



November 15th, 2023

The Honourable Chrystia Freeland, P.C., M.P.
Deputy Prime Minister and Minister of Finance
House of Commons
Ottawa, ON K1A 0A6

Cc: Janet L. Yellen, Secretary of the Treasury of the United States; Ambassador Katherine Tai, United States Trade Representative

RE: Canada's Unilateral Digital Services Tax Proposal

Dear Deputy Prime Minister Freeland,

As a united group representing businesses with significant investments in Canada, we are writing to express deep concern with Canada's intentions to press ahead with a unilateral Digital Services Tax (DST) that will hurt Canadian consumers and businesses by increasing the costs of doing business in an already precarious economic climate. Moving forward with Canada's current DST proposal would not only directly undermine the Canada-U.S. trading relationship but also run counter to Canada's commitments to the OECD/G20 Inclusive Framework on BEPS and longstanding multilateral approach on related issues.

Canada's go-it-alone approach to impose a DST would not only result in discrimination against U.S. companies, but it would also contravene Canada's obligations under both the Canada-U.S.-Mexico Agreement (CUSMA) and the World Trade Organization (WTO). Additionally, Canada's DST proposal looks remarkably similar to France's DST, which the U.S. Trade Representative has ruled to be a "discriminatory" tax and actionable under Section 301 of the Trade Act of 1974.

The U.S. government has been clear and consistent in its opposition to the DST proposal. Most recently, this has occurred through engagements by United States Trade Representative Katherine Tai and U.S. Secretary of the Treasury Janet Yellen, and strong bipartisan, bicameral letters from U.S. Members of Congress. U.S. Ambassador to Canada David Cohen has already warned that should Canada implement a DST, the United States will have no choice but to take retaliatory measures.

Our members have long supported a healthy Canada-U.S. trading relationship that supports economic growth and prosperity across Canada, and amid uncertain economic times, we cannot afford to put that relationship at risk.

Even if it were possible to set aside the DST's implications for the OECD/G20 Inclusive Framework's two-pillar solution or CUSMA, Canada's DST proposal diverges in harmful ways from long-standing international tax principles that support the ability of companies to conduct business globally. For example, the proposal would impose a tax on gross revenue, target globally engaged companies, apply tax liability without regard to permanent establishment, and yield double or multiple taxation. The Canadian proposal also includes two instances of retroactivity: one from the DST's effective date back to January 1, 2022, and another from the release of implementing regulations back to January 1, 2022. These attributes would not only



create instability and uncertainty in the Canadian market but contribute to the destabilization of the international tax environment. The enactment of a Canadian DST also risks inspiring further proliferation of DSTs that will capture the activities of Canadian-headquartered companies engaged abroad, as other governments may follow Canada's example in adopting unilateral, gross revenue-based tax measures but with broader and overlapping scopes that subject Canadian companies to unprincipled taxation.

At a time when Canadians are facing an affordability crisis, this new tax would make life more expensive. If implemented, a DST would force Canadian consumers to pay more for online services. The example of France's equally punitive DST demonstrates that costs will inevitably trickle down to consumers, causing an estimated 2-3 percent price increase in services consumed. Ultimately, a DST would indirectly burden ordinary citizens even as they grapple with rising costs of living.

These issues are of particular importance to the business community as they are a pivotal feature for restoring stability within the international tax framework. Consequently, it is crucial that the "standstill and rollback" commitment with respect to DSTs and similar measures not only prevent jurisdictions from implementing DSTs but also prohibit other similar unilateral tax measures that may lead to double taxation and over-taxation in the case of gross-based taxation measures, which do not allow recovery of costs and expenses attributable to revenues. Given the time needed to finalize, ratify, and implement Pillar One, we encourage you to support the extension of the DST standstill agreement within the OECD/G20 Inclusive Framework. This would prevent the imposition of any new DSTs or relevant similar measures on any company while the ratification and implementation processes are ongoing. We remain concerned that the proliferation of DSTs will undermine the possibility of concluding a multilateral agreement through the OECD/G20 Inclusive Framework, which would exacerbate ongoing tax and trade tensions while creating new uncertainty and instability for the economy.

Digital commerce and services will remain a key driver of global economic growth for the foreseeable future. Yet Canada's unilateral, discriminatory DST would only add to the headwinds facing Canadian businesses as they seek to compete with international peers within the context of an uncertain global economy.

To ensure the certainty and stability that business operating in Canada need, and to maintain healthy Canada-U.S. trade dynamics, we respectfully urge Canada to withdraw its *Digital Services Tax Act* proposal and fully support the OECD/G20 Inclusive Framework's multilateral project.

Sincerely,

Canadian Chamber of Commerce

U.S. Chamber of Commerce

AmCham Canada

Canada-America Business Council

Information Technology Industry Council

National Foreign Trade Council (NFTC)