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2017 Federal Budget: GST/HST on ride-sharing services

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The 2017 Federal Budget proposes to amend the definition of a “taxi business” in the *Excise Tax Act (ETA)* effective July 1, 2017, to ensure that ride-sharing services, such as Uber, share the same GST/HST consequences as taxi services. The proposed amendments would require all Uber drivers to register for GST/HST purposes and to charge GST/HST on their fares.

Definition of a “taxi business”

The current definition of a “taxi business” in subsection 123(1) of the ETA refers to “a business carried on in Canada of transporting passengers by taxi for fares that are regulated under the laws of Canada or a province.” As the legislation currently stands, the prevailing opinion is that a ride-sharing service is not considered to be a taxi business, as the fares are generally not regulated by either federal or provincial bodies.

The Budget’s proposed amendment would expand on the definition of a taxi business to encompass ride-sharing services. The proposed wording of the new definition is provided in the Minister of Finance’s March 22, 2017, release of “Tax Measures: Supplementary Information.” The key phrasing designating a ride-sharing service as a taxi business is, “a business carried on in Canada by a person of transporting passengers for fares by motor vehicle... within a particular municipality and its environs if the transportation is arranged or coordinated through an electronic platform or system.” The amendment explicitly excludes sightseeing services and school transportation of elementary students.

What are the implications?

The definition of a taxi business becomes relevant when determining a person’s requirements with respect to GST/HST registration. The general rule under subsection 240(1) dictates that every person who makes a taxable supply in Canada in the course of a commercial activity is required to be registered for GST/HST purposes, unless they meet an exception. One of

the listed exceptions excludes “small suppliers.” A person is a “small supplier” under subsection 148(1) if their taxable supplies throughout the year do not exceed \$30,000.

As many Uber drivers operate on a part-time basis, they will qualify as small suppliers and will not be required to register for GST/HST purposes. However, under the current rules, small suppliers who carry on a taxi business are effectively excluded from the exception for small suppliers with respect to their taxi business. This override to the small suppliers rule means that those in the taxi business are required to charge GST/HST on all taxi revenues. Since ride-sharing services currently are unlikely to have fares regulated by federal or provincial government, many Uber drivers are not required to be registered for GST/HST purposes and collect GST/HST on their fares until such time as they exceed the small supplier threshold.

When the amendments take effect on July 1, 2017, Uber drivers will be considered to be in a “taxi business” and will be required to register and collect GST/HST on their fares regardless of the level of revenue earned from their taxi/ride-sharing services.

Filing returns and keeping records

Registrants must keep track of revenues and GST/HST charged. As registrants, drivers will be able to claim an input tax credit (ITC) to recover the GST/HST paid on expenses to the extent that they were incurred for use in making taxable supplies of ride-sharing services.

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If selected for a GST/HST review or audit by the CRA, drivers will be required to present detailed records of sales, GST/HST collected and input tax credits claimed. Failure to substantiate the amounts reported on the GST/HST return may result in a reassessment of GST/HST and/or disallowed ITCs.

To reduce some of the administrative burden of record-keeping and reporting, registrants may elect to use the Quick Method of accounting for calculating the net tax. Under this method, the registrant is not required to track the actual GST/HST collected or the actual GST/HST paid. Rather, a specific remittance rate will be applied to the revenue from total taxable sales (including GST/HST) made in the period. The quick method election is available to registrants whose annual taxable sales are \$400,000 or less and, once elected, must be used for at least one year. In addition, choosing the Quick Method may in some cases lower a registrant's GST/HST remittance obligation compared to those who do not use this method. Registrants should consult with a tax advisor to determine the advantages and disadvantages of electing to use the Quick Method.

Other considerations

Other commercial activities

Subsection 240(1.1) specifies that, notwithstanding the general rule, every small supplier who carries on a taxi business is required to be registered for GST/HST purposes in respect of *that business*. Subsection 171.1(1) further establishes that a small supplier engaged in a taxi business and other commercial activities in Canada will not be considered a registrant for those other commercial activities until they cease to be a small supplier. Thus, while the registrant is still a smaller supplier, they may not be required to charge GST/HST on those other commercial activities. By the same token, the registrant will

not be able to claim an ITC on expenses related to those other commercial activities.

Non-compliance

The CRA might focus on the possibility that some drivers who provide ride-sharing services and have exceeded the small supplier threshold are not currently registered for GST/HST, as required under the general rule for registration in subsection 240(1).

The Voluntary Disclosure Program (VDP) provides penalty and interest relief to taxpayers who voluntarily come forward with information regarding non-compliance. Drivers who have concerns about any potential non-compliance issues should consult with a tax advisor to determine their eligibility for the VDP. Should the VDP be a viable option, it is advisable that the taxpayer submit an application to the CRA before the amendment takes effect on July 1, 2017. After that date, registration will be mandatory for all drivers, and the CRA may be able to readily identify those who may have been non-compliant in the past. Once the CRA has initiated contact with those who have been non-compliant, the VDP option becomes unavailable to them.

Contact your Collins Barrow tax advisor for more information and for help in determining your obligations under the proposed amendments.

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Page 2