally apply after August 2022. Finance will accept comments on this legislation until April 11, 2022.

This publication summarizes certain details included in the federal luxury tax draft legislation. Affected businesses should review the draft legislation, including the transitional rules, to determine how they may apply to their sales and imports of vehicles, boats and aircraft. In general, sales agreements related to “subject items” may be subject to the new luxury tax, unless the purchaser entered into the agreement in writing before April 20, 2021.

Background

Finance originally announced a new luxury tax in the 2021 federal budget that would apply to certain sales of vehicles, boats and aircraft. Finance released a proposed framework for the new tax in August 2021. In December 2021, the federal government announced that future details would be released in early 2022. Previously, the rules were scheduled to come into force on January 1, 2022.

For details, see *TaxNewsFlash-Canada* 2021-21, “[Highlights of the 2021 Federal Budget](#)” and *TaxNewsFlash-Canada* 2021-62, “[Highlights of the 2021 Federal Fall Economic Update](#)”.

How does the luxury tax apply?

Vendors are generally responsible to pay the new luxury tax on certain goods sold to purchasers, under the new draft legislation. The proposed new luxury tax applies to subject vehicles and aircraft priced over \$100,000, as well as subject boats priced over \$250,000. In general, the new luxury tax will equal the lesser of:

- 20% of the amount of the total sale price in excess of \$100,000 for subject vehicles and subject aircraft and in excess of \$250,000 for subject boats, or
- 10% of the total sale price.

However, the luxury tax may not apply on vehicles, boats and aircraft that are purchased by qualifying entities or that are to be used for qualifying activities.

A passenger motor vehicle may generally be subject to the luxury tax where it:

- Is designed to carry people on highways and streets (i.e., has four or more wheels in contact with the ground)
- Seats up to 10 persons
- Has a gross vehicle weight rating of 3,856 kg or less
- Has a “date of manufacture” after 2018
- Has a total price of more than \$100,000 at the time of delivery in Canada or has a total value of more than \$100,000 at the time of importation into Canada
- Has not previously been put into service in Canada
- Is delivered to, or imported by, a person who is not registered under the new luxury tax regime.

The draft legislation also outlines the criteria to determine whether an aircraft or a boat is subject to the luxury tax. Also, special rules apply for improvements to vehicles, aircraft and boats, and imports of subject items.

Where a purchaser provides a specific exemption certificate, the vendor may be granted relief from the application of the luxury tax, including where the purchaser certifies that it is a registered vendor.

Calculating the total price or value of subject items

To determine whether the luxury tax applies, businesses and importers must calculate the good’s total price (i.e., its “taxable amount” as per the draft legislation) or value at

importation. This calculation, which is also used to determine the applicable tax rate, includes:

- The costs of modifications
- Taxes (other than GST/HST and PST of general application)
- Duties
- Charges
- Fees
- Other amounts paid related to delivery or importation.

Note that vendors cannot reduce the total price or value by accounting for the value of trade-ins or down payments.

Special situations

Special rules apply for lessors of subject vehicles, boats or aircraft under the draft legislation. In particular, lessors generally cannot register under the luxury tax regime. It appears that vendors will essentially be required to pay the luxury tax when the lessor purchases these goods. However, specific rules apply for businesses that both sell and lease subject vehicles, boats or aircraft.

The draft legislation also provides rules concerning:

- Tax-paid certificates that the CRA will issue for purchases of a subject boat or aircraft on which the luxury tax has already been paid
- Exemption certificates provided by a purchaser, including details that must be included in these certificates
- Self-assessment requirements for purchasers that install certain modifications within 12 months of the acquisition or import of subject vehicles, boats or aircraft
- Luxury tax paid in error.

Registration and other administrative obligations

Businesses that sell or import subject vehicles, boats and aircraft will be required to register under the new luxury tax regime. In general, a business must register before making their first qualifying sale or importation of a subject item.

Once registered, a person generally must file returns based on calendar quarters. Businesses that are required to file returns may also have to file an information return for each reporting period if they meet certain conditions.

The draft legislation also includes compliance obligations and other rules related to, among other areas:

- Retaining books and records
- Interest and penalties
- Assessments
- Notices of objection.

Effective date and transitional rules

The new luxury tax generally applies to subject vehicles, boats and aircraft that are delivered to a non-registered person or imported by a non-registered person on or after September 1, 2022, according to the draft legislation.

Finance also provides transitional rules for transactions that straddle the effective date of September 1, 2022. Based on these rules, subject vehicles, boats and aircraft that are delivered or imported on or after September 1, 2022, but were sold under a written agreement entered into on or after April 20, 2021, will generally be subject to the proposed new luxury tax. Various transitional rules may apply in different types of transactions.

KPMG observations

Businesses that sell subject vehicles, boats and aircraft may want to review sales agreements entered into since April 20, 2021 to determine whether they may be affected by these transitional rules. Insurers and financing companies may also want to review their underwriting practices to determine how the luxury tax will affect insurance premiums, reserves and financing terms.

Non-residents that sell subject items into Canada and deliver physical possession of the good in Canada may also have to register for the luxury tax. This is because the registration obligations do not appear to contain any presence or “carrying on business in Canada” threshold.

We can help

Your KPMG advisor can help you assess the effect of the new luxury tax regime on your business and provide guidance on how these rules might affect you. For more details, contact your KPMG advisor.

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