

**GOVERNMENT RESPONSE TO THE FOURTEENTH REPORT OF THE STANDING COMMITTEE ON
PUBLIC ACCOUNTS ENTITLED: TAXATION OF E-COMMERCE**

INTRODUCTION

The Government of Canada is pleased to respond to the 14th Report of the Standing Committee on Public Accounts (the PACP Committee) entitled, *Taxation of E-Commerce* (the Report), tabled in the House of Commons on March 25, 2021.

After carefully reviewing the Committee's report, the Government has chosen to respond to each recommendation individually. The Government of Canada appreciates the work of the Committee and welcomes its analysis, views and recommendations.

As part of the Fall Economic Statement 2020, and reaffirmed in Budget 2021, the Government proposed a number of changes to the Goods and Services Tax/Harmonized Sales Tax (GST/HST) system to ensure that the GST/HST applies in a fair and effective manner to the growing digital economy. These proposals include:

- ensuring that non-resident vendors supplying digital products or services (e.g., video and music streaming and downloads) to consumers in Canada be required to register for the GST/HST and to collect and remit the tax on their taxable supplies to consumers in Canada;
- requiring distribution platform operators and non-resident vendors to register under the normal GST/HST rules and to collect and remit the GST/HST in respect of certain supplies of goods shipped from a fulfillment warehouse or another place in Canada; and,
- applying the GST/HST on all supplies of short-term accommodation in Canada facilitated through a digital platform.

The proposed legislative provisions and framework for implementing these measures are included in the proposed *Budget Implementation Act, 2021*, No. 1 and take effect on July 1, 2021. The proposed legislation includes measures to enhance the CRA's monitoring and compliance of the digital and platform economy.

The Government Response also acknowledges the Committee's reporting schedule, and will provide all of the requested reports on the recommended dates.

The following represents the Government Response.

RECOMMENDATIONS

Recommendation 1 - on the scope of compliance activities

That the Canada Revenue Agency provide the House of Commons Standing Committee on Public Accounts with: (1) a report detailing its compliance strategy with respect to the Goods and Services Tax/Harmonized Sales Tax in e-commerce, including a plan to better leverage third-party data and better deter non-compliance in the accommodation sharing sector, by 31 May 2021; and (2) a follow-up report on the implementation of this strategy and the compliance activities undertaken as a result of this strategy in 2021-2022, by 31 May 2022.

The Government of Canada supports this recommendation. The information in the following paragraphs represents the progress report due to the Committee by May 31, 2021.

As committed in its response to the Auditor General's 2019 Spring Reports – *Report 3 Taxation of E-Commerce*, the CRA has developed a comprehensive compliance strategy to better detect and address non-compliance within the platform economy for both GST/HST and Income Tax, including a plan to better leverage third-party data and better deter non-compliance in the accommodation sharing sector. More precisely, the strategy recognizes the risks associated with the platform economy, where platform operators connect buyers and consumers with sellers and service providers.

Four categories of platforms have been identified in the strategy including the sharing economy (which also covers accommodation sharing), the gig economy, peer-to-peer selling and social media influencers. Each category contains unique risks requiring tailored compliance interventions.

The strategy is based on four themes. The first focuses on the development and use of business intelligence to build risk assessment models that identify non-compliance within the platform economy and guide the compliance approaches to be used. The use of legislative tools such as Unnamed Persons Requirements (under the *Income Tax Act*) to leverage third party data forms part of this process.

The second theme concentrates on improving understanding of the platform participants' tax reporting obligations. The CRA has already updated its communication venues to provide tax related information on the platform economy and to improve taxpayers' awareness of their obligations and benefits of reporting income earned from these online activities. As part of these activities, the CRA will leverage external communication channels including social media messaging to increase its communication reach.

The third theme calls for the use of varying compliance interventions based on the level of identified risk and tax dollars at risk. Dedicated audit teams will be established to address platform economy risks in both Income Tax and GST/HST. A range of compliance interventions will be used depending on the nature and level of non-compliance. More precisely, the strategy calls for collaboration with various internal and external stakeholders. For instance, the CRA will work horizontally to proceed with compliance actions across multiple business lines (Offshore Tax, International Tax). Additionally, the CRA will work with partners including provincial governments and other international tax administrations leveraging various compliance tools

such as international tax treaties, joint audit initiatives and exchange of information to identify and address non-compliance. Lastly, the strategy identifies opportunities for the CRA will to engage with platform operators in assisting with the identification of risks of sellers using their platforms.

The fourth theme focuses on the identification of possible gaps in compliance policies and the legislative framework, as well as the possible mechanisms required to address these shortcomings in facilitating compliance.

The GST/HST measures proposed in the *Budget Implementation Act, 2021*, No. 1 propose that certain digital economy businesses (including non-resident vendors supplying digital products or services, distribution platform operators and short-term accommodation platform operators) will have new GST/HST responsibilities, resulting in new obligations, including registering, and charging and collecting the GST/HST. The proposed measures also include the filing of an annual information return for certain platform operators that are registered or are required to be registered for the GST/HST.

The CRA is leveraging existing structures, processes and systems in order to meet the requirement of having an online simplified registration and remittance system in place by July 1, 2021. This simplified system leverages OECD recommendations including facilitating online registration, filing and allowing for electronic payments with certain optional foreign currencies.

These proposed GST/HST measures will contribute to the CRA's compliance strategy by increasing its understanding of various segments of the platform economy and the associated compliance risks. It also provides the CRA with an opportunity to facilitate compliance actions while reducing the administrative burden on platforms and their sellers..

The new GST/HST legislative provisions in the *Budget Implementation Act, 2021*, No. 1 offer an opportunity to establish a systematic approach for collecting and using third party data from fulfilment warehouses and accommodation sharing platforms. This data can improve the compliance continuum by enhancing business intelligence on the platform economy, which will result in better targeting of compliance interventions (including educational campaigns as well as audits depending on the tax dollars at risk).

The legislative measures proposed in the *Budget Implementation Act, 2021*, No. 1 will help strengthen compliance in the digital and platform economy. The measures announced by the government provide a foundation for enhancing compliance in the platform economy. Pursuant to the implementation of the proposed GST/HST amendments, the CRA will monitor

compliance trends, and the ongoing evolution of the platform economy. This will ensure the CRA is well positioned and equipped to address tax compliance as the platform economy continues to diversify and additional participants enter the economy with new and innovative business models.

The CRA will look closely at its operations including its assessment and compliance activities to facilitate onboarding of, and minimizing burden on, impacted businesses. The CRA will also continue to engage Finance Canada to discuss international guidelines and approaches used by other tax administrations in order to strengthen its compliance mandate.

The CRA is proceeding with the implementation of the compliance strategy starting in 2021-22. The CRA will also provide the Committee with a follow-up report on its implementation by May 31, 2022.

Recommendation 2 – on mechanisms to track compliance activities

That, by 31 August 2021, the Canada Revenue Agency provide the House of Commons Standing Committee on Public Accounts with a report outlining changes to tracking, monitoring and reporting mechanisms for compliance activities conducted in the e-commerce sector.

The Government of Canada supports this recommendation. The CRA is pleased to report that mechanisms to track, monitor and report on its compliance interventions in the e-commerce sector including the platform economy have been implemented.

In meeting this commitment, the CRA completed an analysis to identify shortfalls in its monitoring methodology with respect to the compliance activities in this sector.

New codes and procedures were developed within the CRA's case management system and implemented in February 2021. These measures ensure that compliance actions for taxpayers engaged in the platform economy are tracked separately thereby allowing the CRA to run reports and analyze results of compliance interventions associated with these taxpayers.

The changes to the system are now operational. Auditors have been provided with instructions and will use the system to code their compliance actions in order to identify cases where taxpayers are engaged in the platform economy. Information from the CRA's case management system will be used to further refine the CRA's Business Intelligence process which enhances its capacity in identifying and targeting non-compliance. It will also be used to measure the results of compliance interventions for statistical purposes and to update management on developments in the platform economy.

The CRA will assess new information captured through the proposed measures in the 2020 Fall Economic Statement and Budget 2021 to strengthen its tracking and monitoring methodologies in the sector.

Details on the use of the new tracking and monitoring mechanisms will be provided in the progress report for Recommendation 2 due to the PACP Committee by August 31, 2021.

Recommendation 3 - On the Courier Low Value Shipment Program

That the Canada Border Services Agency provide the House of Commons Standing Committee on Public Accounts with two progress reports and one final report on improving the validation and collection of sales taxes under the Courier Low Value Shipment Program, including: (1) the means in place to ensure that taxes are fully reflected; (2) requests made and approvals received for regulatory changes to the program; and (3) the automation of the program with respect to receiving, processing and analyzing shipment data. Two progress reports shall be provided to the Committee no later than 31 May 2021 and 31 May 2022, respectively, and a final report shall be provided no later than 31 May 2023.

The Government of Canada supports this recommendation. The information in the following paragraphs represents the progress report due to the Committee by May 31, 2021. The CBSA will provide the next the progress report to the Committee no later than May 31, 2022, followed by a final report no later than May 31, 2023.

The CBSA plays a crucial role in supporting the Canadian economy by facilitating trade and ensuring that individuals and businesses comply with federal and provincial taxation regulations on imported goods and services, including e-commerce. The CBSA is on track to review and enhance the means by which goods under the Courier Low Value Shipment program (CLVS) are accounted for in order to ensure that taxes are fully reflected. The CBSA is also in the process of implementing the multi-year CBSA Assessment and Revenue Management (CARM) system outlined to the Committee, during committee hearings in November and December 2020. The CARM initiative will transform the collection of duties and taxes for goods imported into the country. The CBSA is also moving forward on seeking the regulatory authorities and the technical capacity to further automate the CLVS program, including the ability to receive, process and analyze customs data.

The responses to the specific elements outlined under Recommendation 3 are provided below:

(1) Ensuring taxes are fully reflected:

CARM is a multi-year initiative that will transform the importation process by providing an online portal that will allow the trade community to access to border services 24 hours a day, seven days a week. The CARM initiative will allow Canada's importers and customs brokers to use online tools to classify goods, calculate duties and taxes, submit electronic declarations and make electronic payments, and review up-to-date account information. CARM will allow importers and customs brokers to tailor the services they need to manage their own accounts.

When fully implemented, CARM will make it easier for businesses to work with the CBSA, while improving consistency in applying trade rules and decisions. The CARM solution will feature a

new Commercial Accounting Declaration (CAD) which will serve as the digital document to account for imported goods into Canada. CAD will automatically calculate duties and taxes based on information provided by the business. The CARM solution will also permit interest-free corrections (adjustments) to the CAD submission up to the payment due date. Corrections to the CAD after the due date may be subject to CBSA review. CARM will also feature a tool to automate the Harmonized Commodity Description and Coding System (HS) which is used to determine appropriate duty rates. Since duties are taxed, tools are needed to ensure the consistent classification of goods coming into Canada so that importers pay the appropriate amount of tax on duties.

The forthcoming CARM Release 2, which is currently scheduled for Spring 2022, will transform the CLVS accounting process and will build the foundation for the CBSA to carry out its mandate more efficiently in response to the growth of cross-border trade, including e-commerce.

(2) Pursuing regulatory modernization:

The CBSA is developing a policy proposal to mandate advance electronic data for CLVS and postal shipments in support of further automation of the program (see below).

(3) Automating the program with respect to receiving, processing and analyzing shipment data:

The CBSA is currently examining options to further automate the program, including the ability to receive, process, and analyze customs data, by fiscal year 2023-24. This will require the development and deployment of systems to gather, centralize and process data. Review of the data will be ongoing and will allow for more efficient processing of electronic data from couriers on a CBSA system. The CBSA's automated solution will be designed as a tool for the purpose of reporting, release, and targeting of CLVS shipments, and will allow for greater visibility on an importer's importing practices while enhancing the CBSA's ability for compliance monitoring in the CLVS commercial stream.

The CBSA has developed an interim technical solution to handle the processing of CLVS data. The approach, which is being used now on a voluntary basis, is the *Courier Analytics Portal* (CAP), through which the CBSA works with CLVS participants to obtain their information in advance of arrival. CAP is the CBSA's immediate solution to address the rising volumes, but it is based on voluntarily supplied data. CAP is currently deployed in Hamilton, Vancouver, Toronto and Calgary and was used to process 1.8 million shipments in 2019-20 and approximately 10.1 million in 2020-21. CAP usage continues to expand to other ports and additional participants.

As CAP is a voluntary process, only a portion of the eligible courier clients are participating. The CBSA ports of entry that are utilizing CAP have seen an increase in productive time for CBSA examining officers. Officers have approximately 50% more time to spend on examinations as a result of the enhanced risking capabilities within the CAP tool.

CAP is still being developed at the same time as it is made available to operations and is considered as an interim solution to provide the CBSA with an immediate way to ingest courier shipment data electronically. The CBSA is still pursuing a more robust solution that would be available and easily scalable nationally, and could leverage artificial intelligence in its assessment of risk. Initial proofs of concept for the development of such a solution has taken place and further development is being pursued.

Recommendation 4 - On Reporting Progress Publicly

That, by 31 May 2021, the Canada Border Services Agency provide the House of Commons Standing Committee on Public Accounts with a progress report on its communications strategy pertaining to risk assessment and improved revenue perception in the e-commerce sector.

The CBSA supports the Committee's Recommendation 4 and has developed an E-Commerce Customs Strategy focused on balancing compliance with trade facilitation, safety and security. This Strategy will enable and transform operations to better respond to the growing volumes of cross-border e-commerce shipments. It is important to note that e-commerce is not a discrete importation stream or mode, and shipments of goods purchased via e-commerce methods can arrive in shipments arriving by air, marine, land border, courier or international mail.

The CBSA regularly reports on results related to processing and revenue collection for admissible commercial goods, including those arriving as e-commerce shipments, through the Border Management pillar of the CBSA's Departmental Results Report (DRR). There has been a large and wide undertaking of stakeholder consultations with respect to the CARM system, which aims to ensure more efficient and effective assessment and collection of duties and taxes writ large (not just within the context of e-commerce).

In the 2019-2020 DRR, the CBSA reported the following with respect to e-commerce:

"The CBSA advanced the development of its E-Commerce Customs Strategy to manage the dramatic increase in e-commerce volumes of casual importations. Specifically, the CBSA completed preparatory work for proofs of concept to enhance the CBSA's risk assessment capabilities to detect high-risk shipments in the courier mode, while also piloting analytical tools to improve risk-based compliance. Additionally, the CBSA led the development and gained working group endorsement of the World Customs Organization's Framework of Standards on Cross-Border E-Commerce, which establishes international standards for ensuring a safe, secure and sustainable e-commerce environment."

In addition, the 2019-2020 DRR contained the following information with respect to CARM implementation:

"In 2019 to 2020, the CBSA advanced the implementation of the CARM project by finalizing the design of the end-state CARM solution as well as completing the build configuration and final

testing of the first CARM release, which will modernize the CBSA's revenue management systems and provide external clients with foundational self-serve options (e.g., the ability to view their account information online) through the introduction of a portal. Once fully implemented in 2022, CARM will help address the CBSA's risk of inaccurately assessing duties and taxes owing on imported goods, while deterring wilful non-compliance with Canada's trade requirements, by automating the processes required to assess, collect, manage and report on revenue.”

The CBSA will continue to report on the progress, milestones and achievements of the E-Commerce Customs Strategy, through the DRR, to the general public in order to transparently inform Canadians of the work being done on this initiative in support of the CBSA’s mandate and priorities.

In addition, the CBSA is currently working on developing an integrated implementation roadmap to enable the sustainable deployment of the E-Commerce Customs Strategy. As part of this roadmap, the CBSA is developing a communications plan, outlining the CBSA’s implementation of this Strategy in a phased approach. The focus of this communication plan, will be on meaningful collaboration with key stakeholders and will provide opportunities to further align CBSA business processes with internal policies and industry needs, while helping to drive the interim and long-term goals of the Strategy. Stakeholders will continue to play a vital role in the Strategy’s development and successes, and will be consulted throughout the deployment and operationalization of the E-Commerce Customs Strategy.

The CBSA will also leverage a variety of pre-existing fora to continue to publicly consult and inform its key stakeholders, as necessary. One such avenue will be the Border Commercial Consultative Committee (BCCC), a forum in which CBSA officials and commercial stakeholders discuss border-related policies, operational programs and administrative procedures that govern and affect Canada’s commercial trade.

Other public fora and prominent stakeholder groups which the CBSA will continue to use as a means to present information on its E-Commerce Customs Strategy include (but are not limited to): The Future Border Coalition, the Canadian Society of Customs Brokers (CSCB), Surety Association of Canada, and the Trade Chain Partner Working Group.

Public and industry stakeholders will also have opportunities, via the regulatory consultation process and other materials posted to the Consulting with Canadians website, to review and provide feedback on the CBSA’s regulatory proposals related to advance electronic data, CARM, and other regulatory amendments that relate to the importation of goods and revenue assessment and collection.