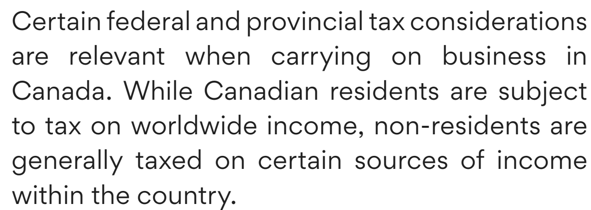
7.

Taxation



Certain federal and provincial tax considerations are relevant when carrying on business in Canada. While Canadian residents are subject to tax on worldwide income, non-residents are generally taxed on certain sources of income within the country.

A non-resident is generally subject to taxation on Canadian-source income, such as:

- Income from a business carried on in Canada
- Income from an office or employment in Canada
- Capital gains on the disposition of property, known as “taxable Canadian property”
- Income of a passive nature received from Canadian residents (e.g., dividends, rent, royalties)

Taxable Canadian property includes:

- Real property situated in Canada
- Assets used in a business carried on in Canada
- A share of a private corporation resident in Canada where more than 50% of the fair market value of the share is derived (or was derived at any time in the previous 60-month period) from real property in Canada, Canadian resource properties, timber resource properties, or options in respect of any such property
- A share of a public corporation (or a unit of mutual fund trust) where at any time in the previous 60-month period (a) the holder held more than 25% of the issued shares (or units) AND (b) more than 50% of the fair market value of the share (or unit) was derived from real property in Canada, Canadian resource properties, timber resource properties, or options in respect of any such property
- Options in respect of any of the properties listed above
- Property deemed by the *Income Tax Act* (Canada) (**ITA**) to be taxable Canadian property
- Property deemed by the *Income Tax Act* (ITA) to be taxable Canadian property

Taxes payable by non-residents in respect of passive income is collected through Canadian withholding taxes.

Generally accepted accounting principles, subject to certain statutory modifications, are typically used to calculate the income upon which tax is levied.

Federal income taxation is governed by the ITA, while the provinces also impose their own income taxes.

Types of Income

Both income and capital gains are taxable in Canada. All business, property, and employment income, whether active or passive, falls within the scope of Canadian taxation. Only a portion of capital gains are included in income, and, accordingly, only a portion of capital losses may be applied to offset capital gains. Capital losses do not otherwise reduce the computation of taxable income.

Proposed changes to inclusion rate for capital gains and capital losses came into effect on June 25, 2024. Under the proposed changes, one-half of realized capital gains will be included in income up to a maximum of C$250,000 of net capital gains realized in any taxation year. Two-thirds of net capital gains in excess of this threshold will be included in income. Transitional rules will effectively adjust the capital gains inclusion rate for the 2024 taxation year to generally include only one-half of net capital gains realized (or deemed to be realized) on or before June 24, 2024.

Taxation of Individuals

Like corporations, individuals are taxed on the basis of their residency. Residency for individuals is determined on the basis of a person's center of vital interest, such as the location of the family home, property, and place of employment. An individual who sojourns in Canada for 183 days or more during a year will be deemed a resident of Canada for that entire year. Both federal and provincial income taxes are imposed upon Canadian resident individuals at graduated rates, and the rate brackets are indexed for inflation.

The federal tax rates for the year 2024 for an individual are as follows:

Taxable Income	Marginal Tax Rate
Up to $55,867	15%
$55,867 to $111,733	20.5%
$111,733 to $173,205	26%
$173,205 to $246,752	29%
Over $246,752	33%

The 2024 combined federal and provincial top marginal tax rates on ordinary income for individuals vary from 44.5% (Nunavut) to 54.8% (Newfoundland and Labrador). Notably, the highest marginal tax rates in Canada's largest provinces (Ontario, Québec and B.C.) are nearly identical (53.53%, 53.31% and 53.50% respectively).

Non-resident individuals are taxed on their Canadian- source income, whether from employment, business, capital gains, or passive sources.

Various treaties apply to reduce the amount of Canadian withholding tax on certain types of passive income. Individuals who carry on a business, either as a sole proprietor or through a partnership, must calculate income according to accepted accounting principles that are in accordance with commercial practice as statutorily amended. Individuals must calculate their income tax liability on a yearly basis.

Death Taxes

Neither the federal government nor any provincial government currently impose succession duties or estate or gift taxes. Instead, at death, individuals are usually subject to federal and provincial income taxation on accrued but unrealized income and capital gains and on income received in the taxation year prior to their date of death. Probate fees may be levied by certain provinces where letters of probate are required to administer an estate. These fees vary by province.

Taxation of Corporations

Corporate

The federal and provincial corporate income tax rates vary, depending on the type of corporation and income earned. Federal income taxation is levied on resident corporations on their worldwide income.

For 2024, the combined federal and provincial corporate income tax rate for corporations in Ontario and Québec is 26.5% for active business income (other than certain "Canadian-controlled private corporations" (CCPCs). Separate rates exist for general active business income, manufacturing and processing income, and investment income and for CCPCs.

A non-resident corporation pays tax on income earned in Canada, subject to potential relief under applicable tax treaties between Canada and the non-resident corporation's home jurisdiction.

Proposed changes to inclusion rate for capital gains and capital losses came into effect on June 25, 2024. Under the proposed changes, two-thirds of net capital gains will be included in computing income. Transitional rules will effectively adjust the capital gains inclusion rate for the 2024 taxation year to generally include only one-half of net capital gains realized (or deemed to be realized) on or before June 24, 2024.

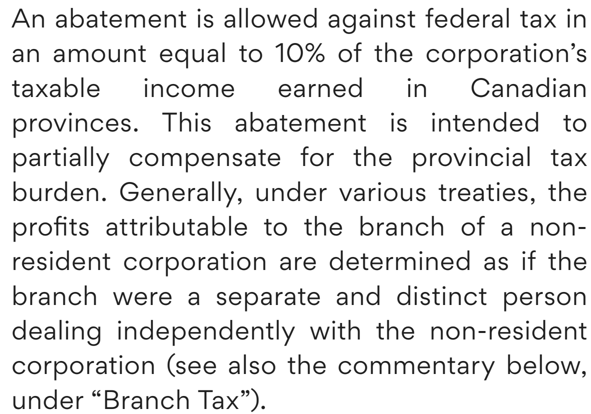
The following tables present a snapshot of the applicable tax rates for 2022:

a) Combined Federal and Provincial Income Tax Rates for Income Earned by a Canadian-Controlled Private Corporation (CCPC)

Jurisdiction	Small Business Income up to $500,000	General Active Business Income	Investment Income
Québec	12.2%	26.5%	50.2%
Ontario	12.2%	26.5%	50.2%
Alberta	11%	23%	46.7%
British Columbia	11%	27%	50.7%

b) Combined Federal and Provincial Income Tax Rates for Income Earned by a Corporation other than a CCPC

Jurisdiction	General Active Business Income	Investment Income
Québec	26.5%	26.5%
Ontario	26.5%	26.5%
Alberta	23%	23%
British Columbia	27%	27%



An abatement is allowed against federal tax in an amount equal to 10% of the corporation's taxable income earned in Canadian provinces. This abatement is intended to partially compensate for the provincial tax burden. Generally, under various treaties, the profits attributable to the branch of a non-resident corporation are determined as if the branch were a separate and distinct person dealing independently with the non-resident corporation (see also the commentary below, under "Branch Tax").

Provincial corporate income taxes vary from 8% to 16% (general active business income) and are generally only applicable if a corporation has (or is deemed to have) a permanent establishment in that province. Where a corporation has business income attributable to permanent establishments in more than one province, such income is allocated across all locations according to a formula and is subject to taxation in each of the provinces in which they operate.

In 2024, the combined federal-provincial corporate income tax rates on taxable income ranges from 23% to 31% on general active business income for non-CCPCs.

Determination of Residence

A corporation incorporated in Canada after April 26, 1965, is deemed to be resident in Canada. A non-resident corporation may be considered to be resident in Canada if its central management and control is in Canada.

Capital Taxes

All provinces have eliminated the general capital tax on corporations with a permanent establishment in the province. However, the federal government and certain provinces continue to levy capital tax on financial institutions.

Corporate Minimum Tax

The province of Ontario also imposes a corporate minimum tax (CMT) on corporations based on adjusted book income. The CMT rate is 2.7% and only applies to corporations with total assets that equal or exceed C$50 million and annual gross revenues that equal or exceed C$100 million.

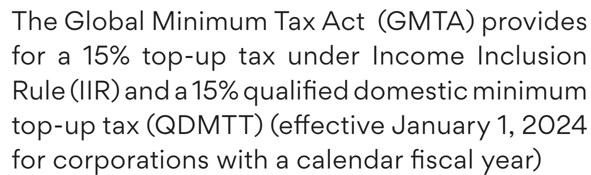
Start-up Losses

Start-up losses incurred by either a branch or a subsidiary may generally be carried forward for Canadian income tax purposes for 20 years and deducted from taxable income earned in Canada. There is no statutory authority to permit the consolidation of income or losses of corporations in related groups. In the 2010 federal budget, the Canadian government made a commitment to explore new rules for the taxation of corporate groups, such as the introduction of a formal system of loss transfers or consolidated reporting.

Global Minimum Tax

Canada implemented the OECD's Pillar Two framework, which sets a global minimum corporate tax rate of 15%.

Pillar Two ensures that large multinational corporations (with annual revenues of at least EUR 750 million) pay a minimum level of tax, regardless of where their profits are located.



The Global Minimum Tax Act (GMTA) provides for a 15% top-up tax under Income Inclusion Rule (IIR) and a 15% qualified domestic minimum top-up tax (QDMTT) (effective January 1, 2024 for corporations with a calendar fiscal year)

On August 12, 2024, the Canadian government released draft legislation which included the Undertaxed Payment Rule (UTPR) which is set to be implemented in 2025, subject to certain safe harbor transitional rules.

Tax Treaties

Canada has an extensive network of international tax treaties, including comprehensive treaties with the United States and most of its other major trading partners. Canada generally follows the OECD Model Tax Convention for the avoidance of double taxation when negotiating its tax treaties. These treaties generally reduce the rates of withholding taxes applicable to various types of income and contain other provisions that impact the tax treatment of non-residents' Canadian-source income.

The statutory withholding rate in Canada is 25%, which may be lowered pursuant to the applicable treaty. Withholding taxes apply to various sources of income paid to non- residents, including rent, royalties, dividends, and certain interest (generally only the interest paid to related parties or "participating interest").

The Canada–United States tax treaty eliminated source-country withholding tax on most cross-border interest payments, subject to certain exceptions.

In addition to tax treaties, Canada has ratified the Multilateral Convention on the Implementation of Tax Treaty Measures to Prevent Base Erosion and Profit Shifting (the "Multilateral Instrument" or "MLI"). The MLI is a multilateral treaty resulting from the collaboration between the G7 countries and the OECD which, among other things, allows for the implementation of several tax treaty measures designed to reduce the opportunities for tax avoidance by multinational enterprises. These various measures may affect cross-border taxation between Canada and other countries.

Branch Tax

The purpose of the branch tax is to achieve tax neutrality when one is carrying on business in Canada through a branch or a subsidiary. To the extent that branch profits earned in Canada are repatriated, they are subject to a branch tax comparable to the dividend withholding rate applicable to a shareholder of a Canadian subsidiary under the applicable treaty. Relief from Canadian branch tax is available under the *Canada–United States Tax Convention Act*, which provides an exemption on the first $500,000 of after-tax repatriated income of the branch that is attributable to a permanent establishment in Canada.

Thin Capitalization Rules

Generally, interest paid by a corporation is a deductible expense. However, the thin capitalization rules impose a limit on the amount of interest paid to certain non-residents that may be deducted from the income of a Canadian corporation. The acceptable ratio of debt to equity is 1.5 to 1. If the average amount of a subsidiary's outstanding debt exceeds one and a half times its equity, a prorated portion of the interest paid or payable in the year to certain non-residents may not be deducted from the income of the Canadian corporation subsidiary.

Proposed Excessive Interest and Financing Expenses Limitation

As a further restriction on interest deductibility, the Canadian federal government enacted a new "earnings stripping" rule that would generally limit the amount of "net interest expense" that is deductible to 30% of "tax EBITDA".

Partnerships

A partnership itself is not a taxable entity but is, rather, a flow-through entity for the purpose of calculating income. Each partner is taxed directly on a share of the income of the partnership, generally as allocated by the partnership agreement.

Foreign Tax Credits

To alleviate the effect of double taxation, Canada provides a foreign tax credit mechanism that allows resident taxpayers to claim a credit for the amount of foreign taxes paid on foreign-source income. The credit allowed is generally the amount of tax actually paid (up to the amount of Canadian tax payable on the foreign-source income) and is available as a reduction of Canadian tax.

Dividends from Non-Resident Corporations

Dividends arising from active business received by Canadian corporations from corporations residing in countries with which Canada has entered into a comprehensive tax treaty or a tax information exchange agreement may be exempt from Canadian tax. In such a case, no foreign tax credits are allowed.

Canada has concluded tax information exchange agreements with 24 states and territories, including the Netherlands, Antilles, Bermuda, Bahamas, Cayman Islands, Guernsey, Jersey, and the Isle of Man, and is currently negotiating with five other countries, including Belize, Gibraltar, and Vanuatu. An agreement with Antigua and Barbuda has been signed but is not in force.

Canada has also ratified the OECD Convention on Mutual Administrative Assistance in Tax Matters, which has over 60 signatories and came into force on March 1, 2014.

Tax Incentives: Scientific Research and Experimental Development

Both federal and Québec legislation provide scientific research and experimental development (R&D) incentives through deductions in net income. Investment tax credits (ITCs) can also be obtained (as mentioned later, Québec ITCs are fully refundable).

A pooling concept is used to record R&D expenditures for tax purposes. In very general terms, the pool is increased by expenditures (current) made and reduced by government and non-government assistance and contract payments that the taxpayer is entitled to receive.

Pursuant to this pooling concept, expenditures are not required to be deducted in the year they are incurred and may effectively be carried forward indefinitely.

Federal R&D Incentives

The most significant R&D benefits are available in the form of ITCs, which are computed on qualifying R&D expenditures at rates varying from 15% to 35% depending on, among other things, the status of the corporation.

Where a corporation is a CCPC whose taxable income for the preceding year and taxable capital (both determined on a basis including associated corporations) does not exceed certain limits, an ITC at the rate of 35% is available on the first $3 million of yearly R&D expenditures. This 35% ITC is 100% refundable on qualified R&D expenditures, that is, they would be treated as amounts that have been paid by the corporation on account of tax, and if no more tax is payable for the year, the corporation would receive a refund. The limit must be shared by associated corporations. A CCPC can also earn a non-refundable ITC at the rate of 15% on an amount over the $3 million threshold. A CCPC that meets the definition of a qualifying corporation can earn a refundable ITC at the rate of 15% on an amount over the $3 million threshold, of which 40% can be refunded.

For other corporations, individuals, and unincorporated businesses, the ITC rate on R&D expenditures is 15% and may be claimed against payable federal income tax.

The three main components of the incentives in Canada relating to R&D can be summarized as follows:

- The ability to claim a deduction in income for current expenditures incurred during the year
- The ability to claim, in addition to the deduction in income, a tax credit in respect of most R&D expenditures
- A taxpayer entitlement to include, as part of one's R&D expenditures, an amount equal to 55% of R&D salaries

The following table shows an example of the federal incentives on R&D expenditures of $5 million:

	Small CCPCs				Large Canadian or Foreign controlled Corporations			
	Credit Rate	% Refund	Refundable Tax Credit (Cash Back)	Non-Refundable Tax Credit (Reduce Taxes)	Credit Rate	% Refund	Refundable Tax Credit (Cash Back)	Non-Refundable Tax Credit (Reduce Taxes)
First $3 million in SR&ED expenditures	35%	100%	$1,050,000	-	15%	-	-	$450,000
Remaining $2 million in SR&ED expenditures	15%	40%	$120,000	$180,000	15%	-	-	$300,000
Total			**$1,170,000**	**$180,000**			**-**	**$750,000**

Provincial R&D Incentives

In addition to the federal R&D incentives, most provinces provide additional tax incentives for taxpayers that undertake R&D within their borders.

The provincial rules for deductibility of expenses are generally the same as the federal rules. The main differences concern the availability of tax credits, the applicable rates, the payments on which the credits are based, and the taxpayer's eligibility for a refund (i.e., any credit not used to offset tax payable is paid to the taxpayer). Québec R&D tax credits are refundable.

The following table shows an example of the federal incentives on R&D expenditures of $5 million:

	Québec	Ontario	Alberta	British Columbia
Base	**R&D Salaries**	**R&D Expenditures**	**SR&ED Expenditures**	**R&D Expenditures**
	CREDIT RATE			
CCPC	30%	3.5%	20%	10%
Non-CCPC	14%	3.5%	20%	10%
	REFUNDABLE			
CCPC	Yes	No	Yes	Yes
Non-CCPC	Yes	No	Yes	No

Tax Incentives: Clean Energy

The Canadian government has enacted four new refundable investment tax credits (ITCs) designed to grow Canada's clean economy and allow Canada to remain competitive in attracting investment in clean energy projects:

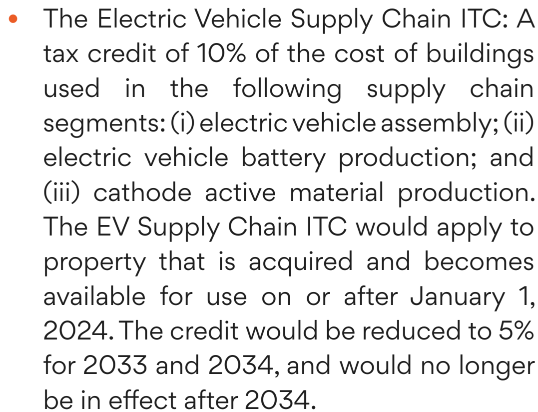
- The Clean Technology ITC: A refundable tax credit of up to 30% of investments in eligible property acquired and available for use on or after March 28, 2023 and before 2034. For property that becomes available for use in 2034, this tax credit would be up to 15%. No tax credit would be available after 2034.
- The Clean Technology Manufacturing ITC: A refundable tax credit of 30% of investments in eligible property to be used in clean technology manufacturing and critical mineral extraction and processing that is acquired and available for use in 2024 to 2031. This tax credit would reduce to 20% for 2032, 10% for 2033 and 5% for 2034. No tax credit would be available after 2034.
- The Clean Hydrogen ITC: A refundable tax credit of up to 40% of investments in projects that produce hydrogen and become available for use on or after March 28, 2023 and before 2034. For investments that become available for use in 2034, this tax credit would generally be reduced by one-half. No tax credit would be available after 2034.
- The Carbon Capture, Utilization and Storage ("CCUS") ITC: A refundable tax credit for expenditures incurred between January 1, 2022 and December 31, 2030 of:
    - Up to 60% of Qualified Carbon Capture Expenditures incurred to capture carbon from ambient air
    - Up to 50% of Qualified Carbon Capture Expenditures incurred to capture carbon other than directly from ambient air
    - Up to 37.5% of Qualified Carbon Transportation Expenditures, Qualified Carbon Storage Expenditures and Qualified Carbon Use Expenditures

For the period of January 1, 2031 to December 31, 2040, the tax credit would be reduced by one-half. No tax credit would be available after 2040.

Taxpayers would generally be able to claim only one of these tax credits in respect of the acquisition of an eligible property, even if the particular property would be eligible for more than one of these tax credits.

In addition to the above ITCs, the Canadian government has proposed two additional refundable ITCs:

- The Clean Electricity ITC: A refundable tax credit of up to 15% of investments in projects that generate clean electricity, store electricity without the use of fossil fuels, or transmit electricity between provinces and territories. This tax credit would be available as of April 16, 2024 for projects that did not begin construction before March 28, 2023. No tax credit would be available after 2034.



- The Electric Vehicle Supply Chain ITC: A tax credit of 10% of the cost of buildings used in the following supply chain segments: (i) electric vehicle assembly; (ii) electric vehicle battery production; and (iii) cathode active material production. The EV Supply Chain ITC would apply to property that is acquired and becomes available for use on or after January 1, 2024. The credit would be reduced to 5% for 2033 and 2034, and would no longer be in effect after 2034.

Goods and Services Tax/ Harmonized Sales Tax

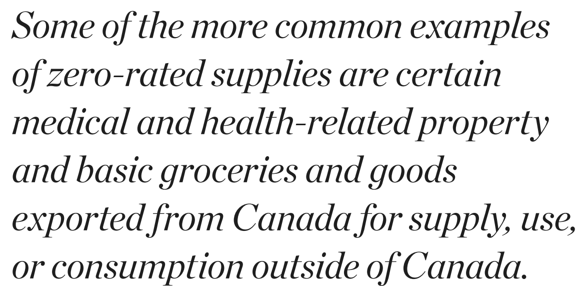
The Canadian Goods and Services Tax (GST)/ Harmonized Sales Tax (HST) is a value-added tax that is levied on the supply of most property or services at each stage in the production and distribution chain. Although the GST/HST is a multi-stage tax imposed on purchasers of taxable property or services at all levels of the production and distribution chain, the ultimate tax liability is intended to be borne entirely by the final consumer. To achieve this result, businesses that purchase taxable property or services that are consumed, used, or supplied in the course of their commercial activities are generally permitted to claim a refund of the GST/HST they paid on the property or services they consume. This credit, referred to as an “input tax credit,” is available to qualifying GST/HST registrants (those persons either required to register or those who have registered voluntarily).

The ultimate consumers of the property or services are not entitled to claim input tax credits and, accordingly, must bear the full GST/HST liability. The application of the GST/HST can be contrasted with the single-stage provincial retail sales taxes (as described below in the section entitled “Provincial Sales Taxes”) that are levied only at one stage in the production/distribution chain (generally at the retail level).

The federal GST is levied at a rate of 5% in those provinces and territories that either do not have a provincial sales tax or have not fully harmonized their sales tax with the federal GST. These provinces and territories are British Columbia, Alberta, Manitoba, Saskatchewan, Québec, Yukon, Northwest Territories, and Nunavut. The remaining Canadian provinces are referred to as “participating provinces” as each has entered into an agreement with the federal government regarding the harmonization of its provincial sales tax with the federal GST. Pursuant to these agreements, the Canada Revenue Agency (CRA) collects the HST at the rate of 13% in Ontario and 15% in the remaining participating provinces (i.e., 5% federal GST harmonized with an 8% or 10% provincial tax component).

The GST/HST is levied on nearly all supplies of property and services that are either made or deemed to be made in Canada. The limited categories of supplies on which the GST/HST is not levied are either referred to as “exempt” or “zero-rated.” The principal distinction between zero-rated supplies and exempt supplies relates to the availability of input tax credits.

Persons supplying zero-rated supplies (supplies that are taxable at a rate of 0%) are generally entitled to recover the GST/HST incurred to make those supplies through a claim for input tax credits. The zero-rating mechanism ensures that no GST/HST is collected from the final purchaser of the property or services or embedded in the cost of the property or service.



Persons making only exempt supplies (supplies that are not subject to the GST/HST) are generally not entitled to recover the GST/HST incurred to make them (though, in certain limited circumstances, a partial rebate of the GST/HST may be available). Accordingly, some of the GST/HST expense will ultimately be embedded in the cost of any exempt property or service. The most common example of such a supply is that of financial services (which includes insurance).

The GST/HST is automatically levied on tangible property that is imported into Canada. This tax is generally paid by the importer on record at the time of importation. The GST/HST is also levied on intangible property or services that are considered to be supplied outside of Canada and then used in the country. Where such a property or service is used in Canada, the business importing such a property or service is generally required to self-assess the GST/HST, although broad exemptions from this self-assessment also exist.

Registration and Reporting

Businesses that are registered for GST/HST purposes are required to charge, collect, and remit the GST/HST in respect of any taxable supplies made or deemed to be made in Canada. All resident and non-resident businesses that make taxable supplies in Canada (exceeding $30,000 in the last four consecutive calendar quarters) in the course of a business carried on in Canada must register for GST/HST purposes.

Non-residents making taxable supplies in Canada but not carrying on business in the country are permitted to register voluntarily for the GST/HST.

Only those businesses that are either required to register or those that register voluntarily can claim input tax credits in respect of the GST/HST they pay. This ability to claim input tax credits prompts many non-residents to register voluntarily, particularly those that import tangible property into Canada and are assessed GST upon import.

Registrants are required to file GST/HST tax returns with the CRA on a regular basis. In those returns, registrants are required to report the amounts of the GST/HST that they have collected (or are deemed to have collected) from their customers during the applicable reporting period. Registrants may also claim input tax credits for the GST/HST expenses they incurred during that same period. Where the amounts claimed as input tax credits exceed the amounts collected (or deemed collected), the registrant is entitled to receive a net refund from the CRA. Where the amounts collected (or deemed collected) exceed the amounts claimed as input tax credits, the registrant must make a corresponding payment to the CRA.

Certain non-resident vendors and distribution platform operators who sell taxable digital products or services to Canadian consumers or Canadian entities that are not registered for GST/HST purposes are required to register under the GST/ HST regime. Such vendors and operators are required to collect GST/HST on certain taxable supplies made in Canada despite the fact that they would otherwise not be considered to be carrying on business in Canada.

Provincial Sales Taxes

All Canadian provinces, with the exception of Alberta, levy a provincial sales tax, either independently or in conjunction with the federal GST. The rates of provincial sales tax range from 5% to 10%. Like Alberta, none of the three Canadian territories (Yukon, Northwest Territories, and Nunavut) levy any sales tax other than the federal GST (at a rate of 5%).

The provinces of New Brunswick, Nova Scotia, Newfoundland and Labrador, Ontario, and Prince Edward Island do not directly levy a provincial sales tax. Instead, each of these provinces has entered into an agreement with the federal government that results in the CRA collecting the provincial tax as a component of the HST.

Businesses that make taxable supplies that are not zero-rated in both HST and non-HST provinces must determine whether they are required to collect tax at the 5% GST rate or the 13% or 15% HST rate. Determining the correct GST/HST rate depends on the application of complex place of supply rules that are contained in the relevant Canadian tax legislation.

Failure to collect the provincial portion of the HST where applicable creates exposure to a potential assessment for uncollected tax, non-deductible interest, and penalties.

Because the GST/HST is governed by Canadian federal legislation, any business registered for GST purposes, regardless of where it is located, will be required to charge and collect the HST at the above rates on property and services supplied to customers in HST provinces. The HST is reported and remitted on ordinary GST returns.

Ontario

While the HST is generally subject to the same rules as the GST, there are some province-specific rules, such as point-of-sale rebates for a limited range of consumer products.

In addition, Ontario maintains a separate retail sales tax (levied at a rate of 8%) that remains applicable to insurance products and benefit plans and a separate taxation system that is relevant to fuel, tobacco, and a limited set of other products. Where a business supplies (or is deemed to supply) such taxable products, it will be required to register under a provincial tax regime that is separate from its GST/HST registration.

Québec

The applicability of the Québec Sales Tax (QST) is governed by the *Act Respecting the Québec Sales Tax*. Because this tax is based upon the federal GST, it is very similar in its structure and applicability. The QST applies to most property and services that are considered to be supplied in Québec. Similarly, the QST applies to certain importations into Québec. To the extent that a QST-registered business incurs QST expenses to make a subsequent taxable supply of property or services, the business is entitled to claim an input tax refund (which is analogous to the GST input tax credit).

A particularity of the QST regime brings within the scope of provincial sales taxes certain supplies made by suppliers outside Québec and certain operators of digital platforms providing digital services to Québec consumers. Such entities are now required to register for the QST in addition to collect and remit the tax on certain taxable supplies made in Québec to government authorities.

The QST is levied at the rate of 9.975%.

British Columbia, Saskatchewan, and Manitoba

British Columbia, Saskatchewan, and Manitoba levy their own retail sales tax. These taxes are separate from the GST/HST. However, each of these taxes is levied in a similar manner and only at one stage in the production/distribution chain (generally at the retail level).

Such retail sales taxes apply to most transfers of tangible personal property and software but are only applicable to certain specifically enumerated services. The most commonly taxed services are telecommunications services and services relating to the repair or installation of tangible personal property and accommodation (hotel) services. Retail sales tax is not applicable to the transfer of real property or related fixtures, as the transfer of such property is generally taxed through separate provincial tax legislation.

Businesses that provide either taxable goods or services in the course of a business carried on in British Columbia, Saskatchewan, or Manitoba, or businesses that are resident in Canada and sell property to British Columbia, Saskatchewan or Manitoba, are generally required to register for retail sales tax purposes and charge, collect, and remit retail sales tax on any taxable sale. More recently, these provinces have introduced rules similar to those implemented in Québec seeking to impose retail sales tax registration and collection obligations on certain out-of-province vendors.

Unlike legislation for the GST/HST and QST, retail sales tax legislation does not permit input tax credits claims or allow for a similar tax refund mechanism. To avoid the cascading of retail sales tax, taxable property intended for resale (e.g., raw materials or inventory) is generally exempt from retail sales tax. In addition, exemptions are generally provided for production machinery or equipment purchased by a manufacturer. As a matter of public policy, certain tangible personal property is also exempt from retail sales tax – even when provided to an end user. The most common examples are grocery items, children's clothing, and certain educational materials. The general rates of retail sales tax are 7% in British Columbia, 6% in Saskatchewan, and 7% in Manitoba.

Digital Services Tax

The *Digital Services Tax Act* (DSTA) entered into force in Canada on June 28, 2024. The DSTA imposes a digital services tax (DST) of 3% tax on revenue from "online marketplace services", "online advertising services", "social media services", and certain sales of "user data", as such terms are defined in the DSTA. In line with the GMTA threshold, the DST applies to entities and consolidated groups with global revenue of more than EUR 750 million. A C$20 million annual deduction is available to be shared proportionately within a consolidated group. The first year that the DST applies is 2024, and the first DST payments will cover revenue earned from January 1, 2022 to December 31, 2024 and are due to be paid on June 30, 2025. Entities that exceed the global revenue threshold and that are subject to DST are required to register by January 31, 2025 if they have C$10 million or more of in-scope revenue.