## Taxwriting leaders renew call for retaliatory trade response to Canadian DST

In response to Canada's parliament approving implementation of a digital services tax (DST) this week, US congressional taxwriting leaders from both parties have again called on the Biden administration to use trade measures against what they consider discriminatory taxes on US-based companies.

Canada's bill (C-59), which passed its final parliamentary hurdle June 19, includes a 3 percent tax on the Canadian digital services revenue of large technology companies with more than 750 million euros ($803 million) in annual revenues. The tax is retroactive to January 1, 2022, reflecting the year it was originally proposed. The planned DST was put on pause during negotiations at the OECD over proposed reallocation of global taxing rights based on customer location—a plan known as Pillar One. A multilateral agreement around Pillar One was intended to replace the raft of DSTs proposed and enacted by numerous jurisdictions in 2019 and 2020, but those OECD talks have dragged out longer than originally planned, leading Canada last year to say it would move forward with its tax. (For prior coverage, see *Tax News & Views*, Vol. 24, No. 35, Oct. 20, 2023.)
**URL:** https://www.parl.ca/DocumentViewer/en/44-1/bill/C-59/third-reading
**URL:** https://dhub.deloitte.com/Newsletters/Tax/2023/TNV/231020_2.html

At that time, taxwriting committee leaders in both chambers joined in a bipartisan effort to insist that the Office of the US Trade Representative (USTR) respond to Canada using all available trade tools, saying that the administration had their "full support" in adopting retaliatory measures.

The Senate's two top taxwriters reiterated those sentiments this week.

"We previously made clear to the administration it has the tools to fight discriminatory taxes on Americans," Senate Finance Committee Chairman Ron Wyden, D-Ore., and ranking member Mike Crapo, R-Idaho, told *Politico* in a joint statement on June 20. "The administration said it was prepared to consider all of those tools, and it must now demonstrate the will to use them."

House Ways and Means Committee Chairman Jason Smith, R-Mo., said in his own statement on June 20 that Canada's action "is a step in the wrong direction and deserves a swift response," noting that "Congress has provided [USTR] with tools intended to deal with problems just like this, which include the USMCA dispute process and a rapid Section 301 investigation that builds on the work the Trump administration already did to uncover the ways multiple DSTs around the world discriminate against the United States or otherwise constitute unreasonable acts that burden US commerce."

USTR and Treasury Department officials have said since last fall that they are engaged with their Canadian counterparts and are urging them not to impose the DST, but it is not clear whether the administration is willing to take retaliatory measures that could escalate the dispute with Canada.

The imposition of DSTs by a number of nations has been a bone of contention since 2019, and, with the support of Congress, both the Trump and Biden administrations imposed—and immediately suspended—

retaliatory tariffs in a bid to keep the taxes at bay for US-based multinational companies, primarily in the tech sector. Because the majority of the companies that would be hit by DSTs are based in the US, members of Congress and administration officials have called them discriminatory towards US-headquartered corporations.

Austria, France, Italy, Spain, and the UK all had DSTs in place before reaching an agreement at the OECD in 2021 to continue collecting the taxes. but they credit any excess amount collected under the DSTs—versus what would be collected under Pillar One—against the portion of the corporate income tax liability associated with what is known as “Amount A” as computed under Pillar One in these respective countries. (Amount A would establish a taxing right for market jurisdictions with respect to a defined portion of the residual profits of the largest and most profitable multinational businesses—in short, increasing taxing rights for jurisdictions in which the companies have users and customers.) That truce on DSTs was extended last year to June 30, 2024, but with the multilateral tax agreement unlikely to be signed by that deadline—it already has been delayed multiple times—it is not clear how these countries will respond. (For prior coverage, see *Tax News & Views*, Vol. 27, No. 7, Feb. 16, 2024.)
**URL:** https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240216_3.html

The final step for implementation of Canada’s DST is approval from the governor-general. Canada’s parliamentary budget officer has estimated the tax will raise about C$7.2 billion ($5.26 billion) over five years.

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