

May 10, 2023

The Honourable Chrystia Freeland, P.C., M.P.
Deputy Prime Minister and Minister of Finance
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VIA E-MAIL: chrystia.freeland@fin.gc.ca

The Electronic Transactions Association (**ETA**) submits these comments in response to Budget 2023's proposal to exclude payment services from the definition of a "financial service" under the *Excise Tax Act*, subjecting them to the Goods and Services Tax/Harmonized Sales Tax ("GST/HST"). We hope that these comments assist the government in understanding some key implications for the payments industry with respect to the decision to de-classify payment services as a "financial service" within the Part 2 of the legislation introduced to implement the Budget (Bill C-47).

ETA is the leading trade association for the payments industry, representing over 500 companies that offer electronic transaction processing products and services. ETA's members include financial institutions, mobile payment service providers, mobile wallet providers and non-bank online lenders that make commercial loans, primarily to small businesses, either directly or in partnership with other lenders. ETA member companies are creating innovative offerings in financial services, revolutionizing the way commerce is conducted with safe, convenient, and rewarding payment solutions and lending alternatives.

While ETA and its members are determined to comply with the proposed amendments in Bill C-47 which will subject payment card network operators to the GST/HST, we have some practical concerns over how the legislation will be implemented. We also believe these changes run counter to the government's efforts to assist small businesses and will put Canada at a disadvantage internationally.

As a primary concern, the proposed amendments require additional clarification on the policy rationale as well as carry retroactive implications which result in additional administrative burden and costs to acquirers to whom the costs are passed on and are unrecoverable other than by in turn passing them on to merchants. For context, after the payments industry was exempted from paying GST/HST in early 2021, the fees/costs structure was amended accordingly in line with established industry practice to reflect a fair situation where taxes would not be passed on to acquirers, merchants and inevitably, the consumer. Therefore, a retroactive application will result in changes to pricing structures, creating the additional burden of reconciling GST/HST returns to recover or undermine any rebate applications filed for GST/HST paid after the 2021 decision to consider payment card network services as financial services. Consequently, we seek your consideration to ensure that the definition is not applied retroactively to minimize the administrative burden and costs for ETA members, including payment card network operators, acquirers, payment processors, and their merchant customers.

ETA is also concerned that the proposed amendments do not contain any provisions for a transition period, as an immediate application of the legislation will prevent the payment card network industry from meeting obligations under the Code of Conduct for the Credit Card and Debit Card Industry in Canada. The application of GST/HST is likely to result in higher costs which

will be passed onto merchants and acquirers, and existing payment card network rules stipulate that merchants and acquirers are to receive a minimum of 90 days' notice for any rate/fee changes, with 180 days for any structural changes¹ given to acquirers specifically. There is a lack of consistency between the government's implementation of the change and obligations under the Code of Conduct.

A transition period is essential as any change in the fee structure involves interaction between multiple stakeholders and requires time to process and coordinate. When a fee is changed, acquirers and payment service providers are obligated to provide a notice to merchants describing the nature of the fee change, and the change must be clearly identifiable on the merchant's subsequent monthly statement. Acquirers are also required to provide an updated fee disclosure box reflecting the impact, upon written request from the merchant, following a new fee or fee increase. Therefore, ETA respectfully urges that Finance Canada grant a one-year transition period after legislative changes receive royal assent to allow ETA's members to assess, provide notice and implement pricing changes in systems.

To rectify the above, we would like to propose an amendment to subsection 114(5) of the proposed bill that reads as follows:

1. "Subsection (2) applies to a service rendered under an agreement for a supply if any consideration for the supply becomes due on the particular day that is one year after the day on which legislation enacting subsection (2) receives royal assent or is paid after that particular day without having become due."
2. A corresponding change should be the deletion of subsection 114(6) in its entirety. Subsection 114(6) gives the CRA a year after the law comes into force to assess the retroactive taxes beyond the normal 4-year limitation period (i.e., back to 1991 if applicable). That provision is not relevant if the taxes are not retroactive.

In its current form, the proposed amendments in Bill C-47 to the *Excise Tax Act* not only affect the payment card network and acquiring industry, but also carry far-reaching implications for businesses. For this reason, we urge you to consider our recommendations and we would be pleased to have further discussions with Finance Canada or your office. We look forward to working with you to advance a safe, progressive, and world-class payments ecosystem in Canada.

Thank you.

Yours respectfully,



Scott Talbott

¹ According to the [Code of Conduct for the Credit and Debit Card Industry in Canada](#), structural changes are defined as significant changes to the fee structure for a payment card network. This includes the introduction of new types of interchange or other fees, a change to the interchange rate structure or the introduction of a new type of credit or debit card.

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