

Session: Indirect Tax and E-commerce

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Session Description: *Globalization and the digital revolution has meant an acceleration of global tax frameworks and cooperation as governments grapple with tax leakage on supplies consumed in their jurisdictions. While the OECD principals of destination based place of supply rules, many tax authorities including Canada Revenue Agency lack the legislative and enforcement framework to capture non-resident suppliers of digital goods. With the rise in 3D printing and other mediums for the delivery of goods and services, there are challenges with the characterization thereof and place of supply for indirect tax purposes. This session will cover the issues and challenges presented by the digital economy and trends to counter some of the challenges we are seeing globally.*

Outline

Globalization and the digital revolution has meant an acceleration of global tax frameworks and cooperation as governments grapple with tax leakage on supplies consumed in their jurisdictions. While the OECD principals of destination based place of supply rules, many tax authorities including Canada Revenue Agency lack the legislative and enforcement framework to capture non-resident suppliers of digital property/services.

However, some countries have taken steps to follow the recommendations of the OECD through BEPS Action 1 dealing with remote digital supplies to consumers. Rules in their domestic value added tax (“VAT”) laws now exist requiring non-resident suppliers of electronically supplied services to register and collect domestic VAT. Canada has considered same. In fact, in the 2014 Federal Budget, the Government asked the following: “What actions the Government should take to ensure the effective collection of sales tax on e-commerce sales to residents of Canada by foreign-based vendors?”. Thus far though, Canada has not done anything to suggest that it will establish rules for foreign-based vendors to collect the Goods and Services Tax/Harmonized Sales Tax (“GST/HST”) on digital supplies. More specifically, the last two Federal Governments have suggested that it will not impose such requirements on foreign-based vendors of digital streaming services, notwithstanding domestic suppliers of such services are required to collect GST/HST in Canada. Quebec on the other hand has stated its intention to require out of province vendors to collect the Quebec Sales Tax on such services. Canada did recently table legislation to ensure GST/HST would be collectible on ride-sharing services facilitated by web applications.

Finally, with the rise in 3D printing and other mediums for the delivery of goods and services, there are challenges with the characterization thereof and place of supply for indirect tax purposes. For example, these include services delivered via cloud computing and Software as a Service (“SAAS”). There are particular challenges for the application of provincial sales taxes on these services.