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STAR EXCLUSIVE

CRA asks Shopify to hand over records for more than 120,000 Canadian businesses to check for tax evasion

Shopify CEO promises to fight the request, calling the action 'low-key overreach.' Expert says data includes 'everything the CRA needs to audit these businesses.'

By **Clarrie Feinstein** Business Reporter

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The Canada Revenue Agency is demanding six years' worth of records from Shopify on all of its Canada-based businesses to verify their tax compliance.

Shopify, a prominent Canadian multinational e-commerce company, has more than 121,600 Canada-based merchants, of which 16,600 are in Toronto. The platform allows businesses to build an online store and sell services through a streamlined dashboard.

The e-commerce company provides a wealth of data on individual company revenue, a gold mine for the CRA to see which companies have failed to file their income tax and excise tax (tax on certain goods) or are under-reporting their income, experts say.

"From small to big businesses, everyone uses Shopify," said James Rhodes, principal lawyer at Taxation Lawyers. "Shopify has everything the CRA needs to audit these businesses. What was sold, when it was sold, their sales and revenue."

It's a more efficient auditing process, experts say, as opposed to looking for vendors on Shopify's platform and auditing them individually. This way, the CRA can access all relevant documents from thousands of businesses and cross reference Shopify's data with its own.

Shopify did not provide responses to the Star's questions in time for publication.

However on Friday evening, Shopify CEO Tobias Lütke went public with the CRA's request, posting on Twitter: "I don't particularly want a fight with the CRA but we got asked to backchannel them six years of records for all Canadian Shopify stores. This feels like low-key overreach to me. We will fight this."

In April, the Minister of National Revenue — which oversees the CRA — filed an application to the Federal Court requesting Shopify hand over the information of its "Canadian-resident merchants" to ensure their compliance under the Income Tax Act and Excise Tax Act.

"Shopify maintains records that include the identity, sales amounts and other relevant account details of the merchants," the application says. "The group is ascertainable and the identities of the relevant merchants are known to Shopify."

The minister does not know the identities of the businesses, it adds, and therefore seeks a “judicial authorization” to require Shopify to provide information on Canadian businesses.

“The minister has the power to audit under the income and excise tax act,” Rhodes said. “If they don’t know exactly what they’re looking for, they need to get a court order to obtain the information needed to audit.”

A hearing for the application has been requested for early 2024. If successful, the federal court grants the minister a court order.

In an email statement to the Star, the CRA said it uses the information obtained through Unnamed Persons Requirements (UPRs) — which allows the agency to obtain information from an individual or a company about unknown third parties — to identify taxpayers that may have been non-compliant, and verify that they have appropriately reported their income and filing obligations.

“The CRA takes the security and privacy of all taxpayer information very seriously. We collect information where it is lawful and directly related to compliance activities,” the statement said. “The confidentiality provisions of the Acts we administer prevent the CRA from commenting or disclosing taxpayer information.”

The CRA has a history of imposing court orders on large companies to fight tax evasion, said David Rotfleisch, tax lawyer and founder of Taxpage.com.

Previously, eBay and PayPal were targeted by the CRA to see whether Canadian businesses had been declaring all of their income.

Obtaining a court order against Shopify is “as close to a slam dunk as you’ll find,” Rotfleisch said, as the minister has the legal authority to audit these companies.

Shopify could appeal the court order based on the application’s requirements being too broad or the information being difficult to obtain, he said, but it’s likely Shopify would lose as a court order overrides most of these concerns.

“Shopify might appeal just to tell their clients that they challenged the court order, but it’s not worth them to throw more time and money at it,” he added.

It’s unclear why the CRA is asking for six years’ worth of records, Rhodes said, but it coincides with Shopify’s announcement in 2017 on integrating with Amazon — boosting businesses’ potential profits.

Businesses must also keep records for a period of six years from the end of the last tax year they relate to. “After that, the records can be destroyed,” he added.

The CRA’s tactic to go through the federal court is a sensible way to obtain financial records from businesses, Rotfleisch said, and will continue to be a method used by the government.

“I’m surprised it took them so long to approach Shopify. It’s a smart way to get your hands on a bunch of data and crack down on tax evasion.”



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