



Canadian indirect tax news

Update on proposed federal taxation of cannabis products

March 13, 2018

On Tuesday, February 27, 2018, the Minister of Finance tabled the 2018 budget, which included greater details of the proposed excise duty framework for cannabis products.

The federal government will generally be responsible for establishing the conditions for and licensing of the cultivation and manufacture of cannabis products, while the provinces and territories will be responsible for regulating the distribution and retail sales within their jurisdiction.

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The duty framework will be part of the existing *Excise Act, 2001* that currently applies to tobacco, wine and spirits. The duty will apply to cannabis products available for legal purchase, which at the outset of legalization will include fresh and dried cannabis, oils, seeds or seedlings for home cultivation. Significantly, the budget announcement excludes the application of excise duties to packaged products containing concentrations of no more than 0.3 percent tetrahydrocannabinol (THC) and cannabis derived prescription pharmaceutical products that have been granted a drug identification number (DIN) from Health Canada.

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Excise duties will be imposed on licensed producers at the higher of a flat rate applied on the quantity of cannabis contained in a final product and a percentage of the dutiable amount of the product as sold by the producer. These taxes are not paid directly by consumers, but are paid by the manufacturers. The proposed excise duty framework will be applied as follows:

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Cannabis plant product	Federal rates <i>Higher of the two rates applies</i>		Additional rates in respect of a province/territory <i>Higher of two rates applies</i>	
	Federal flat rate	Federal ad valorem rate	Additional flat rate	Ad valorem additional rate
Flower	\$0.25/gram	2.5% of the dutiable amount of a cannabis product packaged by a cannabis licensee delivered to a purchaser	\$0.75/gram	7.5% of the dutiable amount of a cannabis product packaged by a cannabis licensee delivered to a purchaser
Trim	\$0.075/gram		\$0.225/gram	
Seed	\$0.25/seed		\$0.75/seed	
Seedling	\$0.25/seedling		\$0.75/seedling	

Source: Department of Finance

The framework reflects the agreement reached between federal and provincial governments in December 2017, which allocates 75% of revenues to participating provinces and territories. Under the framework, the combined excise rate for cannabis flowering materials should not exceed \$1.00 per gram or 10% of the producer's sale price, whichever is higher.

Cannabis products will also be subject to the goods and services tax/harmonized sales tax (GST/HST). The GST/HST legislation will be amended to ensure that the supply by way of sale of cannabis products is taxable (including seeds and seedlings). Amendments will be introduced to ensure that sales of edible products are subject to tax and not classified as zero-rated basic groceries.

The Canada Revenue Agency (CRA) will be responsible for the administration of the new cannabis duty framework. All Health Canada-licensed cultivators and manufacturers will be required to obtain a cannabis license from the CRA. As with the current stamping program for tobacco, a stamp will be required to be affixed to cannabis products. A cannabis licensee will be required to submit a monthly duty and information return.

The framework will come into effect when cannabis for non-medical purposes becomes available for legal retail sale.

The proposed federal taxation of cannabis products represents a significant undertaking for businesses preparing for the upcoming changes across the increasingly diverse cannabis industry. If you would like to discuss these developments further, please feel free to contact your Deloitte representative or any of the Indirect Tax experts listed on this newsletter.

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